

ARTICLE A

**PRELIMINARY SECTIONS**

**9-3001 Purpose**

This Ordinance regulates the uses of buildings, structures, and land for trade, industry, commerce, residence, recreation, public activities or other purposes; the size of yards, and other open spaces; the location, height, bulk, number of stories and size of buildings and other structures; the density and distribution of population; creating districts for said purposes and establishing the boundaries thereof; defining certain terms used herein; providing penalties for violations; providing for a Board of Adjustment and Planning Board and defining the duties and powers of said Boards; repealing conflicting ordinances; and for other purposes.

**9-3002 Authority**

The Town Council of the Town of Valdese enacts this Ordinance pursuant to the authority granted by the General Statutes of North Carolina (Chapter 160A, Article 19, Part 3).

**9-3003 Short Title**

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

**9-3004 Jurisdictions**

The provisions of this Ordinance shall be applicable to all property within the corporate limits of Valdese, North Carolina.

**9-3005 Official Zoning Map**

The districts established in Article C of this Ordinance as shown on the Official Zoning Map, together with all explanatory matter thereon, are hereby adopted as part of this Ordinance.

**9-3006 Identification of Official Zoning Map**

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

**Sections 9-3007 through 9-3010 reserved.**

## ARTICLE B DEFINITIONS

### 9-3011 Interpretation and Definition of Terms and Words

- (a) For the purpose of interpreting this Ordinance, certain words or terms are herein defined. Unless otherwise stated, the following words shall have the meaning herein defined.
- (1) Words used in the present tense include the future tense.
  - (2) Words in the singular include the plural; words in the plural include the singular.
  - (3) The word "person" includes a firm, association, organization, corporation, trust, and company as well as an individual.
  - (4) The word "lot" includes the word "structure".
  - (5) The word "building" includes the word "structure".
  - (6) The word "shall" is mandatory, not directory.
  - (7) The words "used" or "occupied" as applied to any land or buildings shall be construed to include the words "intended, arranged, or designed to be used or occupied".
  - (8) The word Zoning Enforcement Officer includes the word Watershed Administrator.

### 9-3012 Definitions

Accessory Dwelling: See Dwelling, Accessory

Accessory Use, Accessory Structure: a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. See Section 9-3039)

Adult Establishment: Any structure or use of land which meets the definitions as outlined in North Carolina General Statute Sec. 14-202.10. Licensed masseurs (e.g. health massage/body work therapists) are excluded.

Agricultural Industry: Commercial poultry or swine production, cattle or swine feed lots, fur bearing animal farms, commercial plant production (not retail nurseries), commercial fish or poultry hatcheries, and other similar activities.

Alley: a publicly dedicated and maintained right-of-way twenty feet (20') or less in width that provides only a secondary means of access to abutting property and is not intended for general traffic circulation.

Animal Hospital: See Veterinary Hospital or Clinic

Apartment: A room or suite of one or more rooms in a multiple structure intended for use as a residence by a single family.

**Artisan Food and Beverage Producer:** An establishment that engages in onsite commercial production of food and/or beverage products to a final form employing batch-processing or hand-crafting using traditional methods, and distributes to customers on-site via product tasting and direct sales and/or off-site to retailers and wholesalers. Typical products may include coffee roasters, chocolatiers, confectioneries, cideries, distilleries, and wineries.

**Automotive Body Repair:** An establishment where the following services may be rendered on a motor vehicle: body repair, straightening of automotive body parts, painting, welding, storage of automobiles not in operating condition.

**Automotive Repair:** A building or area used for the temporary storage, care, and repair of motor vehicles including both minor and major mechanical overhauling.

**Automotive Service Station:** A building used for the sale and dispensing of fuel, lubricants, tires, batteries, accessories, and supplies, including installation and minor services customarily incidental thereto. Fuel pumps shall be located at least twenty (20) feet from any property or right-of-way line. Facilities for washing and for chassis and gear lubrication of vehicles are permitted if enclosed in a building. Service Stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and bodywork are conducted.

**Automotive Wrecking Yard:** The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot of four or more motor vehicles, which, for a period exceeding thirty (30) days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or sale, shall constitute an automobile wrecking yard.

**Bank:** Financial institution engaged in deposit banking and closely related functions such as the extension of credit by means of loans and investments, and fiduciary activities.

**Bar:** A commercial enterprise devoted primarily to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages. Bars include taverns, pubs, night clubs, and similar drinking establishments serving alcoholic beverages but do not include taprooms/tasting rooms in microbreweries and brewpubs.

**Basement:** That portion of a building that is partly or completely below grade. A basement shall be termed a cellar when more than one-half of its height is below the average adjoining grade. A basement shall be termed a story if the vertical distance from the average adjoining grade to the ceiling is more than five feet (5').

**Bed and Breakfast Inn:** A house, or portion thereof, where short-term lodging rooms and meals are provided for compensation. The operator of the inn shall live on the premises

or on adjacent premises. (See 9-3060.06)

Beer: Includes "Malt beverage" as defined by G.S.18B-101(9).

Best Management Practices (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Boarding House: A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, where meals or lodging is provided for three or more persons, but not to exceed eight persons. The owner of the boarding house shall reside on the premises.

Bona Fide Farm: See Farm, Bona Fide

Breezeway: A covered passageway connecting a single family residence and an accessory structure.

Brewery: An establishment for the manufacture of beer .

Brewpub: A restaurant with facilities for the manufacture of beer onsite for consumption and retail sale at the restaurant. Where allowed by law, brewpubs may often sell beer "to go" and /or distribute to off-site accounts.

Buffer: A buffer shall consist of a planting strip at least ten (10) feet in width, composed of deciduous or evergreen trees or a mixture of each, spaced not more than ten (10) feet apart and not less than one (1) row of dense shrubs, spaced not more than five (5) feet apart and five (5) feet or more in height after one (1) growing season, and said strip shall be planted and maintained in a healthy, growing condition by the property owner. No such buffer shall, however, extend nearer to a street right-of-way line than the established building line of the adjoining lot.

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

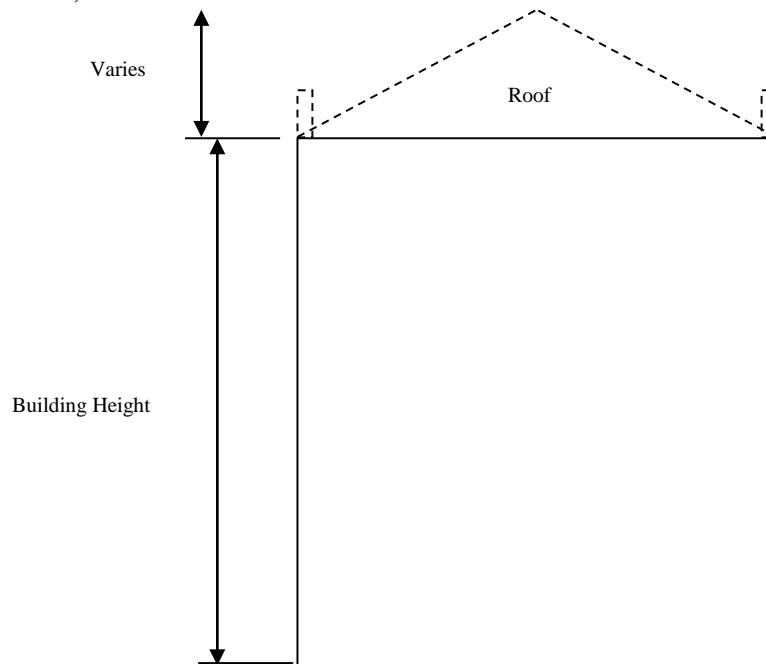
Building: An independent enclosed structure, anchored to a permanent foundation and having exterior or party walls and a roof designed for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

Building, Accessory: A building subordinate to the main building on a lot and used for

purposes customarily incidental to the main or principal building, and located on the same lot therewith.

Building, Coverage: see Lot Coverage.

Building, Height: The vertical distance measured from the average elevation of the finished lot grade at the front building line to the highest point of the roof beams adjacent to the front of the wall in the case of a flat roof; to the average height of the gables in the case of a pitched roof; and to the deck line in the case of a mansard roof.



Building, Principal: A building or structure in which the primary use of the lot on which the building is located is conducted. A structure, or where the context so indicates, a group of structures in or on which is conducted the principal use of the lot on which such structure is located.

Building, Setback: A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost five feet (5') of any overhang, uncovered porches, steps, gutters, and similar fixtures, and the related front, rear, or side property or right-of-way line, whichever is closest to the building.

Built-Up Upon Area: That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel, recreation facilities, etc., excluding wooden slatted decks and the water area of a swimming pool.

Business, General: Commercial establishments that, in addition to serving day-to-day commercial needs of a community, also supply the more durable and permanent needs of a whole community, including supermarkets, department stores, discount stores, variety

stores, hardware and garden supply stores, apparel and footwear stores, florists, gift shops, jewelry stores, book and stationery stores, specialty shops, sporting goods stores, furniture and home furnishing stores, automotive supply stores, and appliance stores.

Business, Office-type: Quasi-commercial uses that generally accommodate occupations such as administrative, executive, legal, accounting, writing, clerical, stenographic, and drafting occupations, and including offices of a charitable, philanthropic, religious, or educational nature.

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

Car Wash, Detail Shop: An area of land and/or a structure with machine- or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles; a building or area that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor.

Cellar: see Basement.

Cemetery: Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including land on which columbariums, mausoleums, or similar structures are located.

Certificate of Occupancy: Permit that is issued by the Town after the erection or structural alteration of a building, or part of a building; the permit allows the owner, tenant, or occupant thereof to occupy the structure and shows that the structure has been completed in conformity with the provisions of this Ordinance.

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

Church: A structure in which persons regularly assemble for religious worship and which is maintained by a religious body organized to sustain public worship.

Clinic: An organization of professional specialists such as physicians or dentists, who have their offices in a common building. A clinic shall include laboratory facilities in conjunction with normal clinic services.

Club: An establishment operated by a corporation or association of persons for social, literary, political, educational, fraternal, or charitable purposes, but which is not operated for profit.

Cluster Development: The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential

development as well as single-family residential and multi-family developments. For the purpose of this Ordinance, planned unit development and mixed use development are considered as cluster development.

Community Center: A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve the community at large.

Comprehensive Plan: A plan, or any portion thereof, adopted by the Valdese Planning Board and Town Council, establishing goals, objectives, and policies designed to manage the quantity, type, cost, location, timing, and quality of development and redevelopment in the Valdese community.

Conditional Use Permit: A permit, granted by the Town Council after the Council holds a public hearing, which authorizes a use which would not generally be appropriate throughout a particular zoning district, but which, if controlled as to number, size, location, or relation to the neighborhood, would promote the public health, safety, and general welfare.

Condominium: A single family dwelling unit constructed in a series or group of attached units where each dwelling unit is to be deeded and/or separately owned from other units, and where all land is owned in common by owners of all the dwelling units collectively. (Also See Dwelling)

Convenience Store: A retail establishment where beverages, packaged food, tobacco products or similar convenient goods for customers are sold, and where, in addition gasoline and/or diesel fuel is supplied and dispensed, provided that all gasoline pumps shall be located at twenty (20) feet from any property or right-of-way line .

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

Crematory or Crematorium: A properly installed, certified apparatus intended for use in the act of Cremation. (See Section 9-3060.02)

Critical Area: The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as the area one-half mile upstream and draining to a water supply reservoir or water intake located in a stream or river; or to the ridge line of the watershed, whichever comes first.

Day Care Home: A private residence where care, protection, and supervision are provided on a regular schedule, to no more than five (5) preschoolers and three (3) school age

children at one time, including children of the adult provider.

Day Care Center: A building or structure where care, protection and supervision is provided on a regular schedule to at least nine (9) or more children, including the children of the adult provider. Day Care Centers shall not be located within a dwelling unit.

Development: The use or occupancy of any land or structure, or the construction, erection, alteration, or moving of any structure; any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

Domestic Pets: Animals that are customarily kept for company, pleasure, or enjoyment within the home or yard such as domestic dogs, domestic cats, domestic tropical birds, domestic rodents, domestic rabbits, and domestic fish. (See 9-3062.d Animal Keeping in Special Requirements for Certain Uses)

Driveway: A vehicular way, other than a street or alley that provides vehicular access from a street to or through off-street parking and/or loading areas.

Duplex: see Dwelling, Two-Family.

Dwelling, Accessory: A dwelling unit which is located on the same lot as a detached or attached single family house, has a first floor area no greater than 650 square feet, is owned by the owner of the principal dwelling unit but occupied by another. If the principal dwelling is a group home, use of an accessory dwelling shall not increase the number of residents otherwise permitted in a single home. (See Section 9-3060.01)

Dwelling, Multiple or Multi-Family: A building or portion thereof, containing three (3) or more dwelling units, designed for occupancy by three (3) or more families living independently of each other.

Dwelling, Single-Family: A building arranged or designed to be occupied by one family, the structure having only one dwelling unit.

Dwelling, Two-Family or Duplex: A building containing two (2) dwelling units designed exclusively for occupancy by two (2) families independent of each other, such as a duplex building unit.

Dwelling Unit: A room or group of rooms within a structure forming a single, independently habitable unit containing an independent kitchen, sanitary facilities, sleeping facilities, and provided such structure complies with Valdese's Minimum Housing Code.

Easement: A grant by a property owner to the use of land by the public, a corporation, or persons for specific purposes such as the construction of utilities, drainage ways and roadways.



Electronic Gaming Operations: Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including but not limited to, computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or predetermined odds. This includes, but is not limited to, internet sweepstakes or video sweepstakes. This does not include any lottery approved by the State of North Carolina.

Essential Services: Publicly or privately owned facilities or systems for the distribution of gas, electricity, steam or water, the collection and disposal of sewage or refuse; the transmission of communications; or similar functions necessary for the provision of public services. Radio transmission facilities for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not essential services, provided no transmitter or antenna tower exceeds 180 feet in height. Essential Services are divided into three classes:

- Class 1    Transmission lines (above and below ground) including electrical, natural gas, and water/wastewater distribution lines; pumping stations, lift stations, and telephone switching facilities (up to 200 square feet);
- Class 2    Elevated water storage tanks; package treatment plants; telephone switching facilities (over 200 square feet), substations, or other similar facilities used in connection with telephone, electric, steam, and water facilities; raw water treatment facilities.
- Class 3    Generation, production, or treatment facilities such as power plants and sewage treatment plants.

Existing Development: Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:

- (1)    having expended substantial resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
- (2)    having an outstanding valid building permit as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1), or
- (3)    having an approved site specific or phased development plan as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1).

Family: An individual or two (2) or more persons related by blood, marriage, or adoption living together in a dwelling unit; or a group of not more than six (6) persons, one (1) or more of whom is not related by blood, marriage, or adoption to the others.

Family Care Home: A dwelling with support and supervisory personnel that provides room and board, personal care and rehabilitation services in a family environment for not more than six resident disabled persons. Disabled person means a person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)b.

Farm, Bona Fide: Any tract of land containing at least three acres which is used for dairying or for the raising of agricultural products, forest products, livestock or poultry, and which may include facilities for the sale of such products from the premises where produced. The definition of "farm" and "bona fide farm" shall not include agricultural industries.

Farmers Market: The seasonal selling or offering for sale at retail of home-grown vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables or produce or have taken the same on consignment for retail sale.

Financial Institution: A use or structure where financial, pecuniary, fiscal, or monetary services are made available to the public, including but not limited to depository institutions (i.e. banks, credit unions, savings and loans, etc.), non-depository credit institutions (i.e. credit agencies, loan brokers, etc.), holding companies (but not predominantly operating companies), other investment companies, brokers and dealers in securities and commodities contracts, and security and commodity exchanges.

Flag Lot: Lots or parcels that are approved by the Town of Valdese which have an access corridor providing a minimum of thirty-five (35') of frontage on an approved public street, with the bulk of the lot or parcel being otherwise landlocked by other property. Such access shall have a minimum width of 35 feet. The area of the access corridor shall be excluded in computing the lot area and width, and the length of said strip shall not exceed one hundred (100) feet.

Flea Market: An occasional or periodic sales activity held within a structure or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage sales.

Floodplain: That area within the one-in-one hundred (100 year) regional flood contour elevation subject to periodic flooding as designated by the Zoning Enforcement Officer based upon United States Department of Housing and Urban Development FIA Flood Hazard Boundary Maps.

Floor Area, Gross: The sum of enclosed areas on all floors of a building or buildings measured from the outside faces of exterior walls, including halls, lobbies, arcade, stairways, elevator shafts, enclosed porches and balconies, and any below-grade floor

areas used for access and storage. Not countable as floor area are open terraces, open patios, open atriums, open balconies, open carport garages, and breezeways.

Floor Area Ratio: Determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

Garage: An enclosed accessory structure that provides shelter for vehicles or boats.

Garage, Public: A building designed and used for the storage of automobiles and operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.

Gated Subdivision: A subdivision in which access to the gated subdivision is restricted by gates or other devices.

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

Government Building: A building, use, or facility serving as a governmental agency office, police station, fire station, library, post office, or similar facility, but not including a vehicle storage yard, correctional facility, sanitary landfill, solid waste transfer or disposal facility, wastewater treatment facility, educational or health institution, university, group home, or housing for persons who are participating in work release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

Hazardous Material: Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

Hillside Subdivision: Land proposed to be subdivided which has a slope of sixteen per cent (16%) or greater. That is, an average difference in elevation of at least sixteen (16) feet in a horizontal distance of one hundred (100) feet. The average shall be obtained from at least fifteen (15) measurements, each twenty (20) feet from the next.

Home Occupation: An occupation, service, profession or enterprise carried on within a dwelling unit or accessory structure by a resident. Hobbies shall not be subject to the requirements of this section. (See Section 9-3045)

Hospice and Palliative Care Facility: A freestanding licensed facility(s) which provides palliative and supportive medical and other health services to meet the holistic needs of terminally ill patients and their families in an inpatient or group residential setting.

Hospital: An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories,

out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

Hotel: A facility offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, and recreational facilities.

Industrial Development: Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product.

Inoperable Vehicle: Any wrecked or non-operable automobile, truck, or other vehicle which does not bear a current license plate.

Junk Yard: The use of more than four hundred (400) square feet of any lot for the outdoor storage and/or sale of waste paper, rags, scrap metal, or other junk, and including storage of inoperable motor vehicles and dismantling of such vehicles or machinery.

Kennel: Any premises wherein any person(s) engages in the business of boarding, breeding, buying, letting for hire, training for a fee, grooming or selling of domestic pets.

Landfill: A Class 3 Essential Services facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.

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

Loading, Off-Street: Space located outside of any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.

Lot: A parcel of land occupied or capable of being occupied by a main building or group of buildings and accessory buildings, together with such yards, open spaces, and lot areas as are required by this 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.

Lot, Corner: A lot abutting on and at the intersection of two or more streets. See Article D.

Lot Coverage: The percentage of a lot which may be covered with buildings or structures (excluding walks, drives, and other similar uses) and recreational facilities which are accessory to a permitted use (such as swimming pools). Properties within the critical or protected areas as defined by the Water Supply Watershed Protection Act shall include walks, drives, and all other impervious and graveled surfaces in the total lot coverage.

Lot, Double Frontage or Through Lot: A lot having its front and rear yards each abutting on a street. See Article D.

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

Lot, Landlocked: A lot which does not abut a public street, or which otherwise does not meet the minimum street frontage requirements of the zoning district in which is located.

Lot, Frontage: The linear distance by which a lot abuts an approved public street. See Article D.

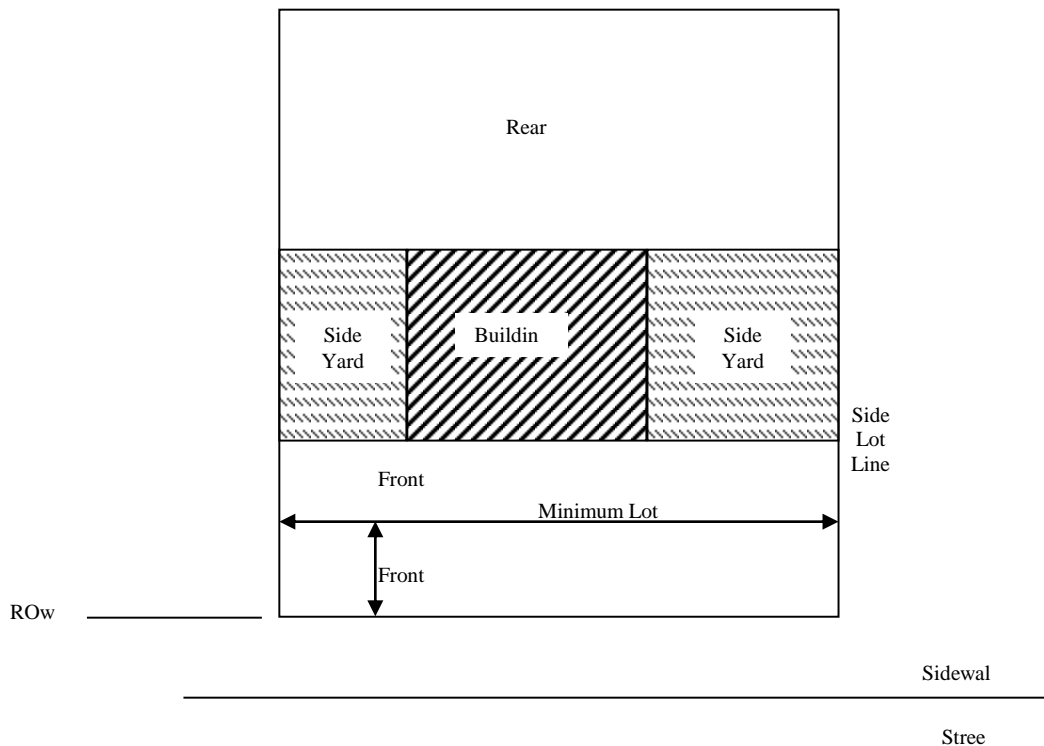
Lot, Interior: A lot in which only one of its sides abuts a street. See Article D.

Lot Line: A property line dividing one lot from another or from a street or other right-of-way. See Article D.

Lot of Record: A lot which is described by reference to a recorded plat, or described by metes and bounds or similar method, the description of which has been so recorded by the Burke County Register of Deeds, and which has been given a separate tax identification number by the Burke County Tax mapping Department.

Lot, Substandard: A lot that has less than the required minimum area or size as established by the zone in which it is located, and provided that such lot was of record as a legally created lot on the effective date of this Ordinance.

Lot Width: The straight linear distance between the side lot lines, measured at the two points where the minimum building line, or setback line, intersects the side lot lines.



**Major Watershed Variance:** A variance from the minimum statewide water supply watershed protection criteria that results in any one or more of the following:

- (1) any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater system;
- (2) the relaxation, by a factor greater than ten (10) percent, of any management requirement under the low density option;
- (3) the relaxation, by a factor greater than five (5) percent , of any buffer or built-upon area requirement under the high density option.

**Manufactured Home:** A structure designed for living or sleeping purposes, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities.

**Class A Manufactured Home (multi-section/double-wide).** A manufactured home that meets or exceeds the construction standards established by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and is a multi-section unit.

**Class B Manufactured Home (single-wide).** Class B single-wide manufactured home that meets or exceeds the construction standards established by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and is a single-wide unit.

Manufactured Home Park: Any existing lot or parcel on which two (2) or more manufactured homes are used, leased or rented or intended to be used, leased or rented for occupancy. Existing manufactured home parks shall comply with Article G of the Valdese Zoning Ordinance.

Marina: A facility for the storing, servicing, fueling, berthing, and launching and securing of private pleasure craft that may include the sale of fuel and incidental supplies for the boat owners, crews, and guests.

Massage Therapy: The systematic and scientific manipulation and treatment of the soft tissues of the body for therapeutic or remedial purposes, specifically for improving muscle tone and circulation and promoting circulation and promoting health and physical well-being. The term includes, but is not limited to, the manipulation of muscular structure of the body, by use of pressure, friction, stroking, percussion, kneading, vibration by manual or mechanical means, range of motion and nonspecific stretching. Massage Therapy does not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

Microbrewery: A brewery that produces less than 15,000 barrels of beer per year with a portion of its beer sold to the public.

Mini-warehouse: A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors supplies.

Minor Watershed Variance: A variance that does not qualify as a major variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor up to five (5) percent of any buffer, density, or built-upon requirements under the high density option; or that results in a relaxation, by a factor up to ten (10) percent, of any management requirement under the low density option.

Mixed Use: Commercial, office-institutional, and/or residential uses within the same building where each use is independent of the other use(s).

Modular Home: A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code (NCSBC) and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two or more sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the NCSBC) or may consist of a series of panels or room sections transported on a truck and erected or joined together on the site.

Motel: A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed a motel.

Multi-family Building: See Dwelling, Multiple or Multi-family

Neighborhood Recreation: Public or private neighborhood, tennis, or other courts, swimming pools or similar indoor and/or outdoor uses that are operated on a fee or membership basis primarily for the use of persons who reside in the neighborhood that the facility is located. "Neighborhood Recreation" structures shall include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

Nonconforming Building: Any building that does not meet the limitations on building size and/or location on a lot for the district in which such building is located, and for the use to which such building is being put.

Nonconforming Lot of Record: A lot described by a plat or deed that was recorded prior to and lawfully existed prior to the adoption of this Ordinance, but which does not meet the limitations on size, depth, width, street frontage, or other development requirements of the statewide watershed protection rules for the district in which such lot is located.

Nonconforming Use: A lawful use of land that does not comply with the use regulation for its zoning district as defined by this Ordinance.

Non-residential Development: All development other than residential development, agriculture and silviculture.

Nursing Home: A health care facility licensed by the state to provide long-term medical services according to the directives of a patient's physician and standards of quality set by the state and the facility. Nursing homes in North Carolina are staffed by professional personnel under the direction of a licensed nursing home administrator; they deliver a variety of medical and social services to their patients.

Office: A building or portion thereof wherein services are performed involving predominantly administrative, professional, or clerical operations.

Open Space: Any front, side, or rear yards, courts, or usable open space provided around a building in order to meet the requirements of this Ordinance.

Open Storage: The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.



Outdoor Seasonal Sales: Outdoor seasonal sales are temporary uses, which include but are not limited to outdoor Christmas tree sales, pumpkin sales, plant sales, and similar uses. Outdoor seasonal sales are not intended to include the sale of manufactured items such as furniture, bedding, automobile parts, or household goods.(See Special Use Requirements)

Park: Any public or private land available for recreational, educational, cultural, or aesthetic use.

Parking Lot: Any designated area designed for temporary accommodation of motor vehicles of the motoring public in normal operating condition, for a fee or as a service.

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

Pet: see Domestic Pets.

Planned Unit Development (PUD): A form of development characterized by a unified site design for a number of buildings. The design is intended to provide for common open space and for a mix of building types and uses. It permits the planning of a project and a calculation of densities over the entire development rather than on an individual lot-by-lot basis. The site plan must include two or more principal buildings. Such development shall be based on a plan, that allows for flexibility of design most available under normal district requirements.

Planning Jurisdiction: The area within which the Town of Valdese is authorized to plan ~~for~~ and regulate development pursuant to the authority granted in Article 19, Chapter 160A, of the North Carolina General Statutes.

Protected Area (PA): Area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five miles upstream of and draining to a water supply reservoir, or to the ridge line of the watershed, whichever comes first; or within ten miles of and draining to a water intake in a stream or river, or to the ridge line of the watershed, whichever comes first.

