

**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 Jurisdiction

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

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.

- (a) Words used in the present tense include the future tense.
- (b) Words in the singular include the plural; words in the plural include the singular.
- (c) The word "person" includes a firm, association, organization, corporation, trust, and company as well as an individual.
- (d) The word "lot" includes the word "structure".
- (e) The word "building" includes the word "structure".
- (f) The word "shall" is mandatory, not directory.
- (g) 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".
- (h) 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.

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.

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

Automotive Repair: The repair, reconditioning, or rebuilding of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

Automotive Service Station (gas, filling 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; facilities for washing and for chassis and gear lubrication of vehicles are permitted if enclosed in a building.

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.

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.

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.

Boardinghouse: A structure in which persons, either individually or as families, are lodged or housed for hire without eating, cooking and toilet facilities in each separate unit. Any boardinghouse occupied by a group of more than two (2) persons shall contain at least one bedroom for each two (2) persons residing in said boardinghouse. The owner of the boarding house shall reside on premises. A rooming house, guest house, or tourist home shall all be deemed a boarding house.

Bona Fide Farm: See Farm, Bona Fide

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

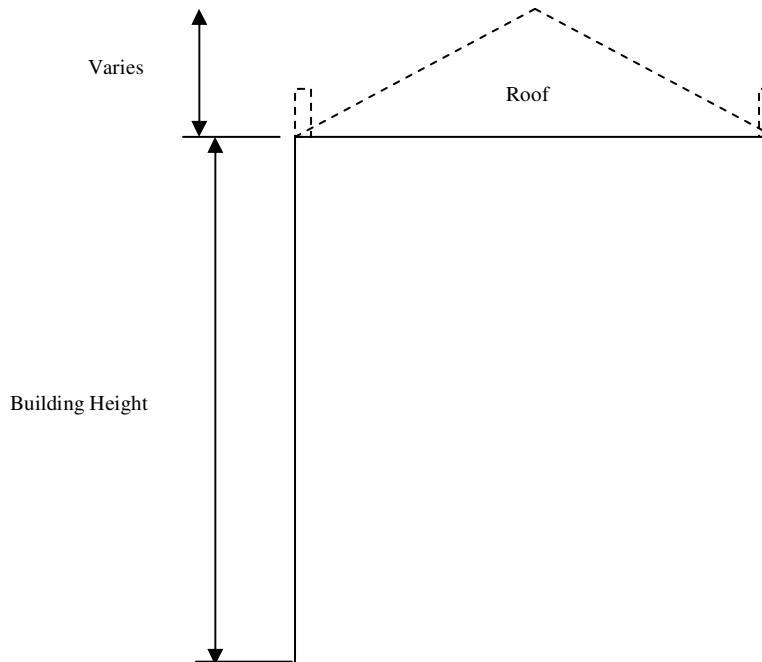
flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded waters and from the bank of each side of free-flowing streams, rivers, branches, 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 Line: 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-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, Convenience: Commercial establishments designed to attract and to be dependent upon large volumes of stop-and-go traffic, including but not limited to all types of convenience stores and fast food restaurants, with or without drive-in windows.

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.

Business, Neighborhood: Small scale unified or independent commercial establishments with a per-unit floor area no more than three thousand (3000) square feet that generally serve the day-to-day commercial needs of a residential neighborhood, including but not limited to: small drugstores, tobacco shops, newsstands, bakeries, confectioneries, delicatessens, food markets, beauty salons, and child daycare facilities.

Business, Services: Any profit-making business services that are rendered primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in homes and businesses.

Business, Wholesale: Commercial establishments that generally sell commodities in large quantities or by the price to retailers, jobbers, other wholesale establishments, or manufacturing establishments, basically for use in the fabrication of a product or for use by a business service.

Campground: An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character.

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 columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

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 Home: A home for not more than nine (9) orphaned, abandoned, dependent, abused, or neglected children, together with not more than two adults who supervise such children, all of whom live together as a single housekeeping unit.

Child Care Institution: An institutional facility housing more than nine (9) 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 or to render a service which is customarily conducted as a business.

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: The ownership of single units in a complex containing two (2) or more units in one or more buildings with common areas and facilities.

Construction Vehicle: Any vehicle (other than a passenger vehicle, or pick-up panel truck) whose primary purposes are use in land development and construction, including, but not limited to, earth moving equipment and dump trucks.

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 Facility, Class Small: A private residence where care, protection, and supervision are provided on a regular schedule, to no more than five (5) children at one time, including children of the adult provider.

Day Care Facility, Class Medium: A building or structure where care, protection, and supervision are provided on a regular schedule, to at least six (6) and no more than twelve (12) children, including children of the adult provider.