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

Recycling Collection Point: A drop-off point for temporary storage of recoverable resources. No processing of such items at the recycling collection point is allowed. Such facilities should generally be located in a shopping center parking lot or in other public/quasi-public areas, such as churches and schools.

Recycling Plant: A facility that is not a junk yard and in which recoverable resources, such as paper, glass, and metal products, are recycled, reprocessed, and treated to return such products to a condition in which they may again be used for consumption.

Religious Institution: A church, synagogue, temple, mosque, or other place of religious worship, including any accessory use or structure, such as a school, day care center, or dwelling, located on the same lot.

Residential Care Facility: A building or facility used primarily to provide residential, social and personal care for children, the aged or others who suffer some limit on the ability for self-care, but where medical care is not a major service, such as adult day care facilities, homes for the aged, rest homes and other like uses.

Residential Development: Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc., and their associated outbuildings such as garages, storage buildings, gazebos, etc.

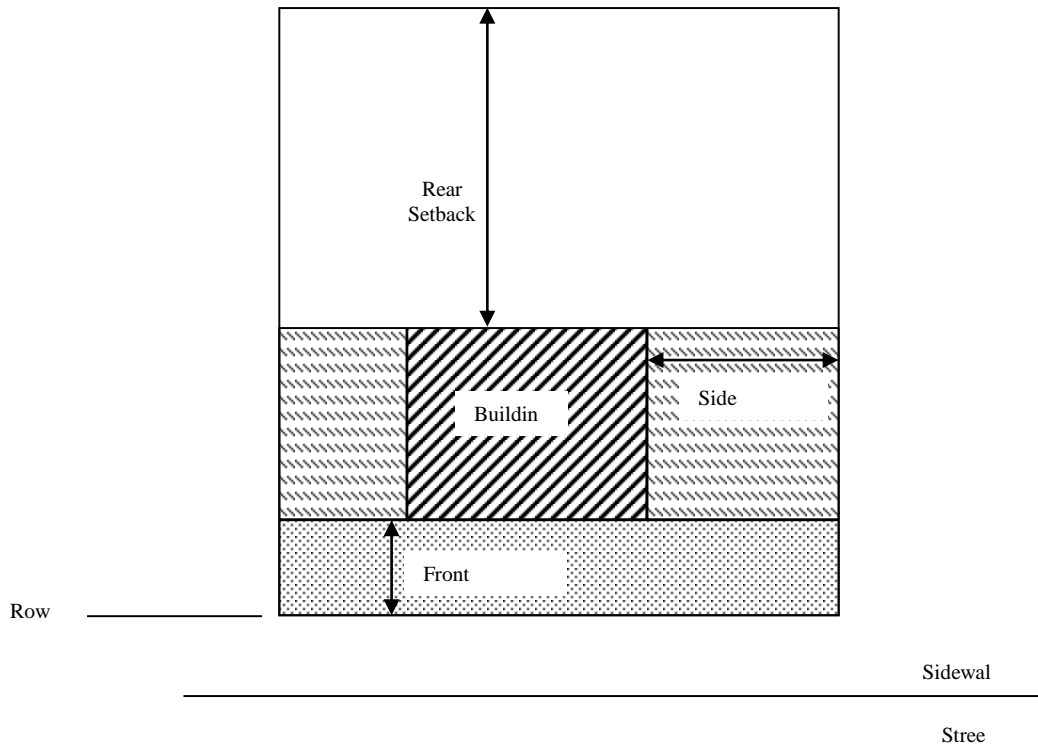
Restaurant: An establishment in which food or beverages are cooked or prepared and offered for sale and where consumption is permitted on the premises whether or not entertainment is offered, and including establishments commonly referred to as cafes, grilles, taverns, clubs, private clubs, drive-ins, and fast food establishments.

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

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

Service Station: See Automotive Service Station

Setback: A line establishing the minimum allowable distance between the nearest portion of any or building, excluding the outermost five feet (5') of any overhang, uncovered porches, steps, gutters, and similar fixtures, and the related front, rear, or side property or right-of-way line, whichever is closest to the building. Sign setbacks shall apply to the entire sign including any overhang or projection.



**Sign:** Any object, devise, structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images.

Signs do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious, or civic organizations; works of art which in no way identify an object, person, institution, organization, business, product, service, event or location by any means; or scoreboards located on athletic fields.

**Single-family Home:** See Dwelling, Single-family.

**Single Family Residential:** Any development where: 1) no building contains more than one dwelling unit; 2) every dwelling unit is on a separate lot; and 3) where no lot contains more than one dwelling unit.

**Site Plan:** A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features for a specific parcel of land.

**Story:** The space within a building, other than a cellar, included between the surface of any floor and the surface of the ceiling next above. In computing the height of a building, the

height of a basement or cellar shall not be included where more than one-half of the height of such basement or cellar is below the average adjoining grade.

Street (Public Road, Lane, Way, Terrace, Drive): A dedicated and accepted public right-of-way used, or intended to be used, for passage or travel by motor vehicles which affords the principal means of access to abutting properties.

Street, Private: Any right-of-way or area set aside to provide vehicular access that has not been accepted for maintenance or intended to be accepted for maintenance by the Town 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, homeowners association, community group, property management company, or similar type of organizations, shall be responsible for upkeep and maintenance.

Structure: Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, including buildings, sheds, carports, swimming pools, shelters, decks, patios, fences, business signs, and billboards and similar structures.

Structural Alterations: Any change, except for repair or replacement, in the supporting members of a structure, such as, but not limited to, bearing walls, columns, beams, or girders.

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

Temporary Portable Building: A building intended for non-residential use for a limited time period, consisting of one or more modules constructed off the ultimate site of use and transported to that site either on its own wheels or otherwise.

Temporary Uses and Structures, Including Seasonal Markets: See Outdoor Seasonal Sales

Ten-Acre Exempt Development: A division of land that meets the statutory exemption from subdivision regulations as set forth in G.S. 47-30, whereby all tracts are greater than 10 acres and where no street right-of-way dedication is involved. A Ten-Acre Development must abut a public street and shall not exceed five building parcels.

Two-family Dwelling: See Dwelling, Two-family.

Truck Terminal: A building or area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semi-trailers, including tractor and/or trailer units and other trucks, are parked or stored.

Variance, Zoning: Permission by the Board of Adjustment that authorizes the recipient to do that which, according to the strict letter of this Ordinance, he could not otherwise legally do. Subject to other provisions of this Ordinance and North Carolina General Statutes, the Board of Adjustment may permit a variance from certain provisions of this Ordinance upon making the findings set forth in Article XI, of this Ordinance.

Veterinary Hospital or Clinic: A use or structure intended or used primarily for the testing and treatment of the physical disorders of animals; not principally used for the overnight boarding or grooming of well animals; not permitting outdoor cages, pens or runs for the confinement of animals unless expressly permitted in the district; and not used for the training of animals. The operator shall be licensed by and under the control of the North Carolina State Veterinary Medical Board.

Water Dependent Structure: Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

Watershed: The entire land area contributing surface drainage to a specific point (e.g. the water supply intake.)

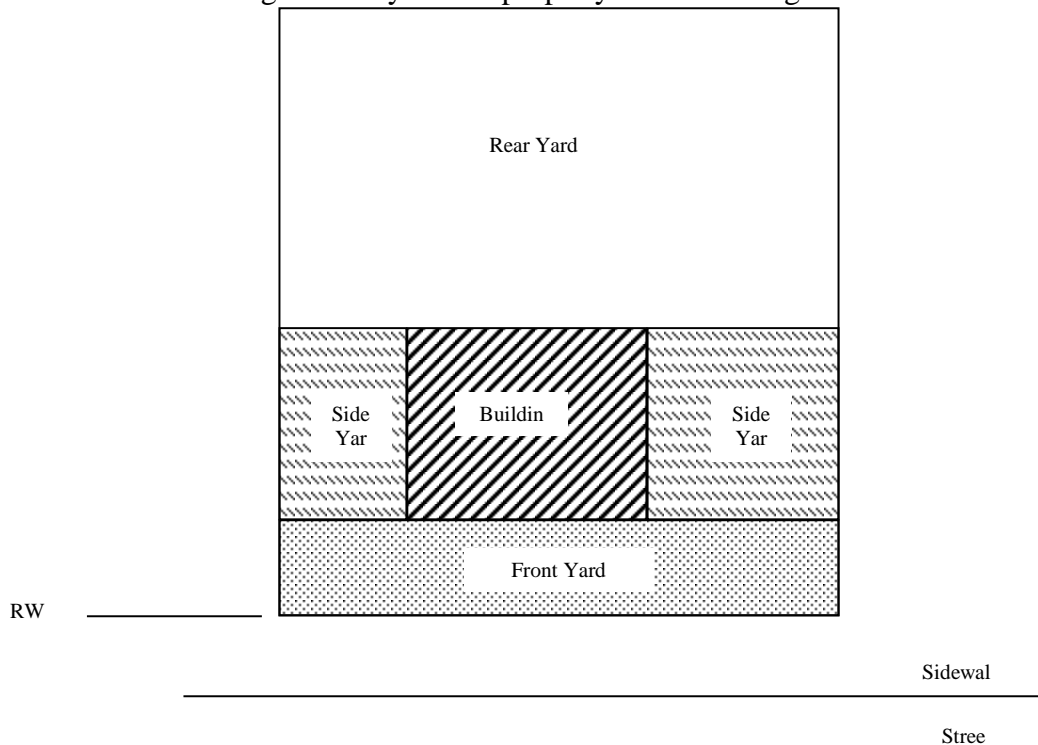
Watershed Administrator: An official designated by the Town of Valdese responsible for administration and enforcement of this Article. This term shall also include the term "Zoning Enforcement Officer".

Watershed Variance: A permission to develop or use property granted by the Board of Adjustment or Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this ordinance.

Winery: A building or property that produces wine, which may include a tasting room.

Yard: A space on the same lot with a principal building, open, unoccupied, and unobstructed by building or structure from ground to sky except where encroachment and accessory buildings are expressly permitted.

Yard, Front: An open space on the same lot between the principal building facade and the closer of the front street right-of-way line or property line extending the full width of the lot.



Yard, Rear: An open space between the rear line of the principal building and the rear line of the lot and extending the full width of the lot.

Yard, Side: An open, unoccupied space on the same lot with a principal building between the sideline of the building and the side line of the lot and extending from the front yard line to the rear yard line.

Zoning Enforcement Officer: The Town of Valdese official responsible for enforcement and administration of this Ordinance. This term shall also include the terms "Watershed Administrator" and "Zoning Administrator".

Zoning Permit: A permit issued by the Zoning Administrator indicating compliance with the requirements of this Ordinance. This term shall also include the term "Watershed Protection Permit".

**Sections 9-3013 through 9-3020 reserved**



**ARTICLE C**  
**ESTABLISHMENT OF DISTRICTS AND GENERAL RULES**

**9-3021 Use Districts**

The Town of Valdese is hereby divided into eight (8) zoning districts designated as follows:

R-12	Residential District
R-12A	Residential District
R-8	Residential District
O-I	Office-Institutional District
B-1	Central Business District
B-2	General Business District
M-1	General Manufacturing District
FP	Floodplain Overlay District

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

- (a) Where, due to the scale, lack of detail or illegibility of the zoning map, there is an uncertainty, contradiction or conflict as to the intended location of any zoning district boundary as shown thereon, the Zoning Administrator shall make an interpretation of said map upon request of any person. Any person aggrieved by such interpretation may appeal such interpretation to the Zoning Board of Adjustment. The Zoning Administrator and the Zoning Board of Adjustment, in interpreting the zoning map or deciding any appeal, shall apply the following standards:
- (b) Boundary lines:
- (1) Zoning district boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or along the center lines of alleys, streets, rights-of-way or water courses, unless such boundary lines are fixed by dimensions shown on the zoning map.
  - (2) Where zoning districts boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.
  - (3) Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.

**Sections 9-3023 through 9-3030 reserved**



**ARTICLE D**  
**GENERAL PROVISIONS**

**9-3031 Application**

- (a) Use. No building or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the regulations of this Ordinance or amendments thereto, for the district in which it is located.
- (b) Height and Density. No building shall hereafter be erected or altered so as to exceed the height limit, or to exceed the density regulations of this Ordinance for the district in which it is located.
- (c) Lot Size. No lot shall be reduced in size so that the lot width or depth, front, side or rear yards, lot area per family or other requirements of this Ordinance are not maintained, except in cases of street widening.
- (d) Yard Use Limitations. No part of a yard or other open space required around any building for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space similarly required for another building.
- (e) One Principal Building on Any Lot. Every building hereafter erected, moved, or structurally altered shall be located on a lot of record and in no case shall there be more than one (1) principal building and its customary accessory buildings on any lot, except in the case of a specially designed complex of institutional, residential, industrial, or commercial buildings in an appropriate zoning district, as permitted by Article I of this Ordinance.
- (f) Building Lot Must Abut Public Street. No building shall be constructed, erected upon, or moved to any lot that does not abut by at least thirty-five (35) feet a publicly dedicated or maintained street or on a private street, that meets the standards of the North Carolina Department of Transportation Street standards as to maintenance, disclosure and construction except as provided in Section 9-3040, Provisions for Landlocked Lots, Section 9-3047, Provisions for Ten-Acre Exempt Developments, and Section 9-4048, Provisions for Gated Subdivisions.
- (g) Necessary Repairs Permitted. Nothing in this Ordinance shall prevent the strengthening or restoration to a safe or lawful condition of any part of any building or structure declared unsafe or unlawful by the Building Inspector, the Fire Chief, or any other duly authorized Town officials.
- (h) Water and Sewer Requirements. The lot sizes for the various districts in Article E of this ordinance were drawn based upon the assumption that adequate water supply and sewage

disposal systems are available to each and every lot. The lack of adequate systems for one or both facilities may require larger lot areas or, in some instances, not permit development as intended.

### **9-3032 Nonconforming Uses**

After the effective date of this Ordinance, existing structures, or the uses of land or structures which would be prohibited under the regulations for the district in which it is located (if they existed on the adoption date of this Ordinance), shall be considered as nonconforming. Nonconforming structures or uses (as defined in Article B of this Ordinance) may be continued provided they conform to the following provisions:

#### **9-3032.1 Continuing Nonconforming Uses of Land**

- (a) Extension of Use. The enlargement or extension of nonconforming uses of land is prohibited.
- (b) Change of Use. Any nonconforming uses of land may be changed to a conforming use or, with the approval of the Town Council, to any use more in character with the uses permitted in the district in question.
- (c) Cessation of Use. When a non-conforming use of land is discontinued for a consecutive period of one hundred eighty (180) days, the property involved may thereafter be used only for conforming purposes.

#### **9-3032.2 Continuing the Use of Nonconforming Buildings**

- (a) Extension of Use Nonconforming buildings and nonconforming uses may not be enlarged. Additionally, no nonconforming structure or use may be enlarged or altered in any way which increases its dimensional deficiencies.
- (b) Change of Use. Except as otherwise provided, the lawful use of a building existing at the time of the adoption of this Ordinance may be continued, even though such use does not conform to the provisions of this Ordinance. Furthermore, such building may be structurally altered and any nonconforming use therein changed subject to the following regulations:
  - (1) The order of classification of uses from highest to lowest for the purpose of this section shall be as follows: residential district uses, business district uses, industrial district uses, as permitted by this

Ordinance.

- (2) A nonconforming use may be changed to a use of higher classification but not to a use of lower classification. A nonconforming use may not be changed to another use of the same classification unless the new use shall be deemed by the Town Council, after public notice and hearing, to be less harmful to the surrounding neighborhood, than the existing nonconforming use.
  - (3) A nonconforming commercial or industrial use may not be extended, but the extension of a use to any portion of a building, which portion is at the time of the adoption of this Ordinance primarily designed for such nonconforming use, shall not be deemed to be an extension of a nonconforming use.
  - (4) A conditional use permit has been issued by the Town Council for the proposed change or alteration.
- (c) Cessation of Use. If a nonconforming use is discontinued for a consecutive period of one hundred eighty (180) days, any future use of the buildings and premises shall be in conformity with the provisions of this Ordinance.
- (d) Repairs, Maintenance, Damage or Destruction.
- (1) Minor repairs to and routine maintenance of property where non-conforming situations exist is permitted and encouraged. Major renovation, i.e. work to cost more than 25 percent of the appraised valuation of the structure to be renovated, may be done only in accordance with the regulations of the district in which it was located. The 25 percent cost limit stated above shall include all work within any 18-month period.
  - (2) Nothing in this section shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of a public official. When improvements are made to restore the property to a safe condition, the costs of such repairs or alterations shall not be included in the 25% noted in the preceding paragraph.
  - (3) If a structure located on a lot where a non-conforming situation exists is damaged to an extent that the costs of repair or replacement would exceed 50 percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with the regulations of the district in which it is located. Any repairs or replacement of a non-conforming situation, including residential structures, must be started (obtain building permit) within 180 days after the initial damage.

(e) Manufactured Homes.

- (1) Regarding manufactured homes refer to Article G.

<b>9-3033 Interpretation of District Regulations</b>
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- (a) Uses by Right. Uses not designated as permitted by right or subject to additional conditions shall be prohibited. Conditional uses are permitted according to the additional regulations imposed. These conditional uses may be approved only by the Town Council. Additional uses when in character with the district may be added to the Ordinance by amendment.
- (b) Minimum Regulations. Regulations set forth by this Ordinance shall be minimum regulations. If the district requirements set forth in this section are at a variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standard shall govern.
- (c) Land Covenants. Unless restrictions established by covenants for the land are prohibited by or are contrary to the provisions of this Ordinance, nothing herein contained shall be construed to render such covenants inoperative.

<b>9-3034 Zoning of Annexed Areas</b>
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Any areas annexed into the Town of Valdese, upon annexation, shall be rezoned to an appropriate zoning district, upon recommendation by the Planning Board and approval by the Town Council following notifications and public hearings as required by North Carolina General Statutes.

<b>9-3035 Lot of Record</b>
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- (a) Where the owner of property consisting of one (1) or more lots of record in any district at the time of adoption of this Ordinance or his successor in title does not own sufficient contiguous land to conform to the minimum area and width requirements of this Ordinance, such property may be used as a building site, provided that the requirements of the district are complied with or a variance is obtained from the Board of Adjustment.
- (b) Notwithstanding the foregoing, whenever two or more adjoining vacant lots of record are in single ownership at any time after the adoption of this Ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as a single lot or several lots which meet the minimum requirements of this Ordinance for the district in which such

lots are located.

- (c) Every lot to be built upon shall abut, by at least thirty-five (35) feet, a public street or other public way, and no dwelling shall be placed or built upon a lot that does not abut upon a public street or other public way by the same distance except as provided in Section 9-3040, Provisions for Landlocked Lots, Section 9-3047 Provisions for Ten-Acre Exempt Development, and Section 9-3048, Provisions for Gated Subdivisions.

#### **9-3036 Front Yard Setbacks for Dwellings**

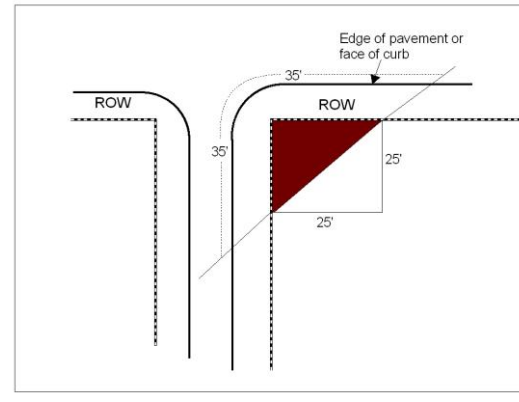
The front yard setback requirements of this Ordinance for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within one hundred (100) feet on either side of the proposed dwelling and on the same side of the same block and use district as such lot is less than the minimum required front yard depth. In such case the setback on such lots may be less than the required setback but not less than the average of the existing setbacks on the aforementioned lots, or a distance of ten (10) feet from the street right-of-way line, whichever is greater.

#### **9-3037 Height Limitations**

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments; water towers; chimneys; smokestacks; conveyors; flag poles; masts; serials and similar structures except as otherwise noted in the vicinity of airports. Telecommunications towers shall adhere to the height restrictions of Article P.

#### **9-3038 Visibility at Intersections**

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



- (1) A triangular area formed by intersecting the sides on curb (or pavement edge where there is no curb) measuring 35 feet in each direction along the curb or pavement edge from the point of intersection, and on the third side by the diagonal line connecting the ends of the 35-foot sides as illustrated; or
- (2) A triangular area formed by intersecting the street right of way lines measuring 25 feet in each direction from the point of intersection along the street right of way, and on the third side by the diagonal line connecting the ends of the 35-foot sides as illustrated
- (3) Within the triangular areas as described above, and except as provided below, no structure, sign, plant, shrub, tree, berm, fence, wall, or other object of any kind shall be installed, constructed, set out or maintained to obstruct cross-visibility at a level that exceeds 30 inches above the level of the center of the street.
- (4) On streets maintained by the North Carolina Department of Transportation, additional sight distance requirements may apply.
- (5) In other than 90-degree intersections or where grades mandate, the Town of Valdese may impose additional sight triangles.

#### Exemptions

- (a) The restrictions set forth in 9-3038 shall not apply to the following:
  - (1) Existing natural grades which, by reason of natural topography, rise 30 or more inches above the level of the center of the adjacent intersection;
  - (2) Limbs and foliage from trees outside the triangular area trimmed in such a manner that no limbs or foliage extend into the triangular area between 30 and 96 inches above the level of the center of the butting intersection;
  - (3) Fire hydrants, public utility poles, street markers, governmental signs, electrical junction boxes and traffic control devices.
  - (4) The clear sight triangles at street intersection restrictions established in this

Section shall not apply to structures located in the B-1 Central Business District.

<b>9-3039 Location of Accessory Buildings</b>
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- (a) On any residential lot, except as hereafter provided, accessory buildings shall not be located in any front or side yard, shall not cover more than thirty percent (30%) of any rear yard and shall be at least five (5) feet from any other building on the same lot and at least twenty (20) feet from any buildings used for human habitation on adjoining lots. All parts of the building, including the footings and roof overhang, shall be a minimum of ten (10) feet from any lot line; and further provided that in the case of corner lots such buildings or structures shall be set back at least twenty (20) feet from any side line right-of-way line. Exception: residential accessory buildings located in the B-1 Zoning District which shall be a minimum of five (5) feet from **any** lot line.
- (b) Residential carports may be permitted in the side yard of a single-family dwelling provided such carports meet the side yard setback of a principal structure for the applicable zoning district. For the purposes of this section a residential carport shall be defined as an accessory building consisting of a roof where the side walls are open and where the purpose of such a structure is to provide covered parking for non-commercial (passenger) motor vehicles. The storage of materials or equipment, other than motor vehicles, in a residential carport is prohibited if the carport is not located in the rear yard.

A detached garage may be permitted in the side yard of a single-family dwelling provided such garage meets all of the side yard setbacks of the principal structure for the applicable zoning district and that it meets the general requirements/conditions for a detached garage as outlined in Section 9-3060.

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

- (c) Residential accessory buildings may be located in a front or side yard provided the lot is used for single-family purposes and is greater than five (5) acres in size (area). In such a case, the residential accessory building shall be set back from the front property line a minimum of 200 feet and shall meet all other applicable setbacks.
- (d) On any commercial or industrial lot, accessory buildings may be located in a side or rear yard, provided they do not cover more than fifty percent (50%) of the total area of the lot. Such accessory buildings shall be at least ten (10) feet from any other building on the same lot and at least twenty (20) feet from any buildings used for human habitation on adjoining lots. Vehicular canopies for gas pumps may project into a required front setback; provided, however, such canopies may project no closer than within five (5) feet

of the right of way line or property line and such structures may not extend into required buffer or side yard setback areas. All parts of each accessory building, including the footings and roof overhangs, shall be a minimum of ten (10) feet from any lot or right of way line. Fuel pumps shall be at least twenty (20) feet from property or right of way lines. Accessory buildings and structures shall be set back at least twenty (20) feet from any side property or right of way line. Exception: non-residential accessory buildings located in the B-1 Zoning District shall be a minimum five (5) feet from any lot or right of way line.

#### **9-3040 Provisions for Landlocked Lots**

- (a) Existing landlocked lots within the residential zoning district, defined as a lot that does not abut a public street by at least thirty-five (35) feet and therefore does not meet the requirement that the lot have a minimum frontage on a public street of thirty-five (35) feet, may nevertheless be developed for one single-family dwelling unit if the lot otherwise meets the zoning requirements of the zone in which the lot is located and provided that the lot has a recorded easement of ingress and egress to and from a public street which is appurtenant to the lot and which meets the following requirements:
- (1) A private easement with a minimum continuous width of twenty-five (25) feet is acquired from intervening property owners; provided, however, an easement with a minimum continuous width of less than twenty-five (25) feet and a maximum length of three hundred (300) feet may be permitted only in situations where an easement with a minimum continuous width of twenty-five (25) feet would create a nonconformity with respect to this Ordinance;
  - (2) The recorded documents creating the easement that public service, utility and emergency personnel and vehicles shall have freedom of ingress and egress to and from the landlocked property;
  - (3) The recorded documents shall include a maintenance agreement specifying the party responsible for maintaining the easement and its traveled surface;
  - (4) The easement must have an all-weather surface of gravel, concrete or asphalt with a minimum continuous width of ten (10) feet to ensure access of public service, utility, and emergency personnel and vehicles;
  - (5) Landlocked lots shall not be subdivided.

#### **9-3041 Vested Rights**



(a) The purpose of this section is to implement the provisions of NCGS 160A-385.1 pursuant to which a statutory zoning vested right is established upon approval of a site specific development plan.

(b) Definitions.

(1) Approval Authority. The Town Council, Planning Board, Board of Adjustment, Town Clerk, Zoning Administrator, or other board or official designated by this Ordinance as being authorized to grant the specific zoning or land use permit approval that constitutes a site specific development.

(2) Site Specific Development Plan.

(a) A plan of land development submitted to the Town of Valdese for purposes of obtaining one of the following zoning or land use permits or approvals:

(1) Zoning Permit as provided by this Ordinance

(2) Conditional Use Permit as provided by this Ordinance

(3) Minor Subdivision approval

(4) Major Subdivision approval

(b) Notwithstanding the foregoing, neither, a sketch plan, nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

(3) Zoning Vested Rights. A right pursuant to NCGS 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan, provided that such development shall begin within two (2) years following issuance of the zoning vested right. Under the terms of this Ordinance, a two (2) year zoning vested right shall be established upon issuance of a zoning permit.

<b>9-3042 Permitted Accessory Uses in All Districts</b>
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The following accessory uses are permitted in all districts:

(a) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot (9-3039).

(b) Fences and Walls

(1) Fences consisting of masonry, rock, wire or wooden material and hedges may be

installed on any residential lot, provided that the height of such fencing or walls shall be limited to a maximum height of four (4) feet in the front yard. Fencing and walls in the side or rear yard of residential property shall be limited to a maximum of eight (8) feet in height. Retaining walls and required screenings shall not be subject to the above height requirements.

(c) **Parking Lots**

- (1) See Article F, Off-Street Parking Requirements.

**9-3043 Setbacks along Thoroughfares**

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

- (a) The minimum street setbacks for lots in each zoning district that abuts a thoroughfare shown in the Adopted Thoroughfare Plan shall be measured from the existing right-of-way line for each classification of thoroughfare and shall meet the following requirements:

<b>Thoroughfare Classification</b>	<b>Additional Setback</b>
Existing street recommended for securing additional right-of-way of 10 feet or less	10 feet
Existing street recommended for securing additional right-of-way of more than 10 feet	One-half the difference between the existing and recommended rights-of-way, but less than 10 feet
Not recommended for securing additional right-of-way	No additional setback required
Note: Where rights-of-way for street widening have been acquired, setbacks shall be measured from the right-of-way line that has been established.	