Day Care Facility, Class Large: A building or structure where care, protection, and supervision are provided on a regular schedule, to more than twelve (12) children, including the children of the adult provider.

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. Horses may be kept only in the R-12 district provided that there is a minimum of three acres of property available for each animal's use and the property shall be completely enclosed by fence.

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.

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 dwelling forming a single, independently habitable unit containing independent kitchen, sanitary, and sleeping facilities, and provided such dwelling unit 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.

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 habilitation 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.

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 three hundred (300) 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 off all buildings on a lot by the area of that lot.

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.

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: A home occupation is defined as an accessory use of a dwelling unit for gainful employment that is clearly a customary, incidental and secondary use of a dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

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.

Junked Vehicle: Any wrecked or non-operable automobile, truck, or other vehicle which does not bear a current license plate and current State inspection sticker.

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 junked 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 or selling domestic Pets. Open kennels adjacent to residential property shall be permitted only after a finding by the Board of Adjustment that the proposed kennel will not constitute a nuisance to the surrounding neighborhood.

Landfill. A 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.

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.

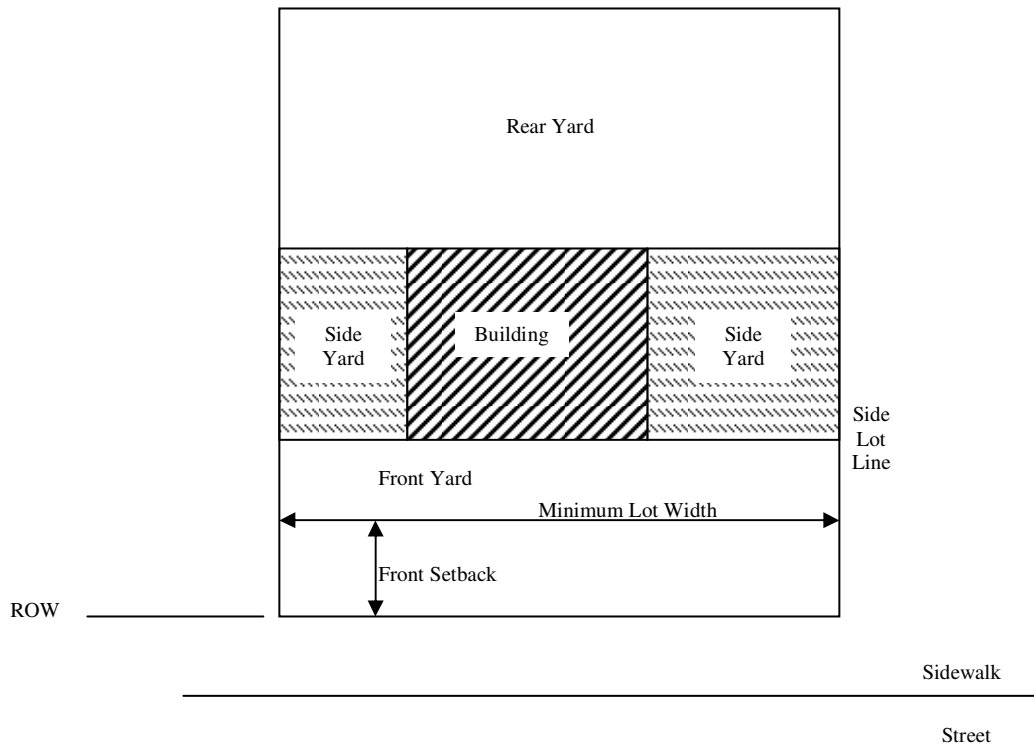
Lot, Interior: A lot in which only one of its sides abuts a street. See Article D.

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. This definition shall not include manufactured home sales lots on which unoccupied manufactured home are located for the purpose of inspection and sale. New manufactured home parks are not allowed in the Town of Valdese, and this definition therefore only applies to existing manufactured home parks that comply with Article 9-3081.

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.

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.

Modular Unit: Any building or structure designed for living or sleeping purposes, which is pre-manufactured or prefabricated, all or in part, at some point other than the building site for assembly or installation later on a permanent building foundation. Further defined, such building may be assembled from pre-manufactured or prefabricated rooms, wall panels, frame units, or other factory manufactured parts, which may be fabricated of wood, concrete, metal or other materials, and anchored on a foundation at the building site. This definition does not include vehicles that are designed to be mounted on wheels to be moved to a lot such as a manufactured home.

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 Air Market: Any permanent or temporary display of goods in an open or partially open setting. Open air markets include outdoor craft shows, fruit and vegetable stands, and itinerant merchant displays.

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.

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 housing units, clustering of buildings and providing common space, density increase, and 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, which 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.