- (b) Use of Additional Setback. The additional setback adjacent to the existing right-of-way may not be developed for parking, but may be used for fences, buffers, landscaping, signs, lighting fixtures, or other similar improvements.

**9-3044 Property Maintenance**

- (a) This section shall apply to all properties within the Town of Valdese jurisdiction. The requirements contained herein shall become effective upon adoption of this

Ordinance; however, no enforcement proceedings shall commence under this section until 60 days after adoption. This 60-day period is to allow property owners time to make necessary improvements required under this section.

- (b) Construction. All new structures shall be designed, constructed and maintained in accordance with the following standards:
  - (1) All structures shall comply with applicable provisions of this Ordinance and the North Carolina State Building Code as adopted by the N.C. State Building Code Council, and the Town of Valdese Minimum Housing Code and such other building ordinances as may be adopted and or amended by the Town from time to time.
- (c) Maintenance. All structures erected, occupied or continued under this Ordinance shall be maintained in good structural condition, in compliance with all applicable codes and provisions of this Ordinance. Specifically:
  - (1) All existing structures shall comply with applicable provisions of this Ordinance and the following codes including but not limited to the: North Carolina State Building Code Volume IX – Existing Buildings, the requirements of the code under which the building was built and the Town of Valdese Minimum Housing Code.
  - (2) A structure shall have no more than 20 percent of its exterior roofs, walls and other elements of the structure covered with disfigured, cracked, or peeling surface materials for a period of more than 30 consecutive days.
  - (3) A structure shall not be maintained with broken windows, holes in exterior surfaces including roofs and walls, ripped awnings, loose materials, loose elements or other obvious exterior defects for a period of more than 30 consecutive days. Exterior materials shall form a weather tight surface with no holes, excessive cracks or decayed surfaces that permit air to penetrate rooms where such rooms are designed, used, permitted or intended for human occupancy or use.
  - (4) A structure shall not have weeds, trees, vines, or other vegetation growing upon it greater than 12 inches in height in an untended manner for a period of more than 15 consecutive days.
  - (5) All site lighting, parking areas, fences, railings, driveways, curbs, wheel stops, sidewalks, gutters, storm water management areas and systems and other improvements and appurtenances shall be maintained in working order and reasonably free of defects.
  - (6) The owner or tenant shall maintain all landscape areas, trees and shrubs in a neat

and healthy condition free of diseased, dead, or bare areas, free of debris and free of grass or weeds greater than 12 inches in height.

- (7) The owner or tenant shall maintain all required landscaped areas in a manner consistent with the requirements of this Ordinance. Dead plants shall be replaced as necessary to maintain compliance with the regulations contained herein.
- (8) The property owner shall maintain the property and the exterior portions of any structures thereupon free of accumulations of debris, junk, garbage, or trash including but not limited to discarded furniture and other household goods, inoperative vehicles, and inoperative equipment except within approved dumpsters or trash enclosures, enclosed storage areas or on land approved for the operation of a junk yard.

<b>9-3045 Home Occupations</b>
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- (a) A home occupation is permitted accessory to any dwelling unit (except manufactured housing) in accordance with the following requirements:
  - (1) The home occupation must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling.
  - (2) A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure typically associated with a dwelling.
  - (3) The use shall employ no person who is not a resident of the dwelling.
  - (4) A home occupation housed within the dwelling shall occupy no more than 25 percent of the total floor area of the dwelling.
  - (5) There shall be no visible outside display of stock in trade that is sold on the premises.
  - (6) There shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation, excepting equipment or materials of a type and quantity that could reasonably be associated with the principal residential use.
  - (7) Operation of the home occupation shall not be visible from any dwelling on an adjacent lot, nor from a street.
  - (8) Only vehicles used primarily as passenger vehicles will be permitted in connection with the conduct of the home occupation.
  - (9) The home occupation shall not utilize mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside the dwelling or accessory structure housing the home occupation.
  - (10) Home occupations shall be limited to those uses which do not draw clients to the dwelling on a regular basis.

- (11) No business identification or advertising signs are permitted.
  - (12) All home occupations shall require a zoning permit. Permits are not transferable from person to person or from address to address.
  - (13) There may be one annual inspection by the town staff to ensure the home occupation is operating within the requirements specified by this ordinance. The town staff shall have the right at any time, upon reasonable request, to enter and inspect the premises covered by the zoning permit for safety and compliance purposes.
  - (14) In no case shall a home occupation be open to the public at times earlier than 8:00 a.m. nor later than 9:00 p.m.
  - (15) No more than one home occupation shall be permitted within any single dwelling unit or accessory structure.
  - (16) There shall be no deliveries to or from a home occupation with a vehicle larger than a three-quarter ton truck.
  - (17) No home occupation shall cause an increase in the use of any public utilities or services (water, sewer, garbage collection, etc.) so that the combined total use for dwelling unit and home occupation purposes exceeds the average for residences in the neighborhood.
  - (18) Home occupations shall comply with all local, state, and federal regulations pertinent to the activity pursued, and the requirements of or permission granted by this section shall not be construed as an exemption from such regulations.
  - (19) Any non-conforming home occupation shall be discontinued or comply with all applicable provisions of this section within sixty (60) days after the home occupation first became non-conforming.
  - (20) Any pre-existing (prior to the date of adoption of this section and approved by zoning permit) home occupation, made non-conforming by this section, may be continued for a period of two (2) years after adoption of this section or the discovery of the non- conforming use.
- (b) The following uses are permitted in a home occupation:
- (1) Architectural, drafting, and graphic services;
  - (2) Art restoration;
  - (3) Art/photography studio;
  - (4) Barber Shop
  - (5) Beauty salons;
  - (6) Consulting offices;
  - (7) Contracting offices;
  - (8) Data processing;
  - (9) Dressmaking, sewing, and tailoring;
  - (10) Electronic assembly and repair;

- (11) Engineering services;
- (12) Financial planning and investment services;
- (13) Flower arranging;
- (14) Gardening and landscaping services;
- (15) Home crafts;
- (16) House cleaning services;
- (17) Insurance sales broker;
- (18) Interior design;
- (19) Jewelry making and repair;
- (20) Locksmith;
- (21) Mail order (not including retail sales from the site);
- (22) Real estate sales broker;
- (23) General sales representative;
- (24) Tutoring;
- (25) Furniture upholstering.

(c) The following uses are prohibited in a home occupation:

- (1) Adult oriented businesses
- (2) Large Appliance Repair
- (3) Automotive repair shops
- (4) Automotive painting
- (5) Carpentry/cabinet making
- (6) Caterers and food vendors
- (7) Commercial cabinetry shop
- (8) Dance studios
- (9) Furniture construction
- (10) Kennels
- (11) Machine shops
- (12) On-site vehicular sales
- (13) Rental businesses
- (14) Engine/mechanical repair shops
- (15) Trucking services
- (16) Welding shops
- (17) Other uses not listed as a permitted use.

<b>9-3046 Buffers</b>
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Intent: The purpose of this article is to preserve and protect the health, safety, and general welfare of the residents of Valdese by promoting the environmental and public benefits of buffers. It is intended to improve compatibility and provide transition between different zones and preserve the character and aesthetics of an area (see “Buffer” definition in Section 9-3012).

<b>9-3046.1 Standards</b>
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- (a) When industrial and commercial property is developed adjacent to vacant property zoned residential or when nonresidential uses are developed in residential zones, a buffer shall be required.
- (b) The planted buffers as provided in Section 9-3046 shall be required in all industrial and commercial zones when these areas abut residential zones and for all nonresidential uses in residential zones.
- (c) All plant types required in this article shall consist of plants at least three (3) feet in height when planted.
- (d) When two (2) rows of plantings are required, plants shall be staggered in a triangular pattern so that there is a plant spaced the required distance apart as specified in section 9-3046.2.4.
- (e) When the existing natural buffer provides adequate screening, the existing buffer should remain. The Zoning Enforcement Officer shall determine if sufficient buffer does exist.
- (f) The buffer shall be shown in detail on the site plan approved by the Town of Valdese.
- (g) The buffer shall be installed and approved before a certificate of occupancy will be granted except when seasonal weather conditions are not conducive; a temporary certificate of occupancy may be issued for up to ninety (90) days.
- (h) The buffer shall be maintained, and dead and diseased plants replaced by the owner or occupant of the premises. The outside storage of materials shall be prohibited in the area between the planted buffer and the residential district. The owner or occupant of the premises shall properly and continuously maintain this area.
- (i) If a fence is erected on the residential district side of the planted buffer by the party establishing the buffer, the fence shall be one of the following types:
  - A six-foot high wood, basket weave type fence;
  - A six-foot high picket type fence;
  - A six-foot high chain link type fence;
  - A six-foot high open type fence;
  - A six foot-high solid masonry wall.

Fences with barbed or razor wire shall be located on the inside of the buffer. The height of the buffer plantings shall equal the height of the barbed or razor wire at the time of the planting.

<b>9-3046.2 Planting Specifications</b>
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(a) **Manufacturing-Industrial Zones (M-1) that abut residential zones (R-8, R-12, R-12A).**

A planted buffer shall reach a minimum height of eight (8) feet. Plants used on a buffer shall be a species that forms a continuous year-round opaque screen within three (3) years after planting. The planted buffer shall be composed of two (2) rows of plants no more than 10 feet apart in each row. One of the plant types listed in section 9-3046.1.4 shall be used, and the plants shall be located no further apart than the distance indicated for each plant type. The planted buffer area shall be at least ten (10) feet wide.

(b) **Commercial or Business Zones (B-1, B-2, B-3, O-I) that abut residential zones (R-8, R-12, R-12A) and non-residential uses in residential zones (R-8, R-12, R-12A).**

A planted buffer shall reach a minimum height of six (6) feet. Plants used on a buffer shall be a species that forms a continuous year-round opaque screen within three (3) years after planting. The planted buffer shall be composed of one (1) row of plants no more than 10 feet apart in the row. One of the plant types listed in section 9-3046.1.4 shall be used, and the plants shall be located no further apart than the distance indicated for each plant type. The planted buffer area shall be at least ten (10) feet wide.

(c) **Required buffer heights and topographic considerations.**

The required height of the planted buffer shall be measured in relation to the elevation of the edge of the adjacent area to be screened. In such cases as the ground elevation of the location at which the screen is to be planted is less than the elevation of the proposed building site, the required height of the screen shall be increased in an amount equal to said difference in elevation.

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

Below are listed the types of plants that shall be used in planted buffers and the maximum distance each plant type shall be planted apart. Substitution for another plant type not listed is to be made in writing to the zoning administrator and is subject to verification that the proposed plant will thrive and provide adequate screening. No more than thirty (30) percent of the total plantings in a buffer shall be deciduous plants.

<i>Plant</i>	<i>Distance Apart (in feet)</i>
Arbor Vitae	4
Ligustrum Japonicum and varieties	5
Photinia	5
Holly	5
a. Nellie R. Stevens	5
b. Fosters #2	4
c. Savannah	4
d. Bufordi	5
Eleagnus Pungens	5
Osmanthus Varieties	4



Pfitzer Juniper	4
Doublefile Viburnum	5
Forsythia	3
White Pine	8 to 10
Scotch Pine	5 to 6
Deodara Cedar	8 to 10
Dogwood	8 to 10
Flowering Cherry	8 to 10
Flowering Crabapple	8 to 10
Bradford Pear	8 to 10
Oak	8 to 10
Linden	8 to 10
Leyland Cypress	8 to 10

#### **9-3047 Provisions for Ten-Acre Exempt Developments**

Ten-Acre Exempt Developments shall be approved by the Town of Valdese upon allowance of a Conditional Use Permit. Before an application for the permit is approved, there shall be findings that the following general standards are met:

1. The use will not materially endanger the public health, safety, and general welfare.
2. The use will not substantially injure the value of adjoining or abutting property.
3. The use is consistent with any adopted area plans that encompass the property subject to the application.
4. The development access road shall remain private.
5. The development access road shall be constructed in accordance with and the North Carolina Fire Prevention Code standards.
6. An easement shall be granted to the Town of Valdese to guarantee access for Public Safety, Public Works, and Planning Department.
7. An entity other than the Town of Valdese, such as property owners, homeowners association, community group, property management company, or similar type of organizations, shall be responsible for upkeep and maintenance.
8. The development shall not exceed 5 (five) building tracts.
9. Public Works shall not be responsible for any garbage pick-up, rough trash services, white goods or yard waste, except at a designated area located nearest the entrance to the property, as approved by the Town of Valdese.
10. The development shall comply with the requirements outlined in Code of Ordinances Part 5 Municipal Utilities, Chapter 1, Water Supply and Distribution and Chapter 2, Sewer Collection and Disposal.

#### **9-3048 Provisions for Gated Subdivisions**

Gated Subdivisions shall be approved by the Town of Valdese in upon allowance of a Conditional Use Permit. Before an application for the permit is approved, there shall be findings that the following general standards are met:

1. The use will not materially endanger the public health, safety, and general welfare.
2. The use will not substantially injure the value of adjoining or abutting property.
3. The use is consistent with any adopted area plans that encompass the property subject to the application.
4. Subdivision roads within gated subdivisions shall remain private.
5. Subdivision roads shall be paved in accordance with the North Carolina Department of Transportation Road Standards and shall comply with the North Carolina Fire Prevention Code standards.
6. The subdivision gate and access road for ingress and egress shall be compliant with the North Carolina Fire Prevention Code and subject to approval by the Planning Department, Fire Department, Police Department and Public Works Department.
7. An easement shall be granted to the Town of Valdese to guarantee access for Public Safety, Public Works, and Planning Department.
8. An entity other than the Town of Valdese, such as property owners, homeowners association, community group, property management company or similar type of organizations, shall be responsible for upkeep and maintenance.
9. The gated ingress/egress areas, along with the exterior gate(s) encompassing the development, shall be kept in working order and shall be repaired and/or replaced in the event they are disabled and/or damaged.
10. The development shall comply with the requirements outlined in Code of Ordinances Part 5 Municipal Utilities, Chapter 1, Water Supply and Distribution and Chapter 2, Sewer Collection and Disposal.

<b>Sections 9-3049 through 9-3050 reserved</b>
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**ARTICLE E**  
**USE REQUIREMENTS BY DISTRICT**

**9-3051 Neighborhoods Residential District (R-8)**

Intent: The district shall provide for town-scaled residential development within walking distance (generally one-fourth ( $\frac{1}{4}$ ) mile) of services. Streets shall be interconnected and a range of lot sizes is encouraged. The Neighborhood Residential District is to permit the completion and conformity of residential subdivisions.

**9-3051.1 Permitted Uses**

- (a) Uses permitted by right:
  - (1) Boarding House
  - (2) Cemeteries
  - (3) Churches
  - (4) Essential services 1 and 2
  - (5) Family Care Homes
  - (6) Government buildings up to 5,000 square feet of gross floor area
  - (7) Manufactured Homes, Class A
  - (8) Modular Home
  - (9) Neighborhood and outdoor recreation
  - (10) Parks
  - (11) Single-family Homes
  - (12) Two-family Homes (duplexes)
- (b) Uses permitted with Special Requirements
  - (1) Accessory dwellings
  - (2) Bed and breakfast inns
- (c) Uses permitted with a conditional use permit :
  - (1) Bakeries, delicatessens and the like, provided the products prepared or processed on the premises shall only be sold at retail and only on the premises
  - (2) Barber and beauty shops
  - (3) Day Care Center
  - (4) Florist shops, but not commercial greenhouses
  - (5) Grocery stores
  - (6) Laundromats
  - (7) Mixed uses
  - (8) Multi-family building
  - (9) Planned Unit Development – Business
  - (10) Planned Unit Development – Residential
  - (11) Produce stands and open air markets, retail only

- (12) Public and private elementary and secondary schools
- (13) Residential Care Facility
- (14) Detached Garage located in front yard
- (15) Ten-Acre Exempt Development
- (16) Gated Subdivision

(d) Permitted accessory structures and uses:

- (1) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot
- (2) Day Care Home
- (3) Home occupations

<b>9-3051.2 Off-Street Parking and Loading Requirements</b>
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Off-street parking and loading requirements shall be met for all uses as required by Article F of this Ordinance.

<b>9-3051.3 Sign Requirements</b>
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See Article H of this Ordinance.

<b>9-3051.4 Dimensional Requirements</b>
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- (a) Minimum Lot Width;
  - (1) Single-family Home – 50 feet
  - (2) Two-family Home – 60 feet
  - (3) Multi-family Homes – 70 feet for three dwelling units plus 10 feet for each (4) additional dwelling unit
  - (4) Non-residential buildings – 70 feet
- (b) Minimum Building Setback;
  - (1) Minimum front building setback: 20 feet
  - (2) Minimum side building setback: 10 feet (15 feet for side abutting a street ROW)
  - (3) Minimum rear building setback: 25 feet
- (c) Maximum Building Height
  - (1) Maximum building height for residential structures: 40 feet
  - (2) Maximum building height for non-residential structures: 50 feet
- (d) Minimum Lot Sizes and Maximum Lot Coverages

Development activities that do not require a Sedimentation/Erosion Control Plan under State law are subject only to Sections 1 and 3 below.

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

- (a) either water OR sewer: 20,000 square feet;  
(b) water and sewer: 8,000 square feet;

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

- (2) Lots deeded on or after October 1, 1993, to be developed for single-family detached dwellings where the development requires a Sedimentation/Erosion Control Plan under State law:

(a) OPTION 1:

- no water AND no sewer: 40,000 square feet;  
either water OR sewer: 20,000 square feet;  
water and sewer: 8,000 square feet;

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

(b) OPTION 2:

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

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

- (3) Lots to be developed for multi-family dwellings, where the development does not require a Sedimentation/Erosion Control Plan under State law:

Water and sewer required

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

Maximum permissible lot coverage by principal and accessory buildings shall not

exceed 30% of the total lot area.

- (4) Lots to be developed for multi-family dwellings, where the development requires a Sedimentation/Erosion Control Plan under State law:

(a) OPTION 1:

Water and sewer required

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

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

(b) OPTION 2:

Water and sewer required

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

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

### **9-3052 Residential District (R-12A)**

Intent: The R-12A district is intended to be a moderately quiet, medium-high density residential living area consisting of single-family, two-family and multi-family dwellings, along with limited home occupations and limited private and public community uses.

#### **9-3052.1 Permitted Uses**

- (a) Uses permitted by right:
  - (1) Boarding House
  - (2) Cemeteries
  - (3) Churches
  - (4) Essential services 1 and 2
  - (5) Family Care Homes
  - (6) Government buildings up to 5,000 square feet of gross floor area
  - (7) Modular Home
  - (8) Neighborhood and outdoor recreation
  - (9) Parks
  - (10) Single-family Homes, excluding manufactured homes
  - (11) Two-family Homes (duplexes)
- (b) Uses permitted with Special Requirements:
  - (1) Accessory dwellings
  - (2) Bed and Breakfast Inns
  - (3) Day Care Center
- (c) Uses permitted with a conditional use permit:
  - (1) Multi-family building
  - (2) Residential Care Facility
  - (3) Planned Unit Development -Residential
  - (4) Public and private elementary and secondary schools
  - (5) Detached Garage located in front yard
  - (6) Ten-Acre Exempt Development
  - (7) Gated Subdivision
- (d) Permitted accessory structures and uses:
  - (1) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot
  - (2) Day Care Home
  - (3) Home occupations

#### **9-3052.2 Off-Street Parking and Loading Requirements**

Off-street parking and loading requirements shall be met for all uses as required by Article F of this Ordinance.

### **9-3052.3 Sign Requirements**

See Article H of this Ordinance.

### **9-3052.4 Dimensional Requirements**

- (a) Minimum Lot Width
  - (1) Single-family Home – 70 feet
  - (2) Multi-family Homes – 70 feet for three dwelling units plus 10 feet for each additional dwelling unit
  - (3) Non-residential buildings – 70 feet
- (b) Minimum Building Setback
  - (1) Minimum front building setback: 35 feet
  - (2) Minimum side building setback: 10 feet (15 feet for side abutting a street ROW)
  - (3) Minimum rear building setback: 25 feet
- (c) Maximum Building Height
  - (1) Maximum building height for residential structures: 40 feet
  - (2) Maximum building height for non-residential structures: 50 feet
- (d) Minimum Lot Sizes and Maximum Lot Coverage

Development activities that do not require a Sedimentation/Erosion Control Plan under State law are subject only to Sections 1 and 3 below.

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

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

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

- (2) Lots deeded on or after October 1, 1993, to be developed for single-family detached dwellings where the development requires a Sedimentation/Erosion Control Plan under State law:
  - (a) OPTION 1:



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

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

(b) OPTION 2:

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

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

- (3) Lots to be developed for multi-family dwellings, where the development does not require a Sedimentation/Erosion Control Plan under State law:

Water and sewer required

water and sewer:	12,000 square feet for the first unit, 4,000 square feet for the second unit, and 3,000 square feet for each additional unit.
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Maximum permissible lot coverage by principal and accessory buildings shall not exceed 30% of the total lot area.

- (4) Lots to be developed for multi-family dwellings, where the development requires a Sedimentation/Erosion Control Plan under State law:

(a) OPTION 1:

Water and sewer required

water and sewer:	12,000 square feet for the first unit, 4,000 square feet for the second unit, and 3,000 square feet for each additional unit.
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Maximum permissible impervious surface coverage, as defined in this Ordinance, shall not exceed 36% of the total lot area, **or 24% of the total lot area if the lot is located within a WS-4 critical area or if the lot abuts a curb and gutter street system.**

(b) OPTION 2:

Water and sewer required

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

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

### **9-3053 Residential District (R-12)**

Intent: The district shall provide for agricultural uses as well as single-family development. The purpose of the R-12 District is to provide an adequate amount of land for agricultural uses and single-family residential development. Uses that would interfere with the quiet, less urban residential nature of single-family neighborhoods, such as multi-family and commercial uses, are not appropriate in this district.

#### **9-3053.1 Permitted Uses**

- (a) Uses permitted by right:
  - (1) Cemeteries
  - (2) Churches
  - (3) Essential services 1 and 2
  - (4) Family Care Homes
  - (5) Government buildings up to 5,000 square feet of gross floor area
  - (6) Modular Home
  - (7) Neighborhood and outdoor recreation parks
  - (8) Single-family Homes, excluding manufactured homes
- (b) Uses permitted with Special Requirements:
  - (1) Accessory dwellings
  - (2) Bed and Breakfast Inns
  - (3) Animal Keeping
- (c) Uses permitted with a conditional use permit:
  - (1) Bona fide farms but not agricultural industry
  - (2) Public and private elementary and secondary schools
  - (3) Residential Care Facility
  - (4) Detached Garage located in front yard
  - (5) Ten-Acre Exempt Development
  - (6) Gated Subdivision
- (d) Permitted accessory structures and uses:
  - (1) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot
  - (2) Day Care Home
  - (3) Home occupations

#### **9-3053.2 Off-Street Parking and Loading Requirements**

Off-street parking and loading requirements shall be met for all uses as required by Article F of this Ordinance.

### **9-3053.3 Sign Requirements**

See Article H of this Ordinance.

### **9-3053.4 Dimensional Requirements**

- (a) Minimum Lot Width
  - (1) Single-family Home – 70 feet
  - (2) Non-residential buildings – 70 feet
- (b) Minimum Building Setback
  - (1) Minimum front building setback: 35 feet
  - (2) Minimum side building setback: 10 feet (15 feet for side abutting a street ROW)
  - (3) Minimum rear building setback: 25 feet
- (c) Maximum Building Height
  - (1) Maximum building height for residential structures: 40 feet
  - (2) Maximum building height for non-residential structures: 50 feet
- (d) Minimum Lot Sizes and Maximum Lot Coverages

Development activities that do not require a Sedimentation/Erosion Control Plan under State law are subject only to Section 1 below.

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

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

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

- (2) Lots deeded on or after October 1, 1993, to be developed for single-family detached dwellings where the development requires a Sedimentation/Erosion Control Plan under State law:

- (a) OPTION 1:

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

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

(b) OPTION 2:

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

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

<b>9-3054 Office-Institutional District (O-I)</b>
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Intent: The Office-Institutional District is designed to provide a wide range of professional and institutional uses, as well as space for public and quasi-public uses.

<b>9-3054.1 Permitted Uses</b>
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- (a) Uses permitted by right:
  - (1) Art galleries
  - (2) Auditoriums, armories, publicly owned recreation facilities
  - (3) Business Office type
  - (4) Child Care Institution
  - (5) Churches
  - (6) Community Center
  - (7) Essential services 1 and 2
  - (8) Funeral Homes
  - (9) Financial services
  - (10) Government buildings up to 5,000 square feet of gross floor area
  - (11) Hospice and Palliative Care Facility
  - (12) Hospitals
  - (13) Libraries
  - (14) Medical or professional services
  - (15) Mixed uses
  - (16) Modular Home
  - (17) Museums
  - (18) Music or dance institutions/schools
  - (19) Neighborhood and outdoor recreation
  - (20) Nursing Homes
  - (21) Residential Care Facility
  - (22) Parks
  - (23) Single-family Home, excluding manufactured homes, provided setback requirements of the R-8 Residential are met.
  - (24) Veterinary Hospital or Clinic
- (b) Uses permitted with Special Requirements:
  - (1) Accessory Dwellings
  - (2) Day Care Center
  - (3) Bed and Breakfast Inns
  - (4) Brewpubs
  - (5) Microbreweries
  - (6) Restaurants
- (c) Uses permitted with a conditional use permit:
  - (1) Multi-family building

- (2) Planned Unit Development – Business
  - (3) Planned Unit Development – Residential
  - (4) Public and private elementary and secondary schools
- (d) Permitted accessory structures and uses:
- (1) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot
  - (2) Day Care Home
  - (3) Home occupations
  - (4) Within the O-I District all principal and accessory uses shall be conducted wholly within enclosed buildings with the exception of drive-through service, vending machinery, incidental displays of merchandise, displays associated with official festivals and similar incidental outdoor displays.

#### **9-3054.2 Off-Street Parking and Loading Requirements**

Off-street parking and loading requirements shall be met for all uses as required by Article F of this Ordinance.

#### **9-3054.3 Sign Requirements**

See Article H of this Ordinance.

#### **9-3054.4 Dimensional Requirements**

- (a) Minimum Lot Width
  - None
- (b) Minimum Building Setback
  - (1) Minimum front building setback: 20 feet
  - (2) Minimum side building setback: 10 feet
    - An average of 10 feet may meet the side building setback requirements under the following requirements:
      - A conditional use permit is required.
      - Under no circumstances shall the principal building be any closer than five (5) feet from the side property line.
      - An opaque, vegetative buffer is required along the side property line where the averaging option is approved. However, if topography or other issues make the buffer impractical, other options may be used
  - (3) Minimum rear building setback: 15 feet

(c) Maximum Building Height

- Maximum building height: 50 feet

(d) Minimum Lot Sizes and Maximum Lot Coverage

- (1) Within the Office-Institutional District, there is no minimum lot size and development activities can cover 100% of the lot area not within the required setbacks. However, if the development activity requires a Sedimentation/Erosion Control Plan, the maximum permissible impervious surface coverage, as defined by this Ordinance, shall not exceed 36% of the total lot area, or 24% of the total lot area if the lot is located within a WS-4 critical area or if the lot abuts a curb and gutter street system.