Private Club: When operated in a residential zone, the term "private club" shall include associations and organizations of a fraternal or social character or which are maintained in connection with a golf course or country club, and shall not include nightclubs, cocktail lounges, discos, or other such institutions operated as a business. Such organizations and associations must be organized under the laws of the State of North Carolina as a non-profit corporation. When operated in a commercial or industrial zone, the term "private club" may apply to a fraternal or social organization which restricts memberships, is operated as a business, and may or may not offer for sale alcoholic beverages.

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.

Recreational Vehicle (RV) Park: Any lot of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational

vehicles of the general public as temporary living quarters for recreation or vacation purposes.

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 daycare 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.

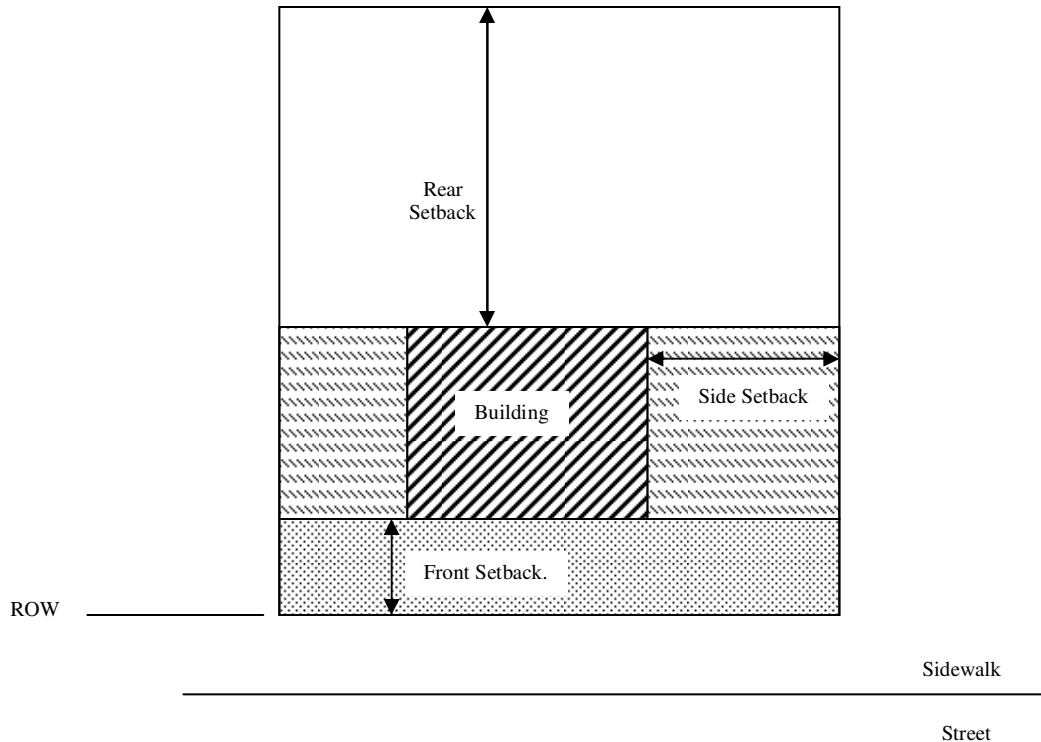
Restaurant: An establishment in which food or beverages are cooked or prepared and offered for sale and where consumption is permitted on the premises whether or not entertainment is offered, and including establishments commonly referred to as cafes, grilles, taverns, clubs, private clubs, drive-ins,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

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 which has not been accepted for maintenance or intended to be accepted for maintenance by the Town of Valdese or the State of North Carolina, and which is not maintained by the Town of Valdese or the State of North Carolina.

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.

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 Portable Building, Construction-Related: A temporary portable building directly related to the development of a lot and limited in duration to a time period extending from issuance of the initial Zoning Permit for such development to issuance of the final Certificate of Occupancy for the development.

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: A grant of 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: An establishment used for the care, grooming, boarding, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those animals in need of medical or surgical attention. Open kennels adjacent to residential property shall be permitted only after a finding by the Board of Adjustment that the proposed kennel will be compatible with the surrounding neighborhood.

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.