## **9-3055 Central Business District (B-1)**

Intent: The purpose of Central Business District is to accommodate and encourage further expansion and renewal in the historic/business core of Valdese. A variety of business, retail, professional, financial, cultural, and other related services are encouraged in an effort to provide the mix of activities necessary to shoppers.

### **9-3055.1 Permitted Uses**

- (a) Uses permitted by right:
- (1) Alcoholic beverages, packaged, retail sales
  - (2) Amusements such as indoor theater, poolrooms, and bowling alleys
  - (3) Art galleries
  - (4) Auditoriums, armories, publicly owned recreation facilities
  - (5) Automobile parking lots
  - (6) Automobile parts and supplies sales, new
  - (7) Bakeries, where the products are sold exclusively at retail on the premises
  - (8) Barber and beauty shops
  - (9) Bicycle sales and repair shops
  - (10) Bus terminals and railroad stations
  - (11) Business colleges, barber and beauty schools, art schools, music and dance studios, and similar organizations, but not vocational schools, all without students in residence
  - (12) Business Office type
  - (13) Churches
  - (14) Clubs and lodges catering exclusively to member and their guests
  - (15) Community Center
  - (16) Convenience Stores
  - (17) Dry cleaning and laundry pickup stations and dry cleaning facilities
  - (18) Essential services 1 and 2
  - (19) Farmers Market
  - (20) Financial Services
  - (21) Florist shops, but not commercial greenhouses
  - (22) Food stores, retail only
  - (23) Funeral Homes
  - (24) Government buildings
  - (25) Gunsmiths
  - (26) Hand-made crafts, retail sale of, and production for on-site sales
  - (27) Hotels, motels, boarding houses
  - (28) Laundromats
  - (29) Locksmiths
  - (30) Medical or professional services
  - (31) Massage therapy
  - (32) Mixed uses

- (33) Museums
  - (34) Neighborhood and outdoor recreation
  - (37) Newsstands, newspaper offices and printing facilities incidental to such offices
  - (38) Office equipment and supplies, sales and service
  - (39) Parks
  - (40) Pawn shops
  - (41) Photographic studios and camera supply stores
  - (42) Retail printing, publishing and reproduction establishments
  - (43) Radio and television, electronics repair and sales
  - (44) Restaurants, including drive through windows as an accessory use
  - (45) Retail establishments such as department, clothing, fabric, shoe, variety, notion, drug, hardware, furniture, appliance, music, art, antique, jewelry, sporting goods, toy, hobby, book, and stationary stores, but not excluding similar retail establishments
  - (46) Shoe repair shops
  - (47) Tailor, dressmaking and millinery shops
  - (48) Taxi stands
  - (49) Telecommunication offices
  - (50) Theaters, indoor
- (b) Uses permitted with Special Requirements:
- (1) Bed and Breakfast Inns
  - (2) Day Care Center
  - (3) Outdoor Seasonal Sales
  - (4)
  - (6) Artisan Food and Beverage Producer
- (c) Uses permitted with a conditional use permit:
- (1) Bars
  - (2) Drop Boxes (on premise only)
  - (3) Modular Home
  - (4) Multi-family building
  - (5) Planned Unit Development – Business
  - (6) Planned Unit Development – Residential
  - (7) Public and private elementary and secondary schools
  - (8) Single-family Home, excluding manufactured homes
- (d) Permitted accessory structures and uses:
- (1) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot
  - (2) Day Care Home
  - (3) Home occupations
  - (4) Within the B-1 District all principal and accessory non-residential uses shall be conducted wholly within enclosed buildings with the exception of gasoline pumps, drive-through service, outdoor dining facilities associated with a

restaurant, incidental displays of produce and merchandise or published materials, vending machinery, displays associated with official festivals and similar incidental outdoor displays.

#### **9-3055.2 Off-Street Parking and Loading Requirements**

Off-street parking and loading requirements shall be met for all uses as required by Article F of this Ordinance.

#### **9-3055.3 Sign Requirements**

See Article H of this Ordinance.

#### **9-3055.4 Dimensional Requirements**

(a) Minimum Lot Width

- None

(Minimum frontage on a public street shall be thirty-five (35) feet).

(b) Minimum Building Setback

- (1) Minimum front building setback: 0 feet
- (2) Minimum side building setback: 0 feet (15 feet for side abutting a residential district)
- (3) Minimum rear building setback: 0 feet (15 feet for side abutting a residential district)

Note: If side or rear yards are provided they must be at least 10 feet in width.

(c) Maximum Building Height

- Maximum building height: 50 feet

(d) Minimum Lot Sizes and Maximum Lot Coverage

Within the B-1 Central Business District, there is no minimum lot size and development activities can cover 100% of the lot area. However, if the development activity requires a Sedimentation/Erosion Control Plan, the maximum permissible impervious surface coverage, as defined by this Ordinance, shall not exceed 36% of the total lot area, or 24% of the total lot area if the lot is located within a WS-4 critical area or if the lot abuts a curb and gutter street system.

#### **9-3055.5 Amortization of Certain Conditions Within the B-1 Districts**

- (a) The uses listed in section 9-3055.5 (b) shall comply with the requirements of this section (9-3055.5) within one (1) year of the adoption of this Ordinance.
- (b) Sales of automobiles, recreational vehicles and other motor vehicles
- (c) Within one year of adoption of this Ordinance all principal and accessory non-residential uses, except those as provided for in Section 9-3055.1 (c) (1) shall be conducted wholly within enclosed buildings. Additional exception: the outside display of automobiles, recreational vehicles and other motor vehicles for sale may be continued for existing businesses.
- (d) Storage of inoperable vehicles on premises for more than 7 days shall cease within 30 days of the adoption of this ordinance.
- (e) The uses listed in section 9-3055.5 (b) shall comply with the following:
  - (1) All parking areas, including display areas for vehicles, shall be paved with asphalt or concrete. Vehicles shall not be parked on grass or graveled areas.
  - (2) All vehicles shall be setback five (5) feet from any right of way line.
  - (3) All vehicles for sale shall be separated from other vehicles for sale by a distance not less than four (4) feet.

## **9-3056 General Business District (B-2)**

Intent: The intent of the General Business District is to encourage the establishment of areas for general business that do not require a central location. These districts are normally located along major radial highways leading out of town where they provide retailing goods and services to the traveling public and local residents.

### **9-3056.1 Permitted Uses**

- (a) Uses permitted by right:
  - (1) Adult Establishments as defined in North Carolina General Statute Sec. 14-202.10 subject to the following requirements:
    - (a) No adult establishment shall be located within a radius of one thousand (1,000) feet of another adult establishment.
    - (b) No adult establishment shall be located within a radius of one thousand (1,000) feet of any residential district, nursing home, retirement home, church, child care center, park or playground.
    - (c) All distances related to Adult Establishments shall be measured as follows:
      - (1) The distance for the separation from residential zoning and protected uses shall be measured from the closest edge of the building occupied by an adult use to the nearest residential zoning district or to the property line of a protected use.
      - (2) The distance for separation between adult uses shall be measured from the closest edges of the buildings occupied by adult uses.
    - (d) No more than one Adult Establishment may be located within the same structure.
  - (2) Alcoholic beverages, packaged, retail sales
  - (3) Amusements such as indoor theaters, poolrooms, and bowling alleys
  - (4) Art galleries
  - (5) Auditoriums, armories, publicly owned recreation facilities
  - (6) Automobile parking lots
  - (7) Automobile parts and supplies sales, new
  - (8) Automotive repair
  - (9) Automobile sales provided it meets the following requirements:
    - (a) All vehicles for sale shall be parked only on surfaces paved with asphalt or concrete.
    - (b) An indoor showroom that will accommodate at least 2 vehicles shall be built or provided.
    - (c) The storage of inoperable vehicles for more than 7 days shall be prohibited.
    - (d) All vehicles for sale shall be separated from other vehicles for sale by a distance not less than (4) feet.
    - (e) All vehicles shall be setback five (5) feet from any right of way line.

- (10) Automotive Service Stations
- (11) Bakeries, where the products are sold exclusively at retail on the premises
- (12) Barber and beauty shops
- (13) Bicycle sales and repair shops
- (14) Bus terminals and railroad stations
- (15) Business colleges, barber and beauty schools, art schools, music and dance studios, and similar organizations, but not vocational schools, all without students in residence
- (16) Business Office type
- (17) Car washes, detail shops
- (18) Child Care Institution
- (19) Churches
- (20) Clubs and lodges catering exclusively to member and their guests
- (21) Commercial and industrial trade schools
- (22) Community Center
- (23) Convenience Stores
- (24) Dry cleaning and laundry pickup stations and dry cleaning facilities
- (25) Electrical appliances and equipment, sales and repair, but excluding open storage
- (26) Essential services 1 and 2
- (27) Farmers Market
- (28) Feed, seed, and fertilizer sales, retail
- (29) Financial Services
- (30) Florist shops, but not commercial greenhouses
- (31) Food stores, retail only
- (32) Funeral Homes
- (33) Government buildings
- (34) Gunsmiths
- (35) Hospice and Palliative Care Facility
- (36) Hospitals
- (37) Hotels, motels, boarding houses
- (38) Laundromats
- (39) Locksmiths
- (40) Massage therapy
- (41) Medical or professional services
- (42) Mixed uses
- (43) Mini-warehouses
- (44) Museums
- (45) Neighborhood and outdoor recreation
- (46) Newsstands, newspaper offices and printing facilities incidental to such offices
- (47) Nursing Homes
- (48) Residential Care Facilities
- (49) Office equipment and supplies, sales and service
- (50) Parks
- (51) Pawn shops
- (52) Photographic studios and camera supply stores

- (53) Plumbing, heating and refrigeration sales/service, but excluding open storage
  - (54) Public garages
  - (55) Radio and television, electronics repair and sales
  - (56) Restaurants, including drive through windows as an accessory use
  - (57) Retail establishments such as department, clothing, fabric, shoe, variety, notion, drug, hardware, furniture, appliance, music, art, antique, jewelry, sporting goods, toy, hobby, book, and stationary stores, but not excluding similar retail establishments
  - (58) Retail printing, publishing and reproduction establishments
  - (59) Service stations (See Automotive Service Station)
  - (60) Shoe repair shops
  - (61) Tailor, dressmaking and millinery shops
  - (62) Taxi stands
  - (63) Telecommunication offices
  - (64) Theaters, indoor
  - (65) Veterinary Hospital or Clinic
- (b) Uses permitted with Special Requirements:
- (1) Bed and Breakfast Inns
  - (2) Crematory or Crematorium
  - (3) Day Care Center
  - (4) Kennels
  - (5) Outdoor Seasonal Sales
  - (6) Electronic Gaming Operations
  - (7) Artisan Food and Beverage Producer
- (c) Uses permitted with a conditional use permit:
- (1) Automotive Body Repair
  - (2) Bars
  - (3) Modular Home
  - (4) Multi-family building
  - (5) Planned Unit Development – Business
  - (6) Planned Unit Development – Residential
  - (7) Public and private elementary and secondary schools
  - (8) Sign painting and fabrication shops
  - (9) Single-family dwellings, excluding manufactured houses
- (d) Permitted accessory structures and uses:
- (1) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot
  - (2) Day Care Home
  - (3) Home occupations

Within the B-2 District all principal and accessory non-residential uses shall be conducted wholly within enclosed buildings with the exception of gasoline pumps, drive-through

service, outdoor dining facilities associated with a restaurant, incidental displays of produce and merchandise or published materials, display of motor vehicles for sale, vending machinery, displays associated with official festivals and similar incidental outdoor displays.

### **9-3056.2 Off-Street Parking and Loading Requirements.**

Off-street parking and loading requirements shall be met for all uses as required by Article F of this Ordinance.

### **9-3056.3 Sign Requirements**

See Article H of this Ordinance.

### **9-3056.4 Dimensional Requirements**

(a) Minimum Lot Width

- None

(Minimum frontage on a public street shall be thirty-five (35) feet).

(b) Minimum Building Setback

- (1) Minimum front building setback: 40 feet
- (2) Minimum side building setback: 10 feet (20 feet for side abutting a residential district)
  - An average of 10 feet may meet the side building setback requirements under the following requirements:
    - (a) A conditional use permit is required.
    - (b) Under no circumstances shall the principal building be any closer than five (5) feet from the side property line.
    - (c) An opaque, vegetative buffer is required along the side property line where the averaging option is approved. However, if topography or other issues make the buffer impractical, other options may be used.
- (3) Minimum rear building setback: 10 feet (20 feet for side abutting a residential district)

(c) Maximum Building Height

- Maximum building height: 50 feet

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

Within the B-2 General Business District, there is no minimum lot size and development activities can cover 100% of the total lot area not within the required setbacks. However, if the



development activity requires a Sedimentation/Erosion Control Plan, the maximum permissible impervious surface coverage, as defined by this Ordinance, shall not exceed 36% of the total lot area, or 24% of the total lot area if the lot is located within a WS-4 critical area or if the lot abuts a curb and gutter street system.

Intent: This district is intended to establish and preserve areas for industrial and related uses of such a nature that they do not create serious problems of compatibility with other kinds of commercial uses which are most appropriately located as neighbors of industrial uses or which are necessary to service the immediate needs of people in these areas.

<b>9-3058.1 Permitted Uses</b>
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- (a) Uses permitted by right:
  - (1) Automotive Body Repair
  - (2) Automotive Repair
  - (3) Automotive Service Station
  - (4) Essential Services - Class 1
  - (5) Essential Services - Class 2
  - (6) Essential Services - Class 3
  - (7) Industrial/commercial trade school
  - (8) Precision instrument manufacturing
  - (9) Recycling Center
  - (10) Recycling Collection Points
  - (11) Recycling Plant
  - (12) Secondary Schools
  - (13) The manufacturing, processing, fabricating, and/or wholesaling of the following products: bedding, carpets, and pillows; clothing, including hosiery; electric and electronic products; foods and food products, not including slaughter houses; glass; household appliances; ice; leather goods, not including the processing or storage of rawhides; machine tools; metals and metal products; paints; paper products, not including the manufacturing or processing of paper; plastics; rubber products, not including the manufacturing or processing of rubber; textiles; wood and wood products, furniture, milk distribution (non-bottling) facilities.
  - (14) Truck Terminal
  - (15) Upholstery shops
  - (16) Veterinary Hospital or Clinic
  - (17) Wholesale and warehousing establishments, but excluding the storage of hazardous or offensive materials such as uncured hides, explosives, and nuclear waste products
  - (18) Large Breweries
  - (19) Winery
- (b) Uses permitted with a conditional use permit:
  - (1) Agricultural Industry
  - (2) Any lawful retail, service, repair, or wholesale use not specifically referred to in this section, provided no use shall be dangerous or detrimental to the health, safety, welfare or general character of this zone or the Town of Valdese

- (3) Automotive wrecking yards and scrap metal dealers, provided the premises are enclosed by a buffer
- (4) Business Office type
- (5) Essential Services 3
- (6) Flea markets
- (7) Landfill
- (8) Lumberyards
- (9) Mobile/manufactured home sales lots
- (10) Marinas
- (11) Mixing plants for concrete or paving materials
- (12) Stone crushing, cutting, and polishing
- (13) Planned Unit Development – Business
- (14) The manufacturing, processing, fabricating, and/or wholesaling of the following products: animal feeds; building materials; gasoline, oil, or fuel storage; pottery, porcelain and vitreous china; soap, detergent and washing compounds.
- (15) Tobacco processing and storage

(c) Permitted accessory structures and uses:

- (1) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot
- (2) Offices that are accessory to any permitted use of this district
- (3) Open storage as an accessory use

(d) Uses permitted with Special Requirements

- (1) Kennels
- (2) Artisan Food and Beverage Producer

<b>9-3058.2 Off-Street Parking and Loading Requirements</b>
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Off-street parking and loading requirements shall be met for all uses as required by Article F of this Ordinance.

<b>9-3058.3 Sign Requirements</b>
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See Article H of this Ordinance.

## 9-3058.4 Dimensional Requirements

(a) Minimum Lot Width

- None

(Minimum frontage on a public street shall be thirty-five (35) feet).

(b) Minimum Building Setback

- (1) Minimum front building setback: 25 feet (50 feet where abutting a residential district, excluding right-of-way)
- (2) Minimum side building setback: 10 feet (50 feet for side abutting a residential district)
  - An average of 10 feet may meet the side building setback requirements under the following requirements:
    - (a) A conditional use permit is required.
    - (b) Under no circumstances shall the principal building be any closer than five (5) feet from the side property line.
    - (c) An opaque, vegetative buffer is required along the side property line where the averaging option is approved. However, if topography or other issues make the buffer impractical, other options may be used
- (3) Minimum rear building setback: 20 feet (50 feet for side abutting a residential district)

(c) Maximum Building Height

- (1) Maximum building height: 50 feet
- (2) Buildings exceeding 50 feet in height are permitted upon issuance of a Conditional Use Permit

(d) Minimum Lot Sizes and Maximum Lot Coverage

Within the M-1 Manufacturing District, there is no minimum lot size and development activities can cover 100% of the total lot area not within the required setbacks. However, if the development activity requires a Sedimentation/Erosion Control Plan, the maximum permissible impervious surface coverage, as defined by this Ordinance, shall not exceed 36% of the total lot area, or 24% of the total lot area if the lot is located within a WS-4 critical area or if the lot abuts a curb and gutter street system.

## 9-3059 Flood Plain Overlay District (FP)

Intent: This district is intended to assist in protecting against extreme hazard, loss of life and severe flood damage in Flood Plain areas. This overlay district is established to be the flood hazard area shown on the U.S. Housing and Urban Development FIA Flood Hazard Boundary Maps for Valdese. Uses in this district are intended to be associated with open space, recreational and agricultural land uses and shall not hinder movement of floodwaters.

<b>9-3059.1 Permitted Uses</b>
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- (a) Uses permitted by right:
  - (1) Agricultural uses, including general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, forestry, sod farming, and wild crop harvesting but not agricultural industry
  - (2) Non-structural industrial and commercial accessory uses, including loading areas, parking areas, and private airport landing strips
  - (3) Private and public recreational uses, including, golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, playgrounds, greenways, wildlife and nature preserves, hiking trails, and equestrian trails
  - (4) Residential non-structural accessory uses
  - (5) Municipal, county, state and federal government uses, which due to the nature of the services rendered, must have a specific location, i.e. stream gauge station, sewerage pumping/lift station, etc.
  - (6) Essential Services 1 and 2 provided that the location, design, elevation and construction shall be in such a manner as to minimize or eliminate damage by flooding.
- (b) Uses permitted with a conditional use permit:
  - (1) Essential Services 3
  - (2) Marinas
- (c) Permitted accessory structures and uses:
  - (1) Accessory uses permitted in underlying zoning district(s)

<b>9-3059.2 Off-Street Parking and Loading Requirements</b>
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Off-street parking and loading requirements shall be met for all uses as required by Article F of this Ordinance.

### **9-3059.3 Sign Requirements**

See Article H of this Ordinance.

### **9-3059.4 Dimensional Requirements**

- (a) Minimum Lot Width
  - None or as required by underlying zoning district, whichever is greater  
(Minimum frontage on a public street shall be thirty-five (35) feet).
- (b) Minimum Building Setback
  - Setbacks shall conform with the requirements of the underlying zoning district(s)
- (c) Maximum Building Height
  - Maximum building height shall be in accordance with the underlying zoning district(s)
- (d) Minimum Lot Sizes and Maximum Lot Coverage

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

## 9-3060 Special Requirements For Certain Uses

### 9-3060.1 Accessory Dwellings

- (a) Accessory Dwellings may be created on the same property as a single-family dwelling as an accessory use, only if such units comply with following limits, requirements, and conditions:
- for
- (1) An Accessory Dwelling must meet all standards of the minimum housing code independent living units.
  - (2) The principal use of the lot shall be a single-family dwelling. Manufactured homes shall not be used as Accessory Dwellings.
  - (3) No more than one accessory dwelling shall be permitted on a single lot in conjunction with the principal dwelling unit.
  - (4) The Accessory Dwelling shall not be served by a driveway separate from that serving the principal dwelling unless the accessory dwelling is accessed from a rear alley and the principal dwelling is accessed from a street.
  - (5) A detached Accessory Dwelling shall be housed in a building not exceeding 650 square feet of first floor area (maximum footprint); the structure may be dwelling only or may combine dwelling with garage, workshop, studio, or similar use. The accessory dwelling living area shall not exceed 650 square feet of floor area.
  - (6) A detached Accessory Dwelling shall be located in the established rear yard and meet the setback standards applicable for accessory buildings.
  - (7) The maximum height for an Accessory Dwelling shall be 20 feet.
  - (8) An Accessory Dwelling must be registered with the Planning Director at the time a certificate of occupancy is obtained.

### 9-3060.2 Crematory or Crematorium

- (a) Crematory or Crematorium is subject to the following requirements:
- (1) Use: No crematory shall be established **except** as an accessory use or structure to a North Carolina licensed funeral home in the B-2 General Business District.
  - (2) License: Any funeral home operating a crematory shall have and maintain a licensed crematory manager on staff, keep in force and affect all other licenses required under the North Carolina Crematory Act, and provide proof of continued re-licensing.
  - (3) Air Quality: Prior to issuance of a zoning permit, the applicant shall provide a certification from the North Carolina Division of Air Quality that the applicant

- complies with all air quality regulations or that the Division of Air Quality does not require permit.
- (4) Building: The maximum footprint of the crematory shall not exceed 400 square feet. The exterior/veneer must be of similar material and design as the principle structure.
  - (5) Size: Crematory operations shall not contain more than one (1) cremation chamber.
  - (6) Location: No crematory shall be established on a funeral home lot within 200 feet of any existing residential dwelling on adjacent parcels or within 150 feet of any property line.
  - (7) Other: A crematory must comply with and be maintained in compliance with all applicable public health and environmental laws and rules and meet all of the standards established by the North Carolina Crematory Act, as amended or superseded, and any additional rules and regulations issued by the North Carolina State Board of Funeral Services.

<b>9-3060.3 Day Care Homes and Day Care Centers</b>
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- (a) All Day Care Homes and Day Care Centers shall meet the following standards:
  - (1) In single family residential districts, day care homes must be clearly incidental to the residential use of the dwelling and must not change in the essential residential character of the dwelling.
  - (2) Play space must be provided in accordance with the regulations of the NC Department of Health and Human Services;
  - (3) The outdoor play space as required by the Department of Health and Human Services must be enclosed on all sides by building, and/or permitted types of walls or fences; it may not include driveways, parking areas or land otherwise unsuited for children's play space;
  - (4) A Day Care Center shall provide a minimum 25 square feet of indoor space per child;
  - (5) A Day Care Center shall provide a minimum 75 square feet of outdoor space per child;
  - (6) Play space may not be in the established front yard.
  - (7) Fences must comply with the fence regulations in Section 9-3042;
  - (8) Day Care Centers in a residential district on a site greater than three acres shall have frontage on a collector or thoroughfare street.
  - (9) A Day Center must meet a permitted lot type for the district in which it is to be located.
  - (10) There is no limit on the hours of operation of a Day Care Center, but no outdoor play shall be permitted after sunset.



## 9-3060.4 Kennels

- (a) Kennels are subject to the following requirements:
- (1) The minimum lot size for a Kennel shall be as set forth in the following:

Minimum Lot Size for Kennels	
Number of Animals	Minimum Lot Size(Acres)
1-10	2
11-20	4
21-30	6
Notes: 1) The minimum lot size may be waived by the Planning Department if the Kennel is entirely enclosed as to protect adjacent uses from noise, odors and other objectionable characteristics. 2) An additional 10 animals may be added for each additional acre of land in excess of 6 acres.	

- (2) Outdoor Kennels shall maintain a minimum setback of 400 linear feet from any existing residential structure on an adjoining lot.
- (3) All structures associated with an Outdoor Kennel shall maintain a minimum setback of 200 feet from all lot lines.
- (4) Indoor Kennels shall maintain a minimum setback of 100 linear feet from any residential structure on an adjoining lot.
- (5) All structures associated with an Indoor Kennel shall maintain a minimum setback of 50 feet from all lot lines.
- (6) The operator shall comply with requirements of the North Carolina Department of Agriculture and Consumer Services, Subchapter 52J (Animal Welfare Section)
- (7) The operator shall provide written evidence of compliance with county and state standards.

### **9-3060.5 Outdoor Seasonal Sales**

- (a) Outdoor Season Sales are subject to the following conditions:
- (1) Outdoor Seasonal Sales may be open for eight (8) weeks per calendar year.
  - (2) The use may be located on a vacant lot or on a lot occupied by a nonresidential use.
  - (3) Construction of a permanent building is not permitted.
  - (4) Storage of goods in or sale of goods from trailer(s) on the site is prohibited.
  - (5) Parking may be provided and need not comply with Article F.
  - (6) The use, including all sale items, parking and maneuvering shall observe a setback line of 20 feet.
  - (7) Sale items shall not be located in the sight distance triangle as set forth in 9-3038 Visibility at Intersections.
  - (8) Any signage shall be in accordance with the sign requirements of the underlying zoning district.
  - (9) The operator is responsible for the removal of any vestige of the outdoor sale including signage.
  - (10) The owner of the property shall, if not the same as the outdoor seasonal sales operator, give written permission for seasonal sales to the operator.
  - (11) Stands shall be open on two or more sides

### **9-3060.6 Bed and Breakfast Inns**

- (a) Bed and Breakfast Inns are subject to the following requirements:
- (1) The operators must be full-time residents of the premises.
  - (2) No more than four (4) bedrooms may be devoted to guest accommodations
  - (3) One non-illuminated sign, maximum of 4 square feet, is permitted.
  - (4) Minimum parking spaces required – 2 spaces plus 1 space for each room devoted to guest accommodations.

### **9-3060.7 Electronic Gaming Operations**

- (a) Electronic Gaming Operations are subject to the following requirements:
- (1) Electronic Gaming Operations are allowed only in the B-2 General Business District as a principle use. Electronic Gaming Operations are not allowed as an accessory use in any zoning district.
  - (2) No electronic gaming operation shall be located within one thousand (1,000) feet of another electronic gaming operation;
  - (3) No electronic gaming operation shall be located within one thousand (1,000) feet of

any residential district, nursing home, retirement home, church, child care center, school, park or playground.

- (4) All distances related to Electronic Gaming Operations shall be measured as follows:
  - (i) The distance for the separation from residential zoning districts and protected uses shall be measured from the closest edge of the building in which an electronic gaming operation is located to the nearest residential zoning district or to the property line of each protected use.
  - (ii) The distance for separation between electronic gaming operations shall be measured from the closest edges of the buildings in which an electronic gaming operation is located.
- (5) Any location for Electronic Gaming operations must meet the parking requirement of the B-2 General Business District.
- (6) Each Electronic Gaming Operation shall have all required permits and licenses and shall have paid all applicable fees set forth in the Town's fee schedule.

<b>9-3060.8 Artisan Food and Beverage Producer</b>
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(a) Artisan Food and Beverage Producer

- (1) The total floor area shall not exceed 5,000 square feet. The 5,000 square foot limitation is not applicable to the M-1 Manufacturing District
- (2) Shall include one or more accessory uses such as a tasting room, tap room, restaurant, retail, demonstration area, education and training area or other use incidental to the artisan food and beverage producer
- (3) All activities associated with the production, bottling, storage, and sales shall be conducted entirely within an enclosed structure. No outdoor storage of any kind, including but not limited to, raw materials, byproducts, equipment and inventory shall be permitted.
- (4) Must comply with all other standards of the zoning district having jurisdiction
- (5) All activities associated with the production, bottling, storage, and sales shall be conducted entirely within an enclosed structure. No outdoor storage of any kind, including but not limited to, raw materials, byproducts, equipment and inventory shall be permitted.
- (6) Shall include one or more accessory uses such as a tasting room, tap room, restaurant, retail, demonstration area, education and training area or other use incidental to the artisan food and beverage producer (Wilmington)
- (7) Conditions with the building shall be controlled to minimize noise and odor
- (8) Must comply with all other standards of the zoning district having jurisdiction

### **9-3060.9 Restaurants in O-I District**

- (a) Restaurants in the O-I district are subject to the following requirements:
- (1) Outdoor storage of goods and materials used in assembly, fabrication, or processing is prohibited.
  - (2) A buffer, as outlined in Section 9-3046, is required where such use is adjacent to a residentially zoned area.
  - (3) Must comply with all state and federal alcohol laws.
  - (4) Must comply with all other standards of the zoning district having jurisdiction.

### **Section 9-3061 Detached Garages**

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

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

Conditional Use Requirements:

- (a) Proposed location of garage is completely or partially within front yard.
- (b) The materials used in the construction must meet or exceed the quality and appearance of the principal residence.
- (c) Shall only be considered for placement in the front yard when the topography or other natural features make it impractical to locate the garage in the side or rear yard.
- (d) A minimum of 75 percent of the principal structure shall be visible from all viewpoints along the front property line.
- (e) Shall only be allowed in a residential lot that has a natural ground slope of 25% or greater, as measured from the center of the front lot line to the center of the front facade of the principal building, or in a residential lot where the only feasible driveway route to the principal building would result in the driveway slope being greater than 18% due to topography and/or natural obstructions.
- (f) The garage will not adversely affect the health, safety or welfare of persons residing in the neighborhood and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood.

<b><u>Section 9-3062 Animal Keeping</u></b>
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**A. Purpose and Definitions.**

- 1. The purpose of this section is to regulate the keeping of a horse, mule, goat, cattle, fowl and other birds that are not part of a bona fide farming operation. The ordinance applies to properties located within the corporate limits of the Town.
- 2. "Fowl" and "birds" include the following: chickens, game hens, ducks, swans, geese and other birds typically used as food. This definition for the purpose of animal keeping does not include parrots, parakeets, and other non-food birds.

**B. Prohibitions.**

- 1. Horses, mules, goats, cattle, all other types of livestock, fowl and other birds shall not be permitted within the Town limits, except as provided in Subsection C - Exceptions.

C. Exceptions:

1. Horses.

- (a) The keeping of horses is permitted provided the following conditions are met:

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

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

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

2. Chickens.

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

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

(2a.) No Roosters are allowed

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

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

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

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

(7a.) Must comply with all applicable provisions of the Valdese Animal Code (ex. cleanliness, odor).

D. Keeping Domestic Pets

In all zones where dwelling units are allowed, domestic animals are allowed to be kept as household pets. Up to an aggregate of 6 domestic animals per dwelling unit is permitted subject to restrictions set forth in Section 8.2008 through Sections 8-2012, and Section 8-2022 of the Valdese Code of Ordinance. Birds (canary, parakeet, etc.); amphibian/reptile (turtle, lizard, etc.); rodent (rat, hamster, gerbil, etc.); and tropical fish are excluded from the numerical limitations.

<b>Section 9-3063 through 9-3070 reserved</b>
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**ARTICLE F**  
**OFF-STREET PARKING REQUIREMENTS**

**9-3071 Parking Spaces to be Required and Permanent**

- (a) Off-street parking space shall be provided in accordance with this Article in all districts, except the B-1 Central Business District, the function of which makes it impractical to impose such requirements.
- (b) The off-street parking space required by this division shall be permanent space and shall not be used for any other purpose.
- (c) Each parking space shall be:
  - (1) Angle parking: 30 degree, 45 degree, 60 degree or 90 degree: minimum nine (9) feet by eighteen (18) feet; or
  - (2) Parallel parking: minimum seven (7) feet by twenty-two (22) feet. On State of North Carolina maintained roads, an eleven (11) foot lane width is recommended.

The parking standards are for one vehicle, exclusive of adequate egress and ingress, drives, maneuvering space and landscaping.

- (d) Minimum aisle widths shall be according to the angle of the parking as follows:

Angle of Parking	Minimum Width of Aisle
0 (parallel)	12 feet
30	12 feet
45	12 feet
60	16 feet
90	24 feet

- (e) Off-street parking spaces shall not be located in such a manner that parked cars will extend onto a public street or sidewalk.
- (f) Off-street parking areas shall not be permitted within the front yard in the B-1 Zoning

District.

- (g) Off-street parking areas shall be setback at least 10 feet from any public street.
- (h) Required off-street parking spaces for any use shall be located no more than 400 feet from the use they are intended to serve. This standard does not apply to parking spaces for auditoriums, stadiums, assembly halls, gymnasiums, hospitals and other places of assembly.

<b>9-3072 Use of Parking Lots Permitted</b>
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- (a) The required parking spaces for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use at the same time, except that one-half (1/2) of the parking space required for **churches, theaters, or assembly halls** whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at nights or on Sundays.
- (b) No portion of any street right-of-way shall be considered as fulfilling or partially fulfilling the area requirements for off-street parking required by the terms of this Ordinance.
- (c) Parking in one zoning district in connection with the principle use in another zoning district is permitted so long as all requirements of Article F, Off-Street Parking, are met.
- (d) If parking areas are lighted, the lighting fixtures shall be so installed as to protect the street and neighboring properties from direct glare or hazardous interference of any kind. Light standards shall not exceed 30ft in height and the light direction angle shall not exceed 45 degrees from vertical.

<b>9-3073 Enforcement</b>
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- (a) Each application for a zoning permit or certificate of occupancy shall include information as to the location and dimensions of off-street parking space and the means of ingress and egress between such space and a street. This information shall be in sufficient detail to enable the Zoning Enforcement Officer to determine whether or not the requirements of this Ordinance are met.
- (b) The Certificate of Occupancy of the use of any structure or land where off-street parking space is required shall be withheld by the Zoning Enforcement Officer until the provisions of this Ordinance are fully met. If at any time such compliance ceases, any Certificate of Occupancy which has been issued for the use of the property shall immediately become void and of no effect.



### 9-3074 Schedule of Parking Spaces

Off-street parking spaces shall be provided and permanently maintained by the owners and occupants of the following types of property uses as follows:

<u>Use Classification</u>	<u>Parking Space Requirement</u>
Residential	2 spaces for each dwelling unit
Commercial	1 space for each 500 square feet of gross floor area
Industrial	1 space for each 500 square feet of gross floor area
Office	1 space for each 500 square feet of gross floor area
Warehouse	1 space for each 4,000 square feet of gross floor area
Civic (i.e. churches, fraternal organizations, etc.)	1 space for each 500 square feet of gross floor area
High Schools or Colleges and Universities campuses (auditoriums, Stadiums, gymnasiums, assembly halls)	1 space for each 10 fixed seats and 1 space for each 10 moveable seats in the largest assembly area

### 9-3075 Required Loading and Unloading

- (a) Every building or structure used for business, trade, or industry hereafter erected shall provide space as indicated herein for the loading and unloading of vehicles off the street or public right-of-way. Such space shall have access to an alley or street. For the purposes of this Section, an off-street loading space shall have a minimum dimension of twelve (12) feet by forty (40) feet and overhead clearance of fourteen (14) feet in height above the alley or street grade.
- (b) Off-street loading and unloading shall be permanently maintained by the owners and occupants of the following types of property uses on the basis indicated:
  - (1) Retail operations: One (1) loading space for each 5,000 square feet of gross floor area or fraction thereof.
  - (2) Wholesale and industrial operations: One (1) loading space for each 10,000 square feet of gross floor area or fraction thereof.

### **9-3076 Parking Lot Design Requirements**

- (a) Off-street parking areas should be designed to create a safe and comfortable passage for the pedestrians. All off-street parking lots, including exits, entrances, drives and parking areas shall:
- (1) Be designed to allow for traffic movement in accordance with generally accepted geometric design principles
  - (2) Have physical access to a public street
  - (3) Be so designed that storm water runoff from the parking area does not create erosion, flooding, or other nuisance condition or hazard, on the parking area property or on adjoining properties or roadways. Wherever practicable, runoff shall be directed into existing storm water conveyances, such as ditches, curbs, and storm sewers. In no case shall runoff be directed onto adjoining properties in locations that previously did not receive runoff.
  - (4) Off-street parking areas, loading, egress and ingress, and maneuvering space shall be paved with asphalt or concrete. Any parking area not paved at the time of adoption of this ordinance shall be allowed to continue as such until an expansion of the building or parking area occurs. At such time, the parking area must be paved and meet current landscaping requirements
  - (5) Be maintained as long as the use, which it serves exist. Each parking space shall be marked and maintained
  - (6) Unless otherwise required by these regulations, all off-street parking with more than 10 automotive vehicles that adjoins any plot zoned or used for single family residential purposes, shall be screened with landscaped devices in accordance with 9-3077.5 to protect residences from light, glare, noise and fumes.

### **9-3077 Landscaping of Parking Area**

The landscaping requirements of this section shall apply to land, public and private, designated as multi-family, recreational, institutional, industrial or commercial land uses, which is required to have or provide forty (40) or more parking spaces. All those multi-family, recreational, institutional, industrial and commercial land uses which are required to have one (1) to thirty-nine (39)nineteen spaces must comply with the street yard requirements only. All parking areas, regardless of size shall meet buffer requirements outlined in Section 9-3077.5.

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

- (1) Landscaping shall be placed in a manner which meets the intent of this Ordinance and shall be maintained.
- (2) Any fraction of requirements shall be rounded up to the next whole number.
- (3) Landscaping shall not obstruct the view of motorists using any street, private

driveway, parking aisles or the approach to any street intersection so as to constitute a traffic hazard.

- (4) Credit for using existing trees on site greater than or equal to those required by standards shall be two (2) trees for every one tree retained.
- (5) When using an existing tree, the area under the drip line (maximum extension of branches) of the tree must remain undisturbed. This includes grading, fill, paving, etc.
- (6) If an existing tree dies, it must be replaced with two (2) trees during the next planting season.
- (7) If any vegetation dies, replacement is required within the next planting season.

**(b) Landscaping requirements for interior areas of parking areas:**

(Interior areas are defined as the areas within the property used for vehicular storage, parking or movement).

- (1) Landscaped planting areas are to be located within or adjacent to the parking area as tree islands, at the end of parking bays, inside medians, or between rows of cars.
- (2) There shall be one (1) large shade tree for every two thousand (2,000) square feet of total parking area.
- (3) There shall be one shrub for every one thousand (1,000) square feet of total parking area. Shrubs must be eighteen (18) inches tall at planting and reach a minimum height of thirty (30) inches in three (3) years.
- (4) All trees and shrubs are to be planted within a landscaped planting area not less than one hundred sixty-two (162) square feet in area.
- (5) No vehicular parking space shall be farther than fifty (50) feet from a planting area.
- (6) No more than fifty (50 %) percent of the trees and/or shrubs shall be deciduous.

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

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

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

- (2) One (1) large shade tree is required every fifty (50) feet or one (1) small tree is required every twenty-five (25) feet along the street frontage.
- (3) Shrub beds (fifty (50) square feet minimum and a minimum of ten (10) shrubs per shrub bed) are required every forty (40) feet along the street frontage. Berms may be used instead of shrubs with the following stipulations: 1) berms must be the required height of shrubs with no more than a 3:1 slope; 2) shorter shrubs may be used in combination with berms as long as the required total height is met; 3) berms must be capped or topped with groundcover vegetation; 4) berms shall be grassed; 5) berms must occupy sixty (60%) percent of the frontage area; 6) fences may be used in combination with berms as long as the fence is compatible in materials and color to the building and is not more than forty (40%) percent of the required height.

**(d) Tree and shrub specifications:**

- (1) "Tree" as used herein means any tree, evergreen or deciduous, whose mature height of its species can be expected to exceed fifteen (15) feet for a small tree and thirty-five (35) feet for a large tree (except in cases where this would require the planting of incompatible species with the surrounding environment, such as overhead utility lines, then acceptable species may be used). The tree, existing or planted, shall be at least eight (8) feet in height and six and one-quarter (6 1/4") inches in circumference (two (2) inches in diameter) measured at one-half (1/2') foot above grade for newly planted trees and measured at four (4) feet above grade for existing trees.
- (2) Each shrub shall attain a minimum of thirty (30") inches in height within three (3) years of planting. All shrubs shall be a minimum of eighteen (18") inches tall when planted. All shrubs planted on berms may have lesser height provided the combined height of the berm and plantings after three (3) years is at least thirty (30") inches in height.

**(e) Abutting property landscaping requirements**

- (1) Any non-residential use located or developed on property abutting any residential district, unless separated by a public street or rail right-of-way, shall provide landscaping as outlined in Section 9-3046.1.2 Buffers. Landscaping shall be provided even if the abutting residentially zoned property is vacant. A buffer shall be provided along the full length of any common property line and shall be maintained as long as the conditions requiring the screening exist.
- (2) Screening for any parking area regardless of use or zoning district shall meet the requirements of 9-3046.1.2.

<b>9-3078 Dumpsters/Trash Containers</b>
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- (a) Dumpsters and trash containers shall meet all the requirements of the Solid Waste Ordinance as adopted by the Town of Valdese.

<b>9-3079 Compliance with Storm water and Erosion Control Standards</b>
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- (a) Parking areas constructed or improved under this Article shall comply with all applicable stormwater and erosion control standards adopted by the Town of Valdese.

<b>Sections 9-3080 through 9-3082 reserved.</b>
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**ARTICLE G**  
**MANUFACTURED HOMES AND MANUFACTURED HOME PARKS**

**9-3081 General Provisions**

Because of the use, transportability, and manner of construction of manufactured homes and because of the susceptibility of the manufactured homes for use in high density concentrations, it is necessary to regulate manufactured homes and manufactured home parks to ensure that their occupants have access to an appropriate, safe, sanitary and attractive living environment.

**9-3082 Definitions**

For the purpose of this ordinance a "manufactured home" and "manufactured home park" are defined as follows:

- (a) *Manufactured Home*: A structure designed for living or sleeping purposes, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities.
  - (1) Class A Manufactured Home (multi-section/double-wide). A manufactured home that meets or exceeds the construction standards established by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and is a multi-section unit.
  - (2) Class B Manufactured Home (single-wide). Class B single-wide manufactured home that meets or exceeds the construction standards established by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and is a single-wide unit.
- (b) *Manufactured Home Park*: Any existing lot or parcel on which two (2) or more manufactured homes are used, leased or rented or intended to be used, leased or rented for occupancy. New manufactured home parks are not allowed in the Town of Valdese.

<b>9-3083 Location of Manufactured Homes</b>
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- (a) After the effective date of this Ordinance, no manufactured home shall be permitted in any district for any use other than living or sleeping purposes.
- (b) Manufactured homes are permitted only in the R-8 District, and must comply with each of the following:
  - (1) Individual manufactured homes are allowed by right in the R-8 Residential District, provided they meet the minimum lot and setback requirements of that district, and are placed on a permanent foundation.
  - (2) One (1) manufactured home may be parked or temporarily stored on any lot outside of a manufactured home park for a period not exceeding seventy-two (72) hours, provided no living quarters are maintained nor any business conducted therein while such manufactured home is so parked or temporarily stored.
  - (3) A temporary building, structure, including construction trailers for office use are permitted in conjunction with any permitted construction; provided permits for such use shall be issued for periods not to exceed twelve (12) months but may be renewed for additional periods up to six (6) months if necessary for the completion of the construction in any zoning district.
  - (4) Existing manufactured homes shall not be replaced with another manufactured home unless it is located in the R-8 District. Class B manufactured homes shall not replace existing manufactured homes. Manufactured homes in the R-8 District may be replaced only by Class A manufactured homes.

<b>9-3084 Provisions for Manufactured Homes</b>
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- (a) Class B manufactured homes shall not be permitted in the Town of Valdese.
- (b) Class A manufactured homes shall be permitted only in the R-8 District. Only one Class A manufactured home shall be permitted on a lot unless it replaces an existing manufactured home in a manufactured home park.
- (c) Manufactured homes shall be subject to the following requirements:
  - (1) If municipal utilities are not available, the well (if applicable) and septic tank (if applicable) must be approved by the Burke County Health Department.
  - (2) Class A manufactured homes shall contain at least one thousand one hundred and fifty (1,150) square feet of enclosed and heated living area.

- (3) The pitch of the manufactured home roof shall have a minimum vertical rise of at least three (3) feet for each twelve (12) feet of horizontal run, and the roof shall be finished with a type of shingle that is commonly used in standard residential construction. The roof shall be the original roof of the structure as installed by the manufacturer.
- (4) The exterior siding, for all manufactured homes, shall consist predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood or hardboard; and the exterior siding shall be comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- (5) Manufactured homes shall have at the front entrance either a deck or porch with steps. All other entrances shall have permanent steps. The minimum area for decks and porches shall be 100 square feet. Decks, porches and steps must be built in compliance with the North Carolina Building Code.
- (6) All manufactured homes shall be placed with the front of the home running parallel to the street that provides access to manufactured home. On cul-de-sacs, manufactured homes shall be sited with the front of the home running parallel to the street providing access. **Manufactured homes placed in manufactured home parks may be placed perpendicular to interior private streets.**
- (7) Manufactured homes shall have the entire perimeter of the home enclosed from the ground to the bottom of the structure in compliance with the following requirements:
  - (a) The underpinning must consist of brick, masonry, or concrete block with a stucco finish.
  - (b) Products and materials manufactured for the purpose of underpinning shall be installed in accordance with the manufacturer's specifications.
  - (c) The under skirting shall be vented in accordance with the North Carolina Building Code.
  - (d) The under skirting must be installed within thirty (30) days after the final inspection date by the Burke County Building Inspections.
- (8) The manufactured home's footings shall meet the requirements set forth in the North Carolina Building Code.
- (9) The towing tongue, wheels, axles and transporting lights shall be removed upon final placement of the manufactured home. If the tongue cannot be removed, it must be underpinned and screened with shrubbery.



- (10) The manufactured home shall have been constructed within ten (10) years of the date of the permit application. Proof of the age of the home such as a bill of sale, title, or certified appraisal must be provided at the time the zoning permit is issued.

<b>9-3085 Provisions for Existing Manufactured Home Parks</b>
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- (a) The creation of manufactured home parks after the adoption of this Ordinance is not allowed in the Town of Valdese. Existing manufactured home parks at the time of adoption of this Ordinance may remain subject to the requirements of this section, but neither the size of the parcel on which the existing manufactured home park is located nor the number of manufactured homes located in the manufactured home park shall be increased.
- (b) In manufactured home parks, manufactured homes may be replaced within 180 days of removal of the home by only Class A manufactured homes that meet the provisions of 9-3084 and other applicable provisions.
- (c) Manufactured homes, because of their use, transportability, manufacture and manner of construction, location and susceptibility for use in high density concentration both as units and persons, tend to place inhabitants of manufactured homes in an unfavorable position to obtain services necessary for a safe and healthful living environment. It is the purpose of this Section to provide protection for the public against unwise and hazardous existing manufactured home parks and provide a reasonably safe and sound environment for manufactured home park inhabitants and to:
- (1) Promote public health, safety, welfare and orderly residential development;
  - (2) Ensure that every individual manufactured home lot (stand) has safe and efficient vehicular access for residents of the home, emergency vehicles, utility and service vehicles and others needing access to the park;
  - (3) Provide adequate buffering and screening to ensure privacy and protection for both the residents in the park and adjacent property owners;
  - (4) Provide sufficient open space for outdoor uses essential to the manufactured home;
  - (5) Ensure the furnishing of adequate water supply and sewage disposal systems;

- (6) Provide an acceptable environment for small communities of manufactured homes; and
  - (7) Provide a process by which existing manufactured home parks will be improved to meet the minimum level of safety, sanitation, comfort and privacy.
- (d) All persons operating a manufactured home park that existed at the time of adoption of this ordinance, must submit an improvement proposal for the park (as provided herein) to be reviewed by the Planning Board and approved by the Town Council. Upon approval of the improvement proposal by the Town Council, alterations to the park as required may begin. The proposal shall indicate the manner in which the requirements listed herein will be met.
- (1) **Phased Schedule for Improvements.** The improvement proposal shall conform to the improvement requirements listed herein within the following phased time schedule.
    - (a) Within **six (6) months** of notification, the property owner shall submit and have approved an improvement proposal, including schematic plans, for upgrading the park.
    - (b) Within **one (1) year** of adoption of this Ordinance, all roads shall be stabilized with packed gravel if not already paved.
    - (c) Within **three (3) years** of adoption of this Ordinance, all other requirements listed herein shall be complied with, including the paving of roads.
  - (2) **Contents of the Improvement Proposal.** Application to improve and upgrade a manufactured home park shall be made to the Planning Director. The application shall consist of schematic plans and documentation that include at least the following:
    - (a) Name of the manufactured home park, name and address of owner and operator.
    - (b) A manufactured home park design drawn onto a plat at a scale that can be reasonably interpreted by the Town.
    - (c) Date, north arrow, and scale.
    - (d) Boundaries of the manufactured home park property to include intersections and adjacent property with the boundaries of the manufactured home park property.

- (e) The location of the following utilities: sanitary sewers, storm sewers, water distribution lines, natural gas, telephone and electric service, illustrating connections to existing systems. Plans for the continued water supply and/or sewage disposal must be accompanied by letters of approval by appropriate Town, County and State authorities.
  - (f) Existing streets in the park, right-of-way and proposed pavement widths. If any street is proposed to intersect with a state maintained road, the plat shall be accompanied by an application for driveway approval if required by the North Carolina Department of Transportation.
  - (g) Outline of all existing home spaces and buildings within the manufactured home park property with lot numbers indicated.
  - (h) Location of parking bays, walkways, service and accessory buildings, utility easements, utility poles, and buffer and screening areas.
  - (i) Method of sewage disposal in accordance with existing Town, County and State regulations.
  - (j) Method of water supply in accordance with existing Town, County and State regulations.
  - (k) Plan of electric lighting.
  - (l) Development standards.
- (3) Required Improvements. The following improvements to the manufactured home parks shall be completed within three (3) years of the date of adoption of this Ordinance.
- (a) All manufactured homes that are placed in manufactured home parks shall have the entire perimeter of each home enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with standards set by the State of North Carolina Regulations for Manufactured/Mobile Homes. Examples of commonly recognized building materials suitable for use as underpinning shall include, but not be limited to, the following list: brick masonry, concrete block masonry covered with stucco; natural or synthetic stone masonry; or vinyl. Assemblies, products and materials manufactured expressly for the purpose of underpinning shall be installed in accordance with the manufacturer's specifications.
  - (b) A densely planted buffer strip consisting of evergreen trees, at least 3 feet in height at planting, shall be planted along the rear and side property lines

of the manufactured home park. No such buffer shall extend into a street right-of-way. The park owner and operator shall be responsible for replacing dead or destroyed trees.

- (c) Each home space of the manufactured home park shall be at least 8,000 square feet. Areas used for interior streets shall not be used in calculating the required minimum area for each home.
- (d) All manufactured homes manufactured prior to July 15, 1976 shall be removed from the manufactured home park.
- (e) A minimum distance of 20 feet shall be provided between each manufactured home.
- (f) Manufactured homes shall have at the front entrance either a deck or porch with steps. All other entrances shall have permanent steps. The minimum area for decks and porches shall be 100 square feet. Decks, porches and steps must be built in compliance with the North Carolina Building Code.
- (g) All interior streets shall be paved according to North Carolina Department of Transportation specifications for a public street.
- (h) A paved turning circle shall be provided at the end of each dead end street. The diameter of the paved area shall be at least 80 feet.
- (i) Two paved parking spaces shall be provided for each manufactured home. Each parking space shall have a length of 18 feet and a width of 9 feet.
- (j) An identification sign stating the name and address of the manufactured home park shall be erected at the main entrance. Such sign shall not exceed 16 square feet in surface area.
- (k) The owner or operator shall display house or lot numbers for each home in the park. The house or lot number may be attached to the home or posted at the front of the home.

<b>Sections 9-3086 to 9-3090 reserved.</b>
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<b>ARTICLE H</b> <b>SIGN REGULATIONS</b>
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<b>9-3091 Purpose</b>
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The purpose of this section is:

- (a) To maintain public safety and traffic safety by ensuring that signs are properly designed, constructed, installed, and maintained;
- (b) To minimize the distractions and obstruction of view that contributes to traffic hazards and endangers public safety;
- (c) To protect existing development and promote high standards of quality in new development by encouraging appropriately designed, placed, and sized signage; and
- (d) To permit the effective use of signs as a means of commercial and noncommercial communication without dominating the visual appearance of the areas in which they are located; and
- (e) To minimize the possible adverse effect of signs on nearby public and private property.

<b>9-3092 Applicability</b>
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- (a) Except as otherwise provided in this ordinance, it shall be unlawful to construct, enlarge, move or replace any sign or cause the same to be done, without first obtaining a sign permit for such sign from the Town of Valdese. In addition, a certificate of occupancy for the change in the use of property shall require compliance with ARTICLE H, Signs.
- (b) Notwithstanding the above, changing or replacing the permanent copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign so as to render it in violation of this ordinance.

<b>9-3093 General Provisions</b>
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The following provisions shall apply to all signs:

- (a) **Construction Standards.** All signs shall be constructed and installed in accordance with the applicable provisions of the North Carolina State Building Code.
- (b) **Electrical Standards.** All illuminated signs shall be installed in accordance with the applicable provisions of the North Carolina State Electrical Code and all detached signs shall be illuminated by an underground electrical source.
- (c) **Maintenance of Signs.** All signs shall be maintained in good structural and aesthetic condition. Deficiencies such as chipped paint, broken plastic, missing

letters and exposed light bulbs shall be evidence of a lack of maintenance.

- (d) Content. Content of message, commercial or non-commercial, is not regulated by this ordinance.
- (e) No sign shall be placed so as to obstruct the clear sight triangle at a street intersection.

### 9-3094 District Classification

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

R-12 (Residential)	Residential
R-12A (Residential)	Residential
R-8 (Residential)	Residential
FP (Floodplain Overlay)	Mixed Use
O-I (Office-Institutional)	Mixed Use
B-1 (Central Business)	Mixed Use
B-2 (General Business)	Commercial
M-1 (Manufacturing)	Commercial

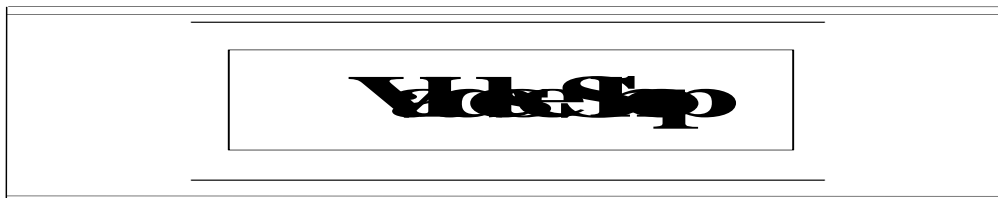
### 9-3095 Sign Types

Sign types are defined as follows:

#### (a) Wall Mounted Signs

One or a combination of the wall sign types below may be used on a building. Wall sign area is the total of the square footage of all wall signs associated with a business or structure.

- (1) A flush wall sign is mounted or applied directly to the building wall, generally on the fascia. It may in no instance extend above the parapet; in the residential and mixed use districts, it must be located **below** the parapet.

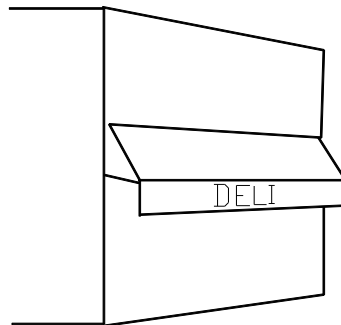


- (2) A hanging sign is also a wall sign. A hanging sign is suspended from a simple bracket attached to a building wall and requires 9 or more feet of vertical clearance from the ground.

It is most appropriately used along pedestrian-oriented streets to identify attached or closely spaced shops, restaurants, and service businesses. Only one hanging sign is permitted per building or business bay (in a multi-tenant building). The sign face area does not include the area of the bracket. A hanging sign may project no more than 5 feet from the building wall. It may project up to 5 feet over a sidewalk in a town maintained right-of-way (or state ROW if permitted). However, in any case the sign shall not be closer than 3 feet to a power or other utility line or the outside edge of street pavement.



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

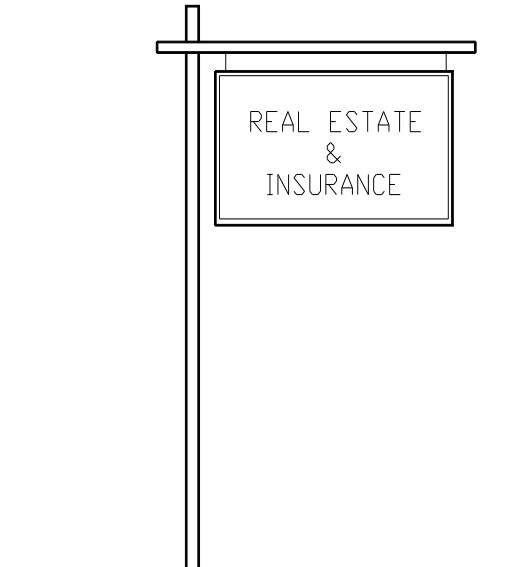


**(b) Ground Mounted Signs** are defined as follows:

- (1) A monument sign is mounted generally flush with the ground plane. It may not be mounted on a pole or pylon, nor raised by mounting on a man-made berm, wall, or similar structure. Supporting elements may not exceed three feet in height and are included in measurement of sign height. All signs shall be set back at least ten (10) feet from any property or right-of-way line.



- (2) A raised sign may hang from a pole and beam frame as illustrated below, or be placed within a frame mounted on up to two supporting poles. All signs shall be set back at least ten (10) feet from any property or right-of-way line..





<b>9-3096 Sign Measurement</b>
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- (a) Sign Face Area: the area within a single, continuous perimeter enclosing the characters, lettering, logos, illustrations, and ornamentation, together with any material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed.
- (b) Sign Height: the distance from the ground plane beneath the sign to the highest point of the sign's frame. Ornamentation atop signs, such as small caps and spires, are not included in the height measurement.

## 9-3097 Permanent On-Premise Signs Requiring a Permit

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

<p style="text-align: center;">INSTITUTIONAL IN ANY DISTRICT</p> <p style="text-align: center;"><b>Wall Mounted Sign</b></p> <p>1 square foot of sign surface area for every linear foot of building frontage up to a maximum of 75 square feet</p> <p style="text-align: center;"><b>Ground Mounted Sign</b> (Only Monument Style Permitted)</p> <p>Maximum Number: 1 per street front Maximum Area: 50 square feet Maximum Height: 10 feet Setback: Must be setback at least 10 feet from any right-of-way or property line.</p> <p>For the purpose of this section, institutional facilities include public schools, libraries, and buildings operated by the Town of Valdese.</p>	<p style="text-align: center;">ANY BUILDING TYPE IN A MIXED USE DISTRICT EXCEPT A SINGLE-FAMILY HOUSE (B-1, O-I, FP)</p> <p style="text-align: center;"><b>Wall Mounted Sign</b></p> <p>For single-story buildings, 1 square foot of sign surface area for every linear foot of building frontage up to a maximum of 50 square feet</p> <p>For multi-story buildings, 1.5 square feet of sign surface area for every linear foot of building frontage up to a maximum of 75 square feet</p> <p style="text-align: center;"><b>Ground Mounted Sign</b> (Only Monument Style Permitted in B-1)</p> <p>Maximum Number: 1 per street front Maximum Area: 32 square feet Maximum Height: 8 feet Setback: Must be setback at least 10 feet from any right-of-way or property line.</p> <p>Note: Ground mounted signs are not permitted in the B-1 Central Business District</p>
<p style="text-align: center;">ANY BUILDING TYPE IN A COMMERCIAL DISTRICT EXCEPT SINGLE- FAMILY HOUSE (B-2, M-1)</p> <p style="text-align: center;"><b>Wall Mounted Sign</b></p> <p>One (1) wall sign shall be permitted for each principal building frontage or storefront of an individual bay or store. Wall signs shall be limited to one (1) square foot per linear foot of principal building front façade, not to exceed one hundred twenty (120) square feet for any single sign. Each secondary business is allowed Secondary Business Sign (<i>defined in Section 9-3106</i>), up to a maximum area of sixty (60) square feet. Notwithstanding the above, the total area of all wall mounted signs shall not exceed 10% of the applicable wall face area.</p> <p style="text-align: center;"><b>Ground Mounted Sign</b> (Only Monument Style Permitted)</p> <p>Maximum Number: 1 per street front Maximum Area: 50 square feet Maximum Height: 12 feet Setback: Must be setback at least 10 feet from any right-of-way or property line.</p>	<p style="text-align: center;">PLANNED DEVELOPMENT ENTRANCE SIGN</p> <p>Maximum Number: 1 per street front; 2 sign faces may be used with a wall, fence, or other architectural entrance feature</p> <p>Maximum Area: 24 square feet Maximum Height: 8 feet</p> <p>(permitted for all-residential, mixed use, and non-residential projects of 10 acres or more)</p> <p>Limited to name and/or logo</p>

## 9-3097.2 Electronic Message Signs

Electronic Message signs are permitted as a component of otherwise permitted on premise signage subject to the following regulations:

- (a) Electronic Message Signs are prohibited in all zoning districts, unless used in connection with the local government or public school facilities.
- (b) Graphic images are prohibited
- (c) Each message on the sign must be displayed for a minimum of *eight (8) seconds*.
- (d) The message must be complete during the duration of the display, without continuation in content to the next image. Transitions from one static message to the next shall appear instantaneous without the appearance of movement of any kind.
- (e) Such displays shall contain static messages only, and shall not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement or appearance of movement of any illumination or the flashing, scintillating or varying of light intensity.
- (f) Each static message display shall be limited to one monochrome color display on a solid black background at any one time and have a medium resolution true pixel pitch of no greater than twenty (20) mm. Full color display is permitted provided such signs have a high resolution true pitch of ten (10) mm or less.
- (g) The level of direct or indirect illumination on the vertical surface of any electronic message sign shall not exceed three (3) foot candles for wall mounted and two (2) foot candles for ground mounted signs.
- (h) The electronic message sign shall not exceed fifteen (15) square feet or seventy (70) inches diagonally.
- (i) Electronic Message Display Signs must meet all other requirements for on premise signs.
- (j) Limited Exceptions
  1. Time, Date and Temperature (TDT) Signs display area shall not exceed five (5) square feet per face, and shall not be included in the allowable sign area provided such display is collocated within an existing sign.
  2. Petroleum Digital Price Signage
    - a. The display area shall not exceed ten (10) square feet, and illuminated numerals shall not exceed twelve (12) inches in height.
    - b. Signs shall be collocated on an approved ground mounted or pole mounted sign
    - c. The digital display area shall not be calculated as part of the total allowable display area
    - d. The sign may contain single-faced or double-faced display areas.
  3. Lottery signs shall be limited to a maximum of two square feet and subject to the requirements outlined in 9-3097.2. Lottery signs shall not be calculated as part of the allowable display area.

<p style="text-align: center;"><b>9-3097.3 Permanent Off-Premise Signs</b> Limited to Non-Commercial Public Service Directional Signs</p>
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For the purpose of directing the public-at-large to non-commercial community facilities of general interest, permanent off-premise directional signs may be erected in addition to signs otherwise permitted in these regulations.

(a) Non-Commercial Public Service Directional Signs are permitted subject to the following standards:

- (1) The community facility is open to the general public and operated by a non-commercial civic, charitable, religious, community, or similar organization.
- (2) No more than 2 directional signs shall be erected for each facility.
- (3) Signs may not exceed 4 square feet in area or 5 feet in height.
- (4) Signs may be placed no more than one mile from the subject property.
- (5) Along state roads, such signs shall be located outside of the right-of-way or farther than 11 feet from the edge of any public street, whichever distance from edge of pavement is greater; signs shall not violate the sight distance triangle requirements of this ordinance.
- (6) Along town maintained roads, such signs shall be located outside of the right-of-way or farther than 11 feet from the edge of any public street, whichever distance from edge of pavement is greater; signs shall not violate the sight distance triangle requirements of this ordinance.
- (7) No sign shall be placed on private property without the written consent of the property owner on the permit application.
- (8) Every Non-Commercial Public Service Directional Sign shall be separated by a distance of 400 feet from any other such sign on the same side of the street, and by a distance of 200 feet from any other such sign on the opposite side of a street.

**9-3097.4 Subdivision, Multi-family, and Manufactured Home Park Signs**

At any entrance to a residential subdivision, multi-family development or manufactured home park, a maximum of two signs identifying the subdivision, development or park are permitted. The sign face area of each sign shall not exceed 16 square feet.

<p style="text-align: center;"><b>9-3098 Temporary Signs Requiring a Permit</b></p>
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The following temporary signs shall be allowed subject to the standards below, in lieu of on-site real estate or construction signs.

Temporary Planned Development Signs, provided:

- a) Only one primary sign and two secondary signs shall be allowed per street front of development.
- b) The maximum sign face area of a primary sign shall not exceed 32 square feet; height of ground mounted signs shall not exceed 6 feet.
- c) The maximum sign face area of secondary signs shall not exceed 12 square feet; height of ground mounted signs shall not exceed 6 feet.
- d) Only one permit shall be required for all temporary planned development signs for each planned development. Permits shall be valid until a project is completed or two years, whichever comes first. Completion shall be evidenced by the issuance of all certificates of occupancy for a development by the Building Inspections Department. If a project is not completed in two years, a new permit must be obtained. However, in no instance shall more than 2 permits be issued for a development. Additional permits shall not allow secondary signs. All secondary signs shall be removed when the first permit issued expires.
- e) Temporary directional signs within a planned development, but not visible from the road(s) fronting the overall development, shall be permitted so long as such signs do not exceed 12 square feet in sign area, 6 feet in height, and are removed upon completion of the portion of the project to which the signs are giving direction.

<b>9-3099 Temporary Off-Premise Signs Requiring Approval</b>
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The following temporary off-premise signs are permitted subject to the standards below.

- (a) Temporary off-premise signs or banners for special community events open to the general public and sponsored by non-commercial civic, charitable, community, or similar organizations, provided:
  - (1) At least five business days before signs are to be posted, the designated representative of the sponsoring group shall provide a sign installation and removal plan for review by the Zoning Enforcement Officer, who shall grant written permission for signs to be posted if the standards below are met.
  - (2) **Signs or banners shall be located outside of the public right-of-way** or farther than 11 feet from the edge of any public street, whichever distance from edge of pavement is greater; signs shall respect the sight distance triangle.
  - (3) Signs or banners may be posted up to 14 days before the event and must be removed within 7 days following the event.
  - (4) Every temporary off-premise sign or banner shall be separated by a distance of 400 feet from any other such temporary off-premise sign on the same side of a street, and by a distance of 200 feet from any other sign on the opposite side of a street.
  - (5) Nothing in this provision shall be construed to authorize the posting of such signs or banners upon trees, utility poles, traffic control signs, lights or devices in any

place or manner prohibited by the provisions herein, nor on private property without written consent of the owner.

- (b) Real estate signs not exceeding a total of 2 square feet in sign face area shall be permitted.
- (c) Temporary cross-street banners for community events as may be approved by the Town Manager and installed by town personnel, according to policies established by the Town Council.

<b>9-3100 Signs Permitted without a Permit</b>
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Notwithstanding the above, changing or replacing the permanent copy on a lawful sign shall not require a permit provided the copy change does not change the nature of the sign so as to render it in violation of this ordinance.

- (a) The following types of signs are exempt from permit requirements and allowed in all zones, but shall be in conformance with all other requirements of this ordinance.
  - (1) Historical markers erected by a government body, memorial signs, plaques, or grave markers.
  - (2) Public interest signs.
  - (3) Public information kiosks on public or private property, subject to design approval by the Town Council and written permission of the owner of property upon which the kiosk is to be placed.
  - (4) On premises directional and instructional signs not exceeding 6 square feet in area, unless such sign is a monument sign, in which case it may not exceed 9 square feet. Maximum height: 4 feet.
  - (5) Identification signs not exceeding 2 square feet in area, not of a commercial nature and bearing only property identification numbers and names, post office box numbers and names of occupants of the premises. Maximum height: 4 feet.
  - (6) Window signs shall be allowed on the inside or outside window glass of non-residential properties provided that they cover an area with a total copy area not exceeding 50 percent of the window or glass. Open/closed signs shall be included in the total window sign area.
  - (7) Incidental signs used in conjunction with equipment or other functional elements of a use or operation. These shall include, but are not limited to, drive-thru

window menu boards, signs of automatic teller machines, gas pumps, express mail boxes, vending machines or newspaper delivery boxes.

- (8) Official flags on permanent poles, emblems or insignia of government, corporation, professional, fraternal, civic, religious organizations.
- (9) Campaign or Election Signs provided that:
  - (a) Each sign shall not exceed 16 square feet in area or 6 feet in height
  - (b) All such signs shall be removed within 7 days after the election for which they were made
  - (c) Signs may be erected no earlier than 45 days prior to the election date.
- (10) Real estate signs, other than the temporary signs described in Section 12.8
  - (a) Signs advertising a single family home or lot, a duplex, triplex, or quad, or an individual unit within an attached housing development shall not exceed 6 square feet. Maximum height: 4 feet.
  - (b) Signs advertising all other uses shall not exceed one square foot for every 5 linear feet of frontage of the advertised property, up to a maximum sign face area of 32 square feet and a maximum height of 6 feet.
  - (c) Only one sign per street front of the advertised property shall be erected.
  - (d) Properties having a continuous frontage in excess of 850 linear feet may be allowed additional sign so long as such sign is no closer than 850 feet from another real estate sign on the property
  - (e) Signs shall not be illuminated
  - (f) Signs shall be removed within 7 days after the sale is closed or rent or lease transaction is finalized.
- (11) Construction signs, other than Temporary Planned Development Signs, Section 12.8, provided:
  - (a) Signs located on single family lots or duplex, triplex, or quadriplex lots shall not exceed 6 square feet in area. Rider signs not exceeding 2 square feet in area shall be permitted in addition to the 6 square feet. Maximum height: 4 feet.
  - (b) Signs for all other uses shall not exceed one square foot for every 5 linear feet of frontage of property under construction, up to a maximum sign face area of 32 square feet and a maximum height of 6 feet.
  - (c) Signs are confined to the site of construction
  - (d) Only one sign per street front of the property under construction shall be erected.
  - (e) Signs shall not be illuminated.
  - (f) Signs shall be removed within 7 days of the termination of a project.

- (12) Temporary farm product signs provided:
  - (a) Signs are located on the premises where the products are sold in conjunction with a bona fide farm use.
  - (b) Signs shall not exceed 32 square feet in area or 6 feet in height
  - (c) Only one sign shall be erected
  - (d) Signs shall be removed within 7 days of the termination of sale activities
- (13) Temporary special event signs or banners for religious, charitable, civic, fraternal, or similar organizations, provided:
  - (a) No more than one sign per street front shall be permitted per event
  - (b) Signs shall be located on the property on which the event will occur.
  - (c) Signs shall not exceed 32 square feet in area or 6 feet in height
  - (d) Signs shall be erected no sooner than 14 days before and removed 7 days after the event
- (14) Temporary banners in commercial and mixed use district, provided:
  - (a) Only one banner per establishment shall be allowed at a time.
  - (b) All banners shall be attached in total to a building wall or permanent canopy extending from a building
  - (c) No paper banners shall be allowed.
  - (d) Banners shall be erected for a period not to exceed 2 weeks.
  - (e) No more than 6 such signs per establishment shall be erected within a calendar year.
  - (f) No banner shall extend above the second occupiable floor level of a building.
  - (g) Banners displayed at the time of adoption of this ordinance are not excluded from the provisions above.
  - (h) All banners shall be considered temporary banners
- (15) Public service and advertising signs in association with athletic fields. Signs may be attached to the interior face of any fence which encloses or partially encloses an athletic playing field upon the property of a school or public park subject to the following conditions:
  - (a) No sign face area shall be visible from any public street or from any abutting property in a residential or mixed use district.
  - (b) No sign shall extend above the top of the enclosing fence.



- (16) Open/Closed Signs
  - (a) Illuminated or non-illuminated
  - (b) Shall not exceed 2 square feet in surface area.

### **9-3101 Master Signage Programs**

Master signage programs provide latitude to develop appropriate signage designs for new or existing areas with special unifying features. Master signage programs require approval by the Town Council following review and recommendation by the Valdese Planning Board.

#### **9-3101.1 Planned Development Flexibility Option**

- (a) For the purpose of providing flexibility and incentives for coordinated, well-designed sign systems for large-scale development, special provisions varying the standards of this ordinance may be approved by the Town Council. The Planned Development Flexibility Option is initiated by the developer by submission of a Master Sign Program to the Planning Director, who shall first place the request on the agenda of the Planning Board for a recommendation, and then on the agenda of the Town Council for approval, subject to the following:
  - (1) The development shall be a planned residential, nonresidential, or mixed use development, 10 acres or greater in size; a hospital or other large scale institutional complex; a large scale cultural, civic or recreational facility; or a similar large scale development.
  - (2) A Master Sign Program that includes the following information is submitted:
    - (a) Detailed designs of all proposed signs including the size, height, copy, materials, and colors of such signs.
    - (b) Proposed number and location of signs.
    - (c) Sign Illumination Plans.
    - (d) Plans for landscaping or architectural features to be used in conjunction with such plans.
  - (3) The proposed signs meet the following criteria:
    - (a) All signs are coordinated in terms of design features.
    - (b) The maximum size of detached signs is not increased by more than 25%.
    - (c) The number of detached signs along a street frontage does not exceed 3.
    - (d) The maximum height of a detached sign does not exceed 12 feet.

- (e) Multi-information directional signs are no greater than 16 square feet and are located in the interior of a development.
- (f) Changeable copy highlighting special events on signs for cultural, civic, or recreational facilities shall not exceed 25% of the sign face area of a sign.

<b>9-3102 Prohibited Signs</b>
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The following signs are prohibited in all zoning districts:

- (a) Signs extending into the public right-of-way, attached to utility poles, street signs, or placed on Town owned or maintained property; other than those signs approved by the Town of Valdese or the North Carolina Department of Transportation may be removed;
- (b) Roof signs;
- (c) Portable signs;
- (d) Flashing, fluttering, swinging, rotating, and electronic scrolling signs; provided, however, electronic time and/or temperature signs are permitted.
- (e) Signs that by their position, illumination size, shape or color, obstruct, impair, obscure, or interfere with traffic signs, signal devices, or visibility at intersections (see Section 9-3038);
- (f) Vehicular signs as defined in Article H of this ordinance;
- (g) Off-premise signs, including Outdoor Advertising Signs. See Sections 9-3097.2 and 9-3099, special exceptions for certain non-commercial signs (Example: directional signs, real-estate directional signs, etc.). Town-owned directional signs are not prohibited by this Article;
- (h) Obsolete signs: signs that do not comply with the provisions of this ordinance and identify or advertise a use which has ceased operation for one year or more. Obsolete signs shall be removed;
- (i) Signs which use a series of two or more signs placed in a line parallel to a street or highway right-of-way, or similar fashion, all carrying a single advertising message, part of which is contained on each sign;
- (j) Other signs not expressly allowed by this ordinance;
- (k) Any sign that incorporates a television screen, a computer screen, electronic images, or electronic characters that does not meet the standards for Electronic Message Display Signs;
- (l) Any illuminated tubing is not permitted, including but not limited to those outlining property lines, open sales areas, rooflines, doors, windows, landscaping, or the edges of wall, except for perimeter down-lighting that is shielded to illuminate open sales areas but no land outside those areas;

- (m) Illuminated signs in any residential district, except as provided in Section 9-3097.2(a); and
- (n) Electronic Message Signs, unless expressly permitted by the ordinance.

<b>9-3103 Application and Issuance of Sign Permits</b>
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### **9-3103.1 Application**

Applications for permits, if required, shall contain or have attached the following information:

- (a) The street name and street number of the building, structure or lot on which a sign is to be placed;
- (b) Names, addresses, and telephone numbers of the applicant, owner of the property on which the sign is to be erected or affixed, the owner of the sign, and the licensed contractor erecting or affixing the sign;
- (c) If the applicant is not the owner or lessee of the lot on which the sign will be located, written permission from the property owner or a designated representative stating agreement that the sign may be erected on the parcel for which the permit has been applied shall be required;
- (d) A site or plat plan of the property involved, showing accurate placement of the proposed sign, intended use(s) of the property, and zoning district designation;
- (e) Two (2) blueprints or inked, scaled drawings of the plans and specifications of the sign to be erected or affixed as deemed necessary by the Zoning Enforcement Officer. Such plans may include but shall not be limited to details of dimensions, materials, copy, and size of the proposed sign. For wall signs, dimensions of the building wall on which the sign is to be affixed and the location and size of existing wall signs shall also be included;
- (f) Address assignment. No permit for a sign shall be issued unless a street address has been assigned according to the requirements of the Town of Valdese or the Burke County 911 Address Ordinance, whichever is applicable; and
- (g) Other information as the Zoning Enforcement Officer may require determining full compliance with this and other applicable codes.

### **9-3103.2 Issuance of Permit**

Upon the filing of an application for a sign permit, the Zoning Enforcement Officer shall examine the plans and specifications, and, as deemed necessary, may inspect the premises upon which the sign is proposed to be erected or affixed. If the proposed sign is in compliance with all the requirements of this ordinance and other applicable codes, a permit will be issued. Any permit issued in accordance with this section shall automatically become null and void unless the

work for which it was issued has visibly commenced within 6 months of the date of issue or if the work authorized by it is suspended or abandoned for one year. The applicant shall be responsible for obtaining a building or electrical permit from the Building Inspection Department when required by applicable local and state codes.

### **9-3103.3 Fees**

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

### **9-3103.4 Completion of Construction**

The permit holder shall notify the Town of Valdese upon completion of construction and installation of any sign for which a permit is required.

<b>9-3104 Unlawful Cutting of Trees or Shrubs</b>
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No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy or remove any trees, shrubs or other vegetation located:

- (a) Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the Town or other agency having jurisdiction over the streets.
- (b) On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.
- (b) In any areas where such trees or shrubs are required to remain under a permit issued under this Ordinance.

<b>9-3105 Nonconforming Signs</b>
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Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of this Article may be continued provided they conform to the following provisions:

- (a) No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the

foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition. Nor may illumination be added to any nonconforming sign.

- (b) A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Article.
- (c) If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed or replaced except in conformity with all the provisions of this Article, and the remnants of the former sign structure shall be cleared from the land within 30 days of destruction. For purposes of this section, a nonconforming sign is "destroyed" if it is damaged to the extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign so damaged.
- (d) The message of a nonconforming sign may be changed so long as this does not create any new nonconformities (for example, by creating an off-premise sign under circumstances where such a sign would not be allowed).
- (e) If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within 30 days after such abandonment by the sign owner, owner of the property where the sign is located or other party having control over such sign.
- (f) If a nonconforming billboard remains blank for a continuous period of 180 days, that billboard shall be deemed abandoned and shall, within 30 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located or other person having control over such sign. For purposes of this section, a sign is "blank" if:
  - (1) It advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted; or
  - (2) The message displayed becomes illegible in whole or substantial part; or
  - (3) The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed.

## 9-3106 Sign Definitions

For the regulation of signs according to this ordinance, the following words and phrases shall be defined as specified below.

- (a) Amortization. A provision requiring nonconforming signs to either become conforming or be removed within a set period of time, otherwise known as the amortization period.
- (b) Awning. A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not a canopy.
- (c) Building Wall. The entire surface area, including windows and doors, of an exterior wall of a building. For the purposes of this ordinance, the area of a wall will be calculated for only the first three stories, or 45 feet in height of a building, whichever is less.
- (d) Campaign or Election Sign. A sign that advertises a candidate or issue to be voted upon on a definite election day.
- (e) Canopy. A permanent structure, not enclosed and not retractable, attached or unattached to a building, for the purpose of providing shelter to patrons or motor vehicles, or as a decorative feature on a building wall.
- (f) Changeable Copy. Copy that is or can be changed in the field, either manually or through mechanical means; e.g., reader boards with changeable letters.
- (g) Commercial Message. A message placed or caused to be placed before the public by a person or business enterprise directly involved in the manufacture or sale of the products, property, accommodations, services, attractions, or activities that are offered or exist for sale or for hire.
- (h) Copy. Any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign display surface area.
- (i) Farm Product Sales. Seasonal sale of farm products raised on the premises where products are sold only as an accessory to an agricultural use.
- (j) Grade. The height of the top of the curb, or if no curb exists, the height of the edge of pavement in the lane of travel adjacent to the sign.
- (k) Linear Frontage. The length of a property abutting a public right-of-way from one side lot line to another.
- (l) Logo. A business trademark or symbol.
- (m) Out parcel. A parcel of land associated with a shopping center or multi-tenant development, which is designated on an approved site plan as a location for a free standing structure with an intended use such as, but not limited to, banks, savings and loans, dry cleaners, service stations, offices, restaurants, retail

establishments, or combination of uses thereof, and adjoins the shopping center or multi-tenant development, or the parking and service drives associated with it, on any side adjacent to a public right-of-way.

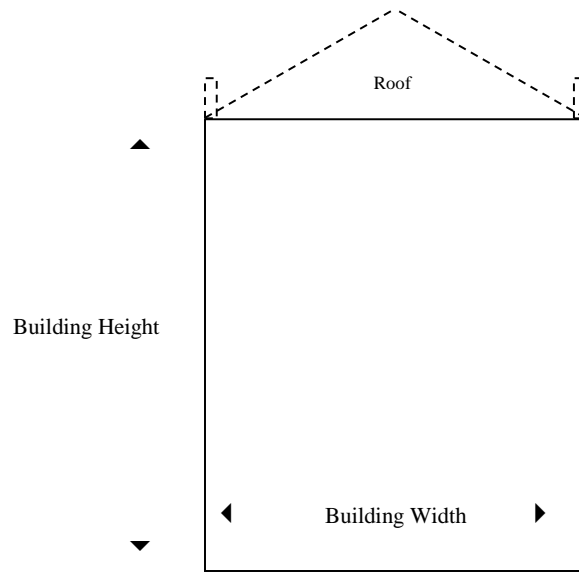
- (n) Parapet. A low wall encircling the perimeter of a flat building roof generally used to screen roof-mounted mechanical equipment.
- (o) Planned Development. A tract of land under single, corporation, partnership, or association ownership, planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations and according to an approved development plan (according to Article I).
- (p) Premises. A parcel of real property with a separate and distinct identifying number shown on a recorded plat, record of survey, parcel map, subdivision map, or a parcel legally created or established pursuant to applicable zoning. Out parcels of shopping centers shall be considered on the premises of the shopping center for the purpose of this ordinance.
- (q) Roof Line. The highest point of a flat roof or mansard roof, and the lowest point of a pitched roof, excluding any minor projections or ornamentation.
- (r) Sight Distance Triangle. The triangular area formed by the point of intersection of two street right-of-way lines and a point located along each right-of-way line at a distance of 35 feet from the point of intersection.
- (s) Sign. Any object, devise, structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious, or civic organizations; works of art which in no way identify an object, person, institution, organization, business, product, service, event or location by any means; or scoreboards located on athletic fields.
- (t) Sign Structure or Support. Any structure that supports or is capable of supporting a sign.
- (u) Sign Types. The following are types of signs included in this ordinance.
  - (1) Banner. A sign intended to be hung, with message or symbol applied to plastic or fabric of any kind, but excluding flags or emblems of any nation, organization of nations, state, city, or any fraternal, religious, or civic organization.
  - (2) Bulletin Board. A sign used to announce meetings or programs to be held on the premises of a church, school, auditorium, library, museum, community recreation center, or similar noncommercial place of public assembly.

- (3) Business Sign. A sign that directs attention to a business, to a product sold, manufactured, or assembled, or to services or entertainment offered upon the premises where the sign is displayed; but not a sign pertaining to the preceding if such activity is only minor and incidental to the principal use of the premises.
- (4) Campaign or Election Sign. A sign that advertises a candidate or issue to be voted upon on a definite election day.
- (5) Canopy and Awning Signs. A sign attached to or painted or printed onto a canopy or awning. The permitted size of a canopy or awning sign will be calculated on the basis of the size of the building wall to which the canopy is attached. It will, for measuring purposes, be considered a wall sign.
- (6) Construction Sign. A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier, or others involved in the development of the project.
- (7) Detached Sign. Any sign that is not affixed or attached to a building and is securely and permanently mounted in the ground. Such sign may be a ground mounted sign, or monument sign.
- (8) Directional or Instructional Sign. An on-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as "Entrance," "Exit," "Parking," "One-Way," or similar direction or instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.
- (9) Directory Sign. A sign that which identifies multiple uses in a planned development on a single sign; may be used for shopping centers, shopping streets or arcades, office complexes, schools, churches, institutional or business campuses, and similar large complexes which have a variety of tenants and/or uses.
- (10) Electronic Message Sign. A sign capable of displaying words, symbols, figures or images and that can be electronically or mechanically changed by remote or automatic means. Electronic Message signs may be part of wall mounted signs, ground mounted signs or window signs.
- (11) Ground Mounted Sign. A sign that extends from the ground or which has a support which places the bottom thereof less than 3 feet from the ground.
- (12) Government Sign. Any temporary or permanent sign erected and maintained for any governmental purposes.
- (13) Flag. A piece of durable fabric of distinctive design attached to a permanent pole that is used as a symbol or decorative feature.
- (14) Flashing Sign. A sign that uses an intermittent or flashing light source to attract attention.



- (15) Identification Sign. A sign that display only the name, address, and/or crest, insignia, trademark, occupation or profession of an occupant, or the name of any building on the premises.
- (16) Incidental Sign. A sign used in conjunction with equipment or other functional elements of a use or operation. These shall include, but not be limited to drive-through-window menu boards; signs on automatic teller machines, gas pumps, or vending machines; or newspaper delivery boxes.
- (17) Memorial Sign or Plaque. A sign designating the name of a building and/or date of erection and other items such as architect, contractor, or others involved in the building's creation, cut into or attached to a building surface.
- (18) Monument Sign. A monolithic sign in which the bottom of the sign is flush with the ground.
- (19) Nonconforming Sign. Any sign that was lawfully erected in compliance with applicable code provisions and maintained prior to the effective date of this ordinance, and which fails to conform to all applicable standards and restrictions of this ordinance.
- (20) Off-Premises Sign. A sign that directs attention to a business, commodity, or service, conducted, sold, or offered at a location other than the premises on which the sign is erected.
- (21) On-Premises Sign. A sign that directs attention to a business, commodity, or service, that is conducted, sold, or offered on the premises on which the sign is erected.
- (22) Outdoor Advertising Sign. A type of sign, generally, but not always, consisting of a rigidly assembled sign, display, or devise, usually free standing, that is affixed to the ground or to a building, the primary purpose of which is to display advertising posters. Such signs, commonly referred to as "billboards," are generally designed so that the copy or poster on the sign can be changed frequently and the advertising space is for lease.
- (23) Planned Development Sign. A sign used in conjunction with an approved planned residential, office, business, industrial or mixed use development.
- (24) Portable or Movable Sign. A sign that is not permanently attached to the ground, a structure, or a building, and which can easily be moved from one location or another, for example, a sign on wheels.
- (25) Projecting Sign. A sign that is affixed to a building and supported only by the wall on which it is mounted; considered a wall sign for purposes of this ordinance.
- (26) Public Interest Sign. A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public such as warning and no trespassing signs.

- (27) Real Estate Sign. A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.
- (28) Primary Sign. The main or principal sign located on the premises.
- (29) Roof Sign. A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.
- (30) Secondary Business Identification Sign. An auxiliary wall sign, the purpose of which is to identify a business which is housed in the same structure as the principal business, but which is clearly subordinate to, and has separate ownership, management, and operation from, the principal business which occupies the building.
- (31) Secondary Sign. A sign used in addition to a primary sign on premises.
- (32) Temporary Sign. A sign that is not permanently installed in the ground or affixed to any structure or building, and which is erected for a period of time as permitted in this ordinance.
- (33) Temporary Planned Development Sign. A sign that pertains to the development of a new commercial, residential, or mixed use development while it is under construction.
- (34) Vehicular sign. Signs on parked vehicles visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property. For the purposes of this ordinance, vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other business purposes.
- (35) Wall Sign. Any sign directly attached to an exterior wall of a building or dependent upon a building for its support. Signs directly painted on walls shall be considered wall signs.
- (36) Wall Sign Area. Wall sign area is the total square footage of all wall signs associated with a business or structure.
- (37) Wall Face Area. Wall Face Area is the total square footage of a building front measured by the building height multiplied by the linear width of the building or store bay.



(38) Window Sign. Any sign attached to or directly applied onto a window or glass door of a building intended for viewing from the exterior of the building.

**Sections 9-3107 to 9-3110 reserved**

<p style="text-align: center;"><b>ARTICLE I</b> <b>PLANNED UNIT DEVELOPMENTS</b></p>
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<p style="text-align: center;"><b>9-3111 Planned Unit Development – Residential (PUD-R)</b></p>
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Intent: The purpose of the planned unit development – residential is to encourage the development of living environments, which meet the needs of the people who live in them by providing certain development privileges in exchange for preplanning and design considerations. The planned unit development – residential provides flexibility in using new development concepts and in introducing variety into neighborhoods by encouraging mixed uses, variable lot size, and environmentally sensitive design, which promotes the conservation of open space and ensures substantial compliance with the intent of the Town of Valdese Zoning Ordinance. Furthermore, it is the purpose of this Section to:

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

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

<p style="text-align: center;"><b>9-3111.1 Permitted Uses and Requirements</b></p>
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- (a) Planned Unit Developments may be approved for any residential use or combination of uses except the combination of residential and industrial.
- (b) General Requirements:
  - (1) At the time of application for a planned unit development, all land, structures and other real property shall be in single or joint ownership of whatever form, or the petitioner shall have the right to acquire ownership under a valid option, and this information shall be included in the application for a planned unit development.

(2) A residential planned unit development shall be located on a site containing at least two (2) contiguous acres.

(3) If land or structures within a proposed PUD-R are to be sold to more than one person, firm, corporation or other entity, then the proposed PUD-R shall be subject to the Town of Valdese Subdivision Ordinance. Deviations from said standards may be approved provided they are stated as part of the PUD-R Application Requirements.

(4) A minimum of 10 percent of the land area for the PUD-R shall be common open/recreational space. This area shall be identified as open/recreation space on the submitted plans, which shall be recorded in the Office of the Register of Deeds. In residential mixed use PUD-R's, required open space may not be part of any proposed platted single-family residential lots.

(5) All new planned unit developments shall provide concrete sidewalks along both sides of all existing and proposed public streets within the PUD-R. Sidewalks shall only be required on the internal side of existing streets that are on the perimeter of the PUD-R. Sidewalks shall be a minimum of 5 feet wide and four inches thick. Sidewalks will not be required along alleys. All pedestrian segments shall meet or exceed ADA standards and shall be constructed of concrete.

(6) The design and layout of a PUD-R shall take into account the relationship of the site of the surrounding areas. Additionally, the perimeter of the PUD-R shall be so designed as to minimize any negative impact on adjacent properties.

(7) Development of a PUD-R may be phased, in which case all the property anticipated for the PUD-R development shall be submitted as part of the PUD-R development plan showing a conceptual depiction of the eventual development and approximate phase lines shown. During the phased development of a PUD-R, proportional overall common open space required shall be incorporated into each phase and be dedicated and installed or improved by the end of the construction of each proposed phase.

(8) Following review of the proposed PUD-R, the Planning Board shall recommend approval or denial of the application and accompanying PUD-R plans. Planning Board may recommend to Town Council conditional approval with such conditions as are necessary to ensure conformity to all applicable requirements. If conditions are placed on the approval of the PUD-R, a revised plan including the required changes must be submitted to the Valdese Town Council.

(9) In order for an application for a PUD-R to be approved, the Town Council must find that the proposed development will be compatible with comprehensive land use, and neighborhood development plans, and will not place an excessive traffic load on local streets. In addition, Town Council must find that the site can be developed according to a

site plan that will be compatible with existing neighborhood development, and that the site can be provided with adequate utility services.

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

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

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

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

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

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

(2) Proposed use of all the land within the area requested for a PUD-R, in addition to the zoning designation and land use of adjacent properties;

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

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

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

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

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

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

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



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

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

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

**9-3116 Zoning Enforcement Officer**

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

**9-3117 Zoning Permit Required**

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

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

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

- (1) The actual dimensions of the lot to be built upon;
  - (2) The size and location of all buildings existing on the lot;
  - (3) The size and location of the proposed new construction;
  - (4) The existing and intended use of all parts of the land or building;
  - (5) Such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Ordinance.
- (b) Any zoning permit issued shall become invalid unless the work authorized by it shall have been commenced within six (6) months of its date of issue or if the work authorized by it is suspended or abandoned for a period of one (1) year.

#### **9-3119 Certificate of Occupancy Required**

No land within the corporate limits of the Town of Valdese shall be used or occupied and no building within the corporate limits of the Town of Valdese shall hereafter be erected, structurally altered, converted or changed in use until a Certificate of Occupancy shall have been issued by the Zoning Enforcement Officer stating that the building or the proposed use thereof complies with the provisions of this Ordinance. A Certificate of Occupancy either for the whole or a part of a building shall be applied for coincident with the application for a zoning permit and shall be issued within ten (10) days after the erection or structural alteration of such building, or part, shall have been completed in conformity with the provisions of this Ordinance. A temporary Certificate of Occupancy may be issued by the Zoning Enforcement Officer for a period not exceeding six (6) months during alterations or construction for partial occupancy of a building pending its completion, or for bazaars, carnivals, and revivals, provided that such temporary permit shall require such conditions and safeguards as will protect the safety of the occupants and the public. A record of all certificates shall be kept on file in the office of the Zoning Enforcement Officer and copies shall be furnished on request to any person requesting it.

#### **9-3120 Penalties for Violations**

- (a) Violations of this ordinance are subject to the following penalties:
- (1) Any person violating any provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished for each offense by a fine not exceeding two hundred dollars (\$200) or by imprisonment not to exceed thirty (30) days.
  - (2) In addition to the penalty in subsection 9-3120.1 above, a violation of this Ordinance shall also 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 Ordinance shall be issued a written citation. The penalty shall be paid to the Town of Valdese within seventy-two hours from the time of issuance of the written citation.

- (3) Each day's continuing violation shall be a separate and distinct offense.
- (4) In addition to the penalties imposed under subsection 9-3120.1 and 9-3120.2 above, the provisions of this Ordinance may also be enforced through equitable remedies issued by a court of competent jurisdiction including injunction and order of abatement.
- (5) This Ordinance may be enforced by any one, all or a combination of the remedies authorized herein.

<b>9-3121 Remedies</b>
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In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this Ordinance, the Zoning Enforcement Officer or any other appropriate town authority or any person who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the violation.

In case any sign shall be installed, erected or constructed in violation of any of the terms of this Ordinance, the Zoning Enforcement Officer shall notify by personal notice or registered mail the owner or lessee thereof to alter such sign so as to comply with this Ordinance and to secure the necessary permit there for or to remove the sign. If such an order is not complied with within ten (10) days, the Zoning Enforcement Officer shall remove the sign at the expense of the owner or lessee thereof. In the event that such sign should become insecure, or in danger of falling, the person maintaining the same shall, upon written notice from the Zoning Enforcement Officer, forthwith, in case of immediate danger, and in any case, within ten (10) days secure it in a manner approved by the Zoning Enforcement Officer.

<b>Sections 9-3122 through 9-3125 reserved</b>
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## **ARTICLE K PLANNING BOARD**

### **9-3126 Establishment of the Planning Board**

A Planning Board is hereby established as provided in Section 160A-361 of the General Statutes of North Carolina. Said Board shall consist of five regular (5) members and two (2) alternate members appointed by the Town Council, for overlapping terms of three (3) years. Initial appointment of the members shall be as follows: one regular (1) member and one (1) alternate member for a term of three (3) years, two regular (2) members and one alternate member for a term of two (2) years, and two regular (2) members for a term of one (1) year. Alternate members of the Planning Board shall be called on to attend only those meetings and hearings at which one or more regular members are absent or are unable to participate in hearing a case because of financial or other interest. Except at the election of the Chair, Vice-Chair and Secretary, at no time shall more than five (5) members participate officially in any meeting or hearing. Any vacancies in the membership shall be filled for the unexpired term in the same manner as the initial appointments. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board. The members appointed to the Board shall be residents and citizens of the Town of Valdese.

### **9-3127 Proceedings and Duties of the Planning Board**

The Planning Board shall elect a chairman and a vice-chairman from its members who shall serve for one (1) year or until re-elected or until their successors are elected. The Board shall appoint a secretary, who may be a municipal officer or an employee of the town. The Planning Board shall adopt rules of procedure in accordance with the provisions of this Ordinance and in Article 19, Chapter 160A of the General Statutes of North Carolina. Meetings of the Planning Board shall be held once a month or at the call of the Chairman. All meetings of the Planning Board shall be open to the public.

- (a) It shall be the duty of the planning board, in general:
- (1) To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in those conditions;
  - (2) To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area;
  - (3) To establish principles and policies for guiding action in the development of the area;
  - (4) To prepare and recommend to the Town Council ordinances providing orderly development along the lines indicated by the comprehensive plan;

- (5) To determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area;
- (6) To keep the Town Council and general public informed and advised as to those matters;
- (7) To perform any other duties which may lawfully be assigned to it.

<b>Sections 9-3128 through 9-3130 reserved</b>
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<p style="text-align: center;"><b>ARTICLE L</b> <b>BOARD OF ADJUSTMENT</b></p>
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<p style="text-align: center;"><b>9-3131 Establishment of the Board of Adjustment</b></p>
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A Board of Adjustment is hereby established as provided in Section 160A-388 of the General Statutes of North Carolina. The Planning Board shall function as the Board of Adjustment as provided in Section 160A-388 of the General Statutes of North Carolina.

<p style="text-align: center;"><b>9-3132 Jurisdiction and Decision of the Board of Adjustment</b></p>
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The concurring vote of four-fifths of the members of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

The Board of Adjustment shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board or such other office or official. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

In accordance with NCGS 160A-388(el) no member of the Board of Adjustment shall participate or vote in any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

<p style="text-align: center;"><b>9-3133 Proceedings of the Board of Adjustment</b></p>
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The Board of Adjustment shall elect a chairman and a vice-chairman from its members who shall serve for one (1) year or until re-elected or until their successors are elected. The Board shall appoint a secretary, who may be a municipal officer or an employee of the town. The Board shall adopt rules of procedure in accordance with the provisions of this Ordinance and in Article 19, Chapter 160A of the General Statutes of North Carolina. Meetings of the Board shall be held once a month or at the call of the Chairman. All meetings of the Board shall be open to the public.



The Chair of the Board or any member acting as Chair and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.

The Board of Adjustment through the Chair, or in the Chair's absence anyone acting as Chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d) may make a written request to the Chair explaining why it is necessary for certain witnesses or evidence to be compelled. The Chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

<b>9-3134 Appeals, Hearings and Notice</b>
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The Board of Adjustment shall hear and decide appeals from decisions of the Zoning Administrator. As used in this section, the term "decision" includes any final and binding order, requirement, or determination of the Zoning Administrator. The Board of Adjustment may hear appeals arising out of the Zoning Ordinance pursuant to all of the following:

- (1) Any person who has standing under N.C.G.S. 160A-393(d) or the Town may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal.
- (2) The Zoning Administrator shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
- (3) The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
- (4) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the Zoning

Administrator. Absent an ordinance provision to the contrary, posting of signs shall not be required.

(5) The Zoning Administrator shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken. The Zoning Administrator shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(6) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the Zoning Administrator certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the Zoning Administrator a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

(7) Subject to the provisions of subdivision (6) of this subsection, the Board of Adjustment shall hear and decide the appeal within a reasonable time.

(8) The Zoning Administrator shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. To this end, the Board shall have all the powers of the Zoning Administrator.

Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

### **9-3135 Stay of Proceedings**

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Board of Adjustment after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Zoning Enforcement Officer and on due cause shown.

### **9-3136 Fees for Variances and Appeals**

A fee, set by the Town Council, shall be paid to the Town Clerk of the Town of Valdese, North Carolina for each application for a variance or appeal to cover the necessary administrative costs and advertising.

### **9-3137 Powers and Duties of the Board of Adjustment**

- (a) The Board of Adjustment shall have the following powers and duties:
  - (1) Administrative Review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Enforcement Officer in the enforcement of this Ordinance.
  - (2) Variances. To authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. The existence of a non-conforming use of neighboring land, buildings, or structures in the same district or of permitted or non-conforming uses in other districts shall not constitute a reason for the requested variance. Such variance may be granted in an individual case of unnecessary hardship upon a finding by the Board of Adjustment that the following conditions exist:
    - (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.
    - (b) Granting the variance requested will not confer upon the applicant any special privileges denied to other residents in the district in which the property is located.

- (c) A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.
- (d) The requested variance will be in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood or to the general welfare.
- (e) The special circumstances are not the result of the actions of the applicant.
- (f) The variance requested is the minimum variance that will make possible the legal use of the land, building or structures.
- (g) The variance is not a request to permit a use of land, building or structure which is not permitted by right or by special exception in the district involved.

<b>9-3138 Appeals from the Board of Adjustment</b>
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Any person or persons, jointly or severally, aggrieved by a decision of the Board, may within thirty (30) days after the filing of the decision in the office of the Town Clerk, but not thereafter, present to the Superior Court of Burke County a petition duly verified, setting forth that such decision is illegal in whole or in part, specifying the grounds of illegality, whereupon such decision of said Board shall be subject to review by certiorari as provided by law.

<b>Sections 9-3139 through 9-3140 reserved</b>
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## **ARTICLE M AMENDMENTS**

### **9-3141 Procedure for Amendments**

- (a) The Town Council may amend, supplement or change the text regulations and zoning district lines according to the following procedures:
- (1) **Initiation of Amendments.** Proposed changes or amendments may be initiated by the Town Council, Planning Board, Board of Adjustment, or by one or more owners or lessees of property within the area proposed to be changed or affected.
  - (2) **Petition.** A petition for any change or amendment shall contain a description and/or statement of the present and proposed zoning regulation or district boundary to be applied and the names and addresses of the owner or owners of the property. Such petition shall be filed with the Zoning Enforcement Officer not later than three (3) weeks prior to the meeting at which the petition is to be considered.
  - (3) **Fee.** A fee, set by the Town Council, shall be paid to the Town Clerk of the Town of Valdese, North Carolina, for each petition for an amendment to cover the costs of advertising and other administrative expenses involved.

### **9-3142 Action by the Planning Board**

The Planning Board shall consider and make recommendations to the Town Council concerning each proposed zoning amendment. The Planning Board, at its own discretion, may hold a public hearing if deemed necessary by the Planning Board. Otherwise, the Planning Board will send its recommendation directly to the Town Council who shall hold a public hearing for every proposed zoning amendment.

### **9-3143 Town Council Consideration**

The Town Council shall consider changes and amendments to this Ordinance as often as necessary, provided, however, that should the Town Council deny a request for a zoning amendment, it shall not thereafter accept any other petition for the same change of zoning district affecting the same property, or any portion thereof, until the expiration of one (1) year from the date of such previous denial.

### **9-3144 Required Notifications**

- (a) **Legal Notice of Public Hearing.** No amendment shall be adopted by the Town Council until after public notice and hearing. In accordance with NCGS 160A-

364, notice of public hearing shall be published in a newspaper of general circulation in the Town of Valdese at least once each week for two (2) successive weeks prior to the hearing. The first notice shall appear in the newspaper at least ten (10) days but not more than twenty five (25) days prior to the hearing.

- (b) Mail Notice Requirements. In accordance with NCGS 160A-384, whenever the amendment involves a change in the zoning classification of a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting or within 100 linear feet of that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed reclassification and a notice of the public hearing required in Section 9-3144.1. Such notice shall be sent by first class mail to the last address listed for such owners on the county tax listing. The person responsible for making the mailed notice shall certify to the Town Council that such notice was indeed prepared and mailed.
- (c) In accordance with NCGS 160A-384(c), whenever an amendment involves a change in the zoning classification of a parcel of land, the Town shall prominently post a notice of the public hearing in the site proposed for rezoning or on an adjacent right-of-way. When multiple parcels are included within a proposed zoning map amendment, the Town shall post sufficient notices to provide reasonable notice to interested persons.
- (d) Substitute Notice.
  - (1) In accordance with NCGS 160A-384(b)(3), (4) and (5) individual mailed notices may be waived in lieu of a substitute notice if the amendment meets at least one of the following criteria:
    - (a) if the zoning reclassification directly involves more than fifty (50) properties, owned by a total of at least fifty (50) different owners;
    - (b) if the proposal involves an amendment to the text of the Zoning Ordinance such that it changes the permitted, conditional, or accessory uses of a zoning district;
    - (c) if the Town is adopting a water supply watershed protection program as required by NCGS 143-214.5
  - (2) Notice requirements for amendments meeting any of the three criteria of Section 9-3144.3 (a) above are as follows:
    - (a) Notice of the public hearing shall be published in a newspaper of general circulation in the Town of Valdese at least once each week for two (2)

consecutive weeks prior to the hearing. The notice must include a map no less than one-half the size of the newspaper page. The map must show the boundaries of the area affected by the proposed amendment;

(b) The Town must notify by first class mail any property owner who resides outside the Town's zoning jurisdiction or outside the circulation area of the newspaper in which the notice is published. The notice must be mailed to the last address listed for such owners on the most recent county tax listing.

### **9-3145 Town Council Action**

Before taking such lawful action as it may deem advisable, the Town Council shall consider the Planning Board's recommendations on each proposed zoning amendment. If no recommendations are received from the Planning Board within thirty (30) days after their meeting, the proposed amendment shall be deemed to have been approved by the Planning Board. Prior to adopting or rejecting any zoning amendment, Town Council shall adopt a statement describing whether its action is consistent with the adopted Land Use Plan and explaining why the Council considers its action to be reasonable and in the public interest (NCGS 160A-383). In accordance with NCGS 160A-381(d) and 160A-75, a council member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable impact on the member. Under no circumstances shall the Town Council adopt such amendments that would cause this Ordinance to violate the watershed protection rules as adopted by the North Carolina Environmental Management Commission. Amendments affecting the watershed protection portions of this Ordinance shall be filed with the North Carolina Division of Environmental Management, the North Carolina Division of Environmental Health, and the North Carolina Division of Community Assistance.

### **9-3146 Protest Petitions**

(a) Protest Petitions:

(1) General. A protest petition may be presented against any proposed amendment. To qualify as a protest petition under this section must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in the computing of the 100-foot buffer area as long as that street right-of-way is 100 feet or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel (G.S. 385(a)). In the case of a valid protest petition, the amendment shall not become effective except by favorable vote of three-fourths (3/4) of all

members of the Valdese Town Council.

(2) Petition Requirements. No protest petition against any change in or amendment to the Zoning Ordinance or Zoning Map shall be valid unless presented in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do indeed protest the proposed amendment or change.

Furthermore, the protest petition must be received by the Town Clerk in sufficient time to allow the Town at least two (2) normal working days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment in order to determine the sufficiency and accuracy of the petition (G.S. 160A-387). ). A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment (G.S. 160A-386). Only those protest petitions that meet the qualifying standards set by G.S. 160A-385 at the time of the vote shall trigger the three-fourths (3/4) majority.

(3) Petition Applicability. The foregoing provisions about protest petitions shall not be applicable to any amendment, which initially zones a property added to the territorial coverage of the ordinance because of annexation or other means.

(4) Voting Calculations. In accordance with NCGS 160A-385(a), vacant positions on the Town Council and members who are excused from voting shall not be used in the calculation of the three-fourths (3/4) majority.



## 9-3047 Conditional Use Permits

- (a) Conditional Uses. The Town Council shall grant in particular cases and subject to the appropriate conditions and safeguards, permits for conditional uses as authorized by this Ordinance and set forth as Conditional Uses under the various use districts. The Council shall not grant a conditional use permit unless and until:
- (1) A written application for a conditional use permit is submitted to the Zoning Enforcement Officer indicating the section of this Ordinance under which the conditional use permit is sought.
  - (2) The Planning Board has reviewed the application and made a recommendation to the Town Council. If the Planning Board fails to submit a recommendation within 30 days of first consideration of the application, a recommendation of approval from the Planning Board shall be assumed.
  - (3) A public hearing is held. Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.
  - (4) The Town Council finds that in the particular case in question the use for which the Conditional Use Permit is sought will not adversely affect the health, or safety of persons residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. In granting such a permit, the Town Council may designate such conditions in connection therewith as will, in its opinion, assure that the proposed use will conform to the requirements and spirit of this Ordinance.
  - (5) If at any time after a Conditional Use Permit has been issued, the Town Council finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a Conditional Use Permit, the permit shall be terminated and the operation of such a use discontinued. If a conditional use permit is terminated for any reason, it may be reinstated only after a public hearing is held.

When deciding conditional use permits, the Town Council shall follow quasi-judicial procedures. No vote greater than a majority vote shall be required for the Council to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite majority. Every such decision of the Council shall be subject to review of the superior court in the nature of certiorari consistent with G.S. 160A-388.

<b>Sections 9-3148 through 9-3150 reserved.</b>
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<p style="text-align: center;"><b>ARTICLE N</b> <b>WATERSHED PROTECTION</b></p>
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<p style="text-align: center;"><b>9-3151 Authority and Enactment</b></p>
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The Legislature of the State of North Carolina has, in Chapter 160A, Article 19, Planning and Regulation of Development; and in Chapter 143, Article 21, Watershed Protection Rules, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The Town of Valdese, North Carolina ("the Town"), does hereby ordain and enact into law the following articles as the Watershed Protection Ordinance of Valdese, North Carolina.

<p style="text-align: center;"><b>9-3152 Jurisdiction</b></p>
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The provisions of this Ordinance shall apply within the overlay zones designated as a Public Water Supply Watershed as defined and established on the "Official Zoning Map of Valdese, North Carolina" ("the Zoning Map"), such overlay zones being adopted simultaneously herewith. The Zoning Map and all explanatory matter contained thereon accompany and are hereby made a part of this Article.

<p style="text-align: center;"><b>9-3153 Exceptions to Applicability</b></p>
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- (a) Development activities that do not require a Sedimentation/Erosion Control Plan are exempt from the requirements of this Article.
- (b) Existing development, as defined in this Article, is not subject to the requirements of this Article. Existing development is defined as those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this Ordinance based on at least one of the following criteria:
  - (1) having expended substantial resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project;
  - (2) having an outstanding valid building permit as authorized by NCGS 153A-344.1 and NCGS 160A-385.1; or
  - (3) having an approved site specific or phased development plan as authorized by NCGS 153A-344.1 and NCGS 160A-385.1.
- (c) Expansions to structures classified as existing development must meet the requirements of this Ordinance; however, the built-upon area of the existing development is not required to be included in the density calculations.

- (d) Reconstruction of Buildings or Built-Up-On Areas. Any existing building or built-upon area not in conformance with the restrictions of this Ordinance that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single-family residential redevelopment, provided:
  - (1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.
  - (2) The total amount of space devoted to built-upon area may not be increased unless storm water control that equals or exceeds the previous development is provided.
- (e) If a non-conforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this ordinance if it is developed for single family purposes (and zoned for this use).

<b>9-3154 Cluster or Planned Unit Development</b>
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- (a) Cluster or Planned Unit Development is allowed in all Watershed Areas under the following conditions:
  - (1) Development activities shall comply with the respective requirements of Article D and Article I of this Ordinance.
  - (2) All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
  - (3) The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the deeds.

<b>9-3155 Buffer Areas Required</b>
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- (a) A minimum one hundred (100) foot vegetative buffer is required for all new development activities that exceed the low density option; otherwise a minimum thirty (30) foot vegetative buffer for development activities in the protected area is required along all perennial waters, and a minimum fifty (50) foot vegetative buffer for development activities in the critical area is required along all perennial waters indicated in the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local studies. Artificial stream bank stabilization is permitted.

- (b) No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways and their appurtenances where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of storm water Best Management Practices.

<b>9-3156 Watershed Administrator and Duties thereof</b>
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- (a) The Watershed Administrator shall be the same as the Zoning Enforcement Officer as described in this Ordinance. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this Article as follows:
- (1) The Watershed Administrator shall issue Zoning Permits and Certificates of Occupancy as provided in this Ordinance. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.
  - (2) The Watershed Administrator shall serve as staff to the Planning Board, Board of Adjustment, and Town Council.
  - (3) The Watershed Administrator shall keep records of all amendments to the local Water Supply Watershed Protection Ordinance and shall provide copies of all amendments upon adoption to the Division of Water Quality.
  - (4) The Watershed Administrator is granted the authority to administer and enforce the provisions of this Article, exercising in the fulfillment of his responsibility the full zoning and police power of the Town of Valdese. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this Article.
  - (5) The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted each calendar year to the Division of Water Quality on or before January 1st of the following calendar year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

### **9-3157 Appeal from the Watershed Administrator**

- (a) Any order, requirement, decision or determination made by the Watershed Administrator may be appealed to and decided by the Board of Adjustment.
- (b) An appeal from a decision of the Watershed Administrator must be submitted to the Board of Adjustment within thirty (30) days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- (c) An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.
- (d) The Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney.

### **9-3158 Establishment of a Watershed Review Board**

There shall be and hereby is created the Watershed Review Board consisting of the same membership as the Valdese Town Council. Terms for members of the Watershed Review Board shall coincide with the membership terms for the Town Council.

### **9-3159 Powers and Duties of the Watershed Review Board and Board of Adjustment**

- (a) The Board of Adjustment shall be responsible for reviewing and hearing all major and minor watershed variance cases, and shall proceed as provided in Article XI of the Zoning Ordinance for zoning variances when reviewing all watershed variance cases.
- (b) If the application calls for the granting of a **major watershed variance**, and if the Board of Adjustment decides in favor of granting the major watershed variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:
  - (1) The variance applications;
  - (2) The hearing notices;

- (3) The evidence presented;
  - (4) Motions, offers of proof, objections to evidence, and rulings on them;
  - (5) Proposed findings and exceptions;
  - (6) The proposed decision, including all conditions proposed to be added to the permit.
- (c) The preliminary record shall be sent to the Environmental Management Commission (EMC) for its review as follows:
- (1) If the EMC concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the EMC shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The EMC shall prepare a decision and send it to the Board of Adjustment. If the EMC approves the variance as proposed, the Board of Adjustment shall prepare a final decision granting the proposed variance. If the EMC approves the variance with conditions and stipulations, the Board of Adjustment shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.
  - (2) If the EMC concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, then the EMC shall deny approval of the variance as proposed. The EMC shall prepare a commission decision and send it to the Board of Adjustment. The Board of Adjustment shall prepare a final decision denying the variance as proposed.
- (d) Written notification shall be given to local governments having jurisdiction and any entity using the water supply for consumption where a variance is being considered. The local government and entity shall have a reasonable comment period prior to review by the Board of Adjustment.
- (e) Approval of all development with densities greater than that specified in Article E of this Ordinance shall be the authority of the Town Council/Watershed Review Board.

<b>9-3160 Appeals from the Town Council or Board of Adjustment</b>
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Appeals from the Town Council or Board of Adjustment must be filed with the Superior Court within 30 days from the date of the decision. The decisions by the Superior Court will be in the manner of certiorari.



### 9-3161 High Density Development Standards

- (a) The Town Council may approve high density development proposals consistent with the following standards:

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

(2) WS-IV-Protected Areas - Where new development requires a Sedimentation/Erosion Control Plan and exceeds either 2 dwelling units per acre, or 24% built-upon area (or 3 dwelling units per acre or 36% built-upon area for projects without curb and gutter street system), **engineered stormwater controls** shall be used to control runoff from the first inch of rainfall and development shall not exceed 70% built-upon area.

### 9-3162 High Density Development Permit Application

- (a) A High Density Development Permit shall be required for new development exceeding the density requirements specified in Article E of this Ordinance.
- (b) Application for a High Density Development Permit shall be addressed and submitted to the Town Council through the Watershed Administrator. Application for a High Density Development Permit shall be made on the proper form and shall include the following information:
- (1) A completed High Density Development Permit Application signed by the owner of the property. The signature of the consulting engineer or other agent will be accepted on the application only if accompanied by a letter of authorization;
  - (2) Ten (10) reproducible copies of the development plan including detailed information concerning built-upon area;
  - (3) Ten (10) reproducible copies of the plans and specifications of the stormwater control structure consistent with Section 9-3163;
  - (4) When required by law, written verification that a soil erosion and sedimentation control plan has been approved by the appropriate State or local agency;
  - (5) Permit Application Fees consistent with Section 9-3165;
- (c) Prior to taking final action on any application, the Board or the Watershed Administrator may provide an opportunity to public agencies affected by the development proposal to review and make recommendations on the application. However, failure of the agencies

to submit their comments and recommendations shall not delay the Board's action within the prescribed time limit.

- (d) Public Hearing. Upon receipt of a completed application, the Town Council shall hold a public hearing. Notice of the hearing shall be published in a newspaper of general circulation at least seven days prior to the date of the hearing. The notice shall state the location of the building, lot or tract in question, the intended use of the property, the need for engineered stormwater controls and the time and place of the hearing. At the hearing, the applicant or designated representative thereof shall appear for the purposes of offering testimony and recommendations concerning the application. The Board shall also allot reasonable time for the expression of views by any member of the public attending the meeting in person or represented by an attorney provided the testimony bears on the findings the Board must make.
- (e) The Town Council shall issue a High Density Development Permit within sixty-five (65) days of its first consideration upon finding that the proposal is consistent with the applicable standards set forth in the Watershed Protection Ordinance and the following conditions are met:
  - (1) The use will not endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
  - (2) The use minimizes impacts to water quality through the Best Management Practices, cluster development, and/or maximum setbacks from perennial waters;
  - (3) The use is vital to the continued growth and economic development of the Town of Valdese.
  - (4) The use is consistent with the officially adopted land development plans for the Town of Valdese.

If the Town Council finds that any one of the above conditions is not met, the Board shall deny the application.

- (f) In addition to any other requirements provided by this Ordinance, the Board may designate additional permit conditions and requirements to assure that the use will be harmonious with the area in which it is proposed to be located and with the spirit of this Ordinance. All additional conditions shall be entered in the minutes of the meeting, at which the permit is granted, on all plans and on the permit certificate. All conditions so imposed shall run with the land and shall be binding upon the applicant and the applicant's heirs, successors or assigns during the continuation of the permitted use.
- (g) The Board shall issue a written ruling and make copies available at the office of the Watershed Administrator and the Town Clerk. If the Board approves the application based on its findings, such approval shall be indicated on the permit and all copies of the

site plan and all copies of the plans and specifications of the stormwater control structure(s). A High Density Development Permit shall be issued after the applicant posts a performance bond or other acceptable security as required in Section 9-3164(B) (1) and executes an Operation and Maintenance Agreement as required in Section 9-3164(C). A copy of the permit and one copy of each set of plans shall be kept on file at the Watershed Administrator's office. The original permit and one copy of each set of plans shall be delivered to the applicant either by personal service or registered mail, return receipt requested.

<b>9-3163 Storm water Control Structures</b>
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- (a) All storm water control structures shall be designed by a North Carolina registered professional engineer.
- (b) All storm water controls shall use wet detention ponds as a primary treatment system unless alternative storm water management measures, as outlined in Section 9-3163(G), are used. Wet detention ponds shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Environmental Management. Specific requirements for these systems shall be in accordance with the following design criteria:
  - (1) Wet detention ponds shall be designed to remove 85% of total suspended solids in the permanent pool and storage run-off from a one-inch rainfall from the site above the permanent pool;
  - (2) The designed run-off storage volume shall be above the permanent pool;
  - (3) The discharge rate from these systems following the one-inch rainfall design storm shall be such that the run-off does not draw down to the permanent pool level in less than two (2) days and that the pond is drawn down to the permanent pool level within at least five (5) days;
  - (4) The mean permanent pool depth shall be a minimum of three (3) feet;
  - (5) The inlet structure shall be designed to minimize turbulence using baffles or other appropriate design features;
  - (6) Vegetative filters shall be constructed for the overflow and discharge of all storm water wet detention ponds and shall be at least thirty feet in length. The slope and width of the vegetative filter shall be determined so as to provide a non-erosive velocity of flow through the filter for a ten-year, 24-hour storm with a ten-year, one-hour intensity with a slope of 5% or less. Vegetation in the filter shall be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics; and

- (7) All storm water control structures shall be enclosed by a fence with a minimum height of six (6) feet.
- (c) In addition to the vegetative filters required in Section 9-3163(B)(6), all land areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within thirty (30) days after any land disturbance. Upon completion of the storm water control structure, a permanent ground cover shall be established and maintained as part of the maintenance agreement described in Section 9-3164(C).
- (d) An easement in the property containing the storm water control structure allowing the Town of Valdese to perform inspections, maintenance, repairs, reconstruction, and any other acts which may be required in order for the Town of Valdese to carry out the provisions of this Article, along with any easements necessary for general access to the storm water control structure shall be prepared consistent with Section 9-3167(A and B) and recorded in the office of the Register of Deeds of Burke County. The area in which this easement is granted shall include the detention pond, vegetative filters, all pipes and water control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs and reconstruction.
- (d) Qualifying areas of the storm water control structure may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage built-upon area for one site, it shall not be used to compute the built-upon area for any other site or area.

<b>9-3164 Posting of Financial Security Required</b>
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- (a) All new storm water control structures shall be conditioned on the posting of adequate financial assurance for the purpose of maintenance, reconstruction, or repairs necessary for adequate performance of the storm water control structures.
- (b) Financial assurance shall be in the form of the following:
  - (1) Security Performance Bond or other security. The permit applicant shall obtain either a performance bond from a surety bonding company authorized to do business in North Carolina, an irrevocable letter of credit or other instrument readily convertible into cash at face value payable to the Town of Valdese or placed in escrow with a financial institution designated as an official depository of the Town of Valdese. The bond or other instrument shall be in an amount equal to 1.25 times the total cost of the storm water control structure, as estimated by the applicant and approved by the Town. The total cost of the storm water control structure shall include the value of all materials such as piping and other structures; seeding and soil stabilization; design and engineering; and, grading, excavation, fill, etc. The costs shall not be prorated as part of a larger project,

but rather under the assumption of an independent mobilization.

- (2) Cash or Equivalent Security Deposited After the Release of the Performance Bond. Consistent with Section 9-3167(C)(1), the permit applicant shall deposit with the Town of Valdese either cash or other instrument approved by the Town Attorney that is readily convertible into cash at face value. The cash or security shall be in an amount equal to fifteen percent (15%) of the total cost of the storm water control structure or the estimated cost of maintaining the storm water control structure over a ten (10) year period, whichever is greater. The estimated cost of maintaining the storm water control structure shall be consistent with the approved operation and maintenance plan or manual provided by the developer under Section 9-3165(A).
- (c) Consistent with Section 141(G), the permit applicant shall enter into a binding Operation and Maintenance Agreement between the Town of Valdese and all interests in the development. Said Agreement shall require the owning entity to maintain, repair and, if necessary, reconstruct the storm water control structure in accordance with the operation and management plan or manual provided by the developer. The Operation and Maintenance Agreement shall be filed with the County Register of Deeds by the Watershed Administrator.
- (d) Default under the performance bond or other security. Upon default of the permit applicant to complete and/or maintain the storm water control structure as specifically provided in the performance bond or other security, the Town of Valdese may obtain and use all or any portion of the funds necessary to complete the improvements based on an engineering estimate. The Town of Valdese shall return any funds not spent in completing the improvements to the owning entity.
- (e) Default under the cash security. Upon default of the owning entity to maintain, repair and, if necessary, reconstruct the storm water control structure in accordance with the Operation and Maintenance Agreement, the Town of Valdese shall obtain and use all or any portion of the cash security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after exhausting all other reasonable remedies seeking the owning entity to comply with the terms and conditions of the Operation and Maintenance Agreement. The Town of Valdese shall not return any of the deposited cash funds.

<b>9-3165 Maintenance and Upkeep</b>
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- (a) An operation and maintenance plan or manual shall be provided by the developer for each storm water control structure, indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken and, consistent with the Operation and Maintenance Agreement, who is responsible for those actions. The plan shall clearly indicate the steps that will be

taken for restoring a storm water control structure to design specifications if a failure occurs.

- (b) Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the extent that the integrity of the control structure is diminished or threatened, or to the extent of interfering with any easement to the storm water control structure.
- (c) Except for general landscaping and grounds management, the owning entity shall notify the Watershed Administrator prior to any repair or reconstruction of the storm water control structure. All improvements shall be made consistent with the approved plans and specifications of the storm water control structure and the operation and maintenance plan or manual. After notification by the owning entity, the Town Engineer shall inspect the completed improvements and shall inform the owning entity of any required additions, changes or modifications and of the time period to complete said improvements.
- (d) Amendments to the plans and specifications of the storm water control structure and/or the operation and maintenance plan or manual shall be approved by the Town Council. Proposed changes shall be prepared by a North Carolina registered professional engineer and submitted to and reviewed by the Watershed Administrator prior to consideration by the Town Council.
  - (1) If the Town Council approves the proposed changes, the owning entity of the storm water control structure shall file sealed copies of the revisions with the Office of the Watershed Administrator.
  - (2) If the Town Council disapproves the changes, the proposal may be revised and resubmitted to the Town Council as a new proposal. If the proposal has not been revised and is essentially the same as that already reviewed, it shall be returned to the applicant.
- (e) If the Town Council finds that the operation and maintenance plan or manual is inadequate for any reason, the Board shall notify the owning entity of any required changes and shall prepare and file copies of the revised agreement with the County Register of Deeds, the Office of the Watershed Administrator and the owning entity.

<b>9-3166 Application and Inspection Fees</b>
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- (a) Processing and inspection fees shall be submitted in the form of a check or money order made payable to the Town of Valdese. Applications shall be returned if not accompanied by the required fee.

- (b) A permit and inspection fee schedule, as approved by the Town of Valdese, shall be posted in the Office of the Watershed Administrator.
- (c) Inspection fees shall be valid for sixty (60) days. An inspection fee shall be required when improvements are made to the storm water control structure consistent with Section 9-3165(C), except in the case when a similar fee has been paid within the last sixty (60) days.

<b>9-3167 Inspections and Release of the Performance Bond</b>
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- (a) The storm water control structure shall be inspected by the Town, after the owning entity notifies the Watershed Administrator that all work has been completed. At this inspection, the owning entity shall provide:
  - (1) The survey plat showing the storm water control structure and related easement(s), and the signed easement(s) ready for filing with the Burke County Register of Deeds;
  - (2) A certification sealed by an engineer or landscape architect (to the extent that General Statutes allow) stating that the storm water control structure is complete and consistent with the approved plans and specifications.
- (b) The Watershed Administrator shall present the materials submitted by the developer and the inspection report and recommendations to the Valdese Town Council at its next regularly scheduled meeting.
  - (1) If the Town Council approves the inspection report and accepts the certification and deed of easement, the Town shall file the easement with the Burke County Register of Deeds, release up to seventy-five percent (75%) of the value of the performance bond or other security and direct the Burke County Buildings Inspections Department to issue a Certificate of Occupancy for the storm water control structure.
  - (2) If deficiencies are found, the Town shall direct that improvements and inspections be made and documents corrected and submitted to the Town.
- (c) No sooner than one year after date of filing of the deed of easement, and maintenance agreement, the developer may petition the Town to release the remaining value of the performance bond or other security. Upon receipt of said petition, the Town shall inspect the storm water control structure to determine whether the controls are performing as designed and intended. The Watershed Administrator shall present the petition and findings to the Town Council.
  - (1) If the Town Council approve the report and accepts the petition, the developer

shall deposit with the Town of Valdese a cash amount equal to that described in Section 9-3164(B)(2), after which the Town Council shall release the performance bond or other security.

- (2) If the Town Council does not accept the report and rejects the petition, the Town shall provide the developer with instructions to correct any deficiencies and all steps necessary for the release of the performance bond or other security.
- (d) A Certificate of Occupancy from the Burke County Buildings Inspections Department shall not be issued for any building within the permitted development until the Town Council has approved the storm water control structure, as provided in Section 9-3167(B).
- (e) All stormwater control structures shall be inspected at least on an annual basis to determine whether the controls are performing as designed and intended. Records of inspection shall be maintained on forms approved or supplied by the North Carolina Division of Environmental Management. Annual inspections shall begin within one year of filing date of the deed for the storm water control structure.
- (f) In the event the Watershed Administrator discovers the need for corrective action or improvements, the Watershed Administrator shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All improvements shall be made consistent with the plans and specifications of the storm water control structure and the operation and maintenance plan or manual. After notification by the owning entity, the Town shall inspect and approve the completed improvements.

### **9-3168 Remedies**

- (a) If any subdivision, development and/or land use is found to be in violation of this Article, the Town may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$50, institute actions or proceedings to restrain, correct, or abate the violations; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with G.S. 143 - 215.6(a). Each day the violation continues shall constitute a separate offense.
- (b) If the Watershed Administrator finds that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this



Ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.

#### **9-3169 Sanctions**

In addition to the remedies described in Section 9-3168 of this Ordinance and consistent with G.S. 160A-175, the Valdese Town Council may seek enforcement of this Ordinance by assessing a civil penalty to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty in a prescribed period of time after being cited for violation of the Ordinance. Such violation may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. The court may issue an injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the rules of Civil Procedure in general and Rule 65 in particular. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, the defendant may be cited for contempt and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and material man's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith. Enforcement of this Ordinance may be by any one, all or a combination of the remedies authorized in this Ordinance. Each day's continuing violation shall be a separate and distinct offense.

#### **9-3170 Criminal Penalties**

Any person violating any provisions of this Article shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with NCGS 14-4. The maximum fine for each offense shall not exceed five hundred dollars (\$500). Each day that the violation continues shall constitute a separate offense.

**Sections 9-3171 through 9-3180 reserved.**

**ARTICLE O**  
**LEGAL STATUS PROVISIONS**

**9-3181 Conflict with Other Regulations**

Whenever the regulations of this ordinance require a greater width or size of yards, or other open space, or require a lower height of buildings, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other statutes, the regulations and requirements of this ordinance shall govern.

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

**9-3182 Repeal of Existing Zoning Ordinance**

All zoning ordinances or parts of same now in effect in the Town of Valdese are hereby repealed; provided, however, that all suits at law or in equity and/or all prosecutions resulting from the violation of any zoning ordinance heretofore in effect, which are now pending in any of the courts of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this ordinance but shall be prosecuted to their finality the same as if this ordinance had not been adopted; any and all violations of existing zoning ordinances, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this ordinance shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending, and/or which may have heretofore been instituted or prosecuted.

**9-3183 Validity**

Should any Section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

**9-3184 Enactment**

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

Approved As To Form: \_\_\_\_\_  
Town Attorney

**Sections 9-3185 through 9-3194 reserved.**

**ARTICLE P**  
**TELECOMMUNICATIONS TOWER ORDINANCE**

**9-3195 Definitions**

- (a) As used in this Ordinance, the following terms shall have the meanings indicated:
- (1) Alternative tower structure shall mean clock towers, sculptures, bell steeples, light poles and similar alternative-design mounting structures that conceal the presence of antennas or towers and are architecturally compatible with the area.
  - (2) Pre-existing towers and antennas shall mean any tower or antenna on which a permit has been properly issued prior to the effective date of this Ordinance.
  - (3) Telecommunications Tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, personal communications service towers (PCS), microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. This definition does not include any structure erected solely for a residential, non-commercial individual use, such as television antennas, satellite dishes or amateur radio antennas.

**9-3196 General Guidelines and Requirements**

- (a) General Guidelines and Requirements:
- (1) Purpose; Goals. The purpose of this Ordinance is to establish general guidelines for the siting of towers and antennas. The goals of this Ordinance are to: (I) encourage the location of towers in non-residential/non-historical areas and minimize the total number of towers throughout the community, (ii) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently; (iii) encourage strongly the joint use of new and existing tower sites, (iv) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal, and (v) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.
  - (2) Principal Use. Telecommunication towers shall be considered principal uses. Alternative tower structures may be considered principal or accessory uses. For purposes of determining whether the installation of a tower or antenna complies

with district development regulations, including, but not limited to, setback requirements, lot size and coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots.

<b>9-3197 Administrative Approved Uses</b>
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- (a) The following uses may be approved by the Zoning Administrator after conducting an administrative review:
- (1) Installing an antenna on an existing structure other than a tower (such as a building, sign, light pole, water tower, utility pole or other free-standing, non-residential structure) in any zoning district that is more than fifty (50) feet in height, so long as such addition does not add more than twenty (20) feet to the height of the existing structure;
  - (2) Installing an antenna on an existing non-residential structure other than a tower (such as a building, sign, light pole, water tower, utility pole or other free-standing, non-residential structure) in any commercial or industrial zoning district that is less than fifty (50) feet in height so long as such addition does not add more than twenty (20) feet to the height of the existing structure;.
  - (3) Installing an antenna on an existing tower of any height, including a pre-existing tower and further including the placement of additional buildings or other supporting equipment used in connection with said antenna, so long as the addition of said antenna adds no more than twenty (20) feet to the height of said existing tower;
  - (4) Locating any alternative tower structure in any zoning district if, in the judgment of the Zoning Administrator, it is in conformity with the goals set forth in Section 9-3196.1 of this Ordinance;
  - (5) Replacing an existing tower which adds no more than 20 feet to the overall height of the existing structure.
  - (6) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in the B-2 General Business District and the M-1 General Manufacturing District provided that such towers and antennas shall be located within seven hundred and fifty (750) feet of the Interstate 40 right-of-way and provided that the following requirements are also met:

- (a) Evidence must be provided which establishes that the communications tower is structurally designed to support at least one additional user and the application includes a statement that the owner of the tower is willing to permit other user(s) to attach communication facilities, on a commercially reasonable basis, which do not interfere with the primary purpose of the tower. The tower owner may require that such other users agree to negotiate regarding reasonable compensation for any liability which may result from such attachment. The site plan shall show a location for at least one equipment building in addition to that proposed for use by the applicant. Priority for co-location on the proposed tower shall be given to antennas that will serve a public safety need for the community.
- (b) In order to provide spatial separation and create a visual block from adjacent properties and streets, a buffer shall be installed around the outside of all improvements on the site, including the tower and guy anchors, any ground buildings or equipment, and security fencing. The tower's guy anchors may be screened or fenced separately in order to comply with the requirements of this subsection. Buffering shall be required as stated in Section 9-3046.
- (c) The base of the tower and each guy anchor shall be surrounded by a security fence or wall at least eight (8) feet in height unless the tower and all guy anchors are mounted entirely on a building over eight feet in height. The tower's guy anchors may be screened or fenced separately in order to comply with the requirements of this subsection.
- (d) No outside storage shall be allowed on any telecommunication facility site.
- (e) Associated buildings shall not be used as a place of employment for any worker. This provision does not prohibit the periodic maintenance or periodic monitoring of equipment and instruments.
- (f) The telecommunications tower shall meet all applicable Federal Aviation Administration (FAA) standards and shall not restrict or interfere with air traffic or air travel from or to any existing or proposed airport. Any lighting shall not project onto surrounding residential property.
- (g) The minimum lot size requirement shall be in accordance with the zoning district where the tower is proposed to be located or the setback requirements of subsection K, whichever is greater.
- (h) The color of the tower shall be neutral, except to the extent required by Federal law, so as to minimize its visual impact.

- (i) In order to protect the public from unnecessary exposure to electromagnetic radiation, the tower owner shall provide documentation, such as a signed affidavit, indicating that the power density levels do not exceed levels certified by the FCC.
  - (j) No commercial advertising shall be allowed on the facility's site.
  - (k) Setback of the base of the tower from all adjacent property lines shall be one foot for each foot in height. To encourage shared use of towers, applications for towers which will operate with more than one user immediately upon completion may have a 10% reduction in the required setbacks, but in no case shall the setback be less than those required for the underlying zoning district. Also, to encourage the construction of monopole structures, monopole towers may have a 60 % reduction in the required setbacks. In no case shall the setback be less than those required for the underlying zoning district. To encourage location of towers in existing forested areas with a minimum depth of sixty-five (65) feet, the tower may have a 20% reduction in the required setbacks. In no case shall the setback be less than those required for the underlying zoning district. These reduced setbacks shall not be cumulative. Said setback reductions shall only be allowed upon a professional engineering certification which states that the structures construction will cause the tower to crumble inward so that in the event of collapse no damage to structures on adjacent zoning lots will result.
  - (l) Notice shall be provided to the Zoning Administrator when the tower is placed out of service. Towers which are not used for a period of six (6) months or more shall be removed by the owner within 120 days of receipt of notification to that effect.
  - (m) Monopole construction for all new telecommunication towers shall be required. Stealth technology and application is encouraged to be consistent with the surrounding area.
  - (n) A telecommunications tower shall not exceed the maximum height of one hundred ninety-nine (199) feet above ground level.
- (7) Locating a telecommunication tower on Town owned property in any zoning district anywhere in the Town Limits as a principal or accessory use if, in the judgment of the Zoning Administrator, it is in conformity with goals set forth in Section 9-3196.1 of this Ordinance.