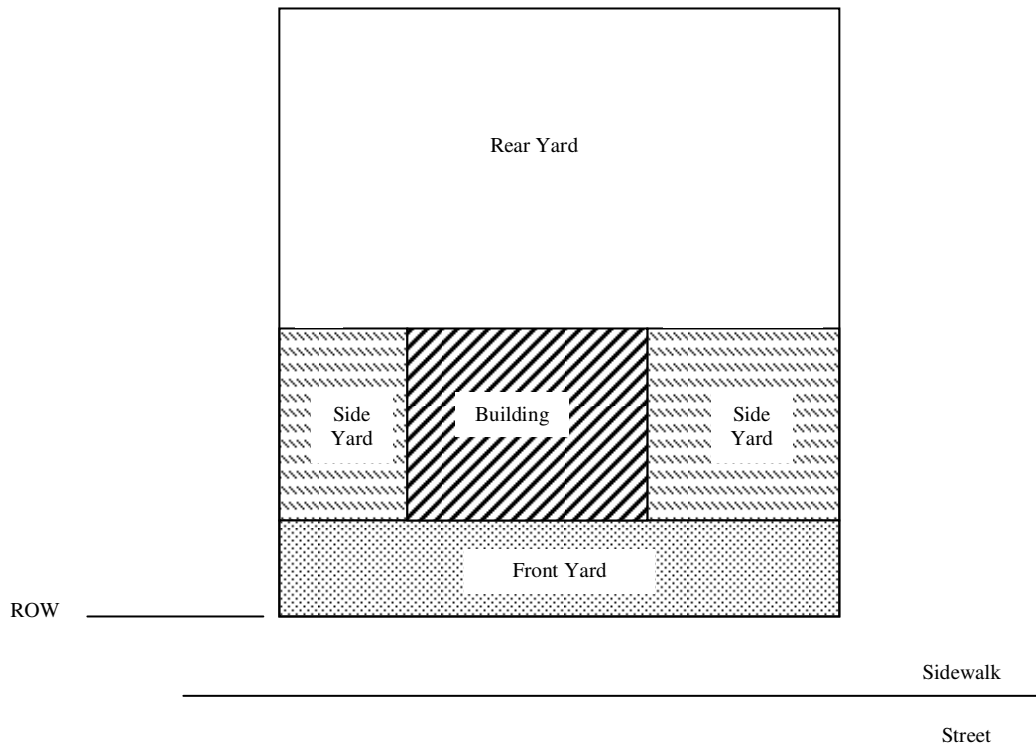
Watershed: The entire land area contributing surface drainage to a specific point (e.g. the water supply intake.)

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.

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 with a principal building, between the setback line of the building and the front street right-of-way line and 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 side line 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 charged with the responsibility of enforcing this Ordinance. This term shall also include the term "Watershed Administrator".

Zoning Permit: Permit issued by the Zoning Administrator indicating proposed use is in 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 nine (9) 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
B-3	Neighborhood Business District
M-1	General Manufacturing District
FP	Floodplain Overlay District

9-3022 Interpretation of the Zoning Map

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:

- .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

- .1 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.
- .2 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.
- .3 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.
- .4 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.
- .5 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.
- .6 Building Lot Must Abut Public Street. No building shall be constructed or erected upon any lot which does not abut a public street by thirty-five (35) feet, except as provided in Section 9-3040.
- .7 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.

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

- .1 Extension of Use. The enlargement or extension of nonconforming uses of land is prohibited.
- .2 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.
- .3 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

- .1 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.
- .2 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:
 - a. 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.
 - b. 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.
 - c. 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.

- d. A conditional use permit has been issued by the Town Council for the proposed change or alteration.

.3 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.

.4 Repairs, Maintenance, Damage or Destruction.

- a. 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.

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.

- b. 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.

.5 Manufactured Homes.

- a. Regarding manufactured homes refer to Article G.

9-3033 Interpretation of District Regulations
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.1 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.

.2 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.

.3 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.

9-3034 Zoning of Annexed Areas

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.

9-3035 Lot of Record

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.

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.

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 9-3041.

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

On a corner lot in any district no planting, structure, fence, wall or obstruction to vision more than three (3) feet in height shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on said street lines, each of which is twenty-five (25) feet in distance from the point of intersection. Utility poles and street signs shall be permitted if located in a non-obstructive position.

9-3039 Location of Accessory Buildings

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 shall be a minimum of five (5) feet from **any** lot line.

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.

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.

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

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

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.

.1 Definitions.

a. 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.

b. Site Specific Development Plan. 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. Variance as provided by this Ordinance
4. Minor Subdivision approval
5. Major Subdivision approval

Notwithstanding the foregoing, neither a variance, 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.

c. 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.

9-3042 Permitted Accessory Uses in All Districts

The following accessory uses are permitted in all districts:

- .1 Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot (9-3039).
- .2 Fences and Walls
 - a. 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.
- .3 Parking Lots
 - a. 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:

- .1 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:

Thoroughfare Classification	Additional Setback
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.	

- .2 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

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.

- .1 **Construction.** All new structures shall be designed, constructed and maintained in accordance with the following standards:
 - a. 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.

- .2 **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:
 - a. 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.
 - b. 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.
 - c. 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.
 - d. 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.
 - e. All site lighting, parking areas, fences, railings, driveways, curbs, wheel stops, sidewalks, gutters, stormwater management areas and systems and other

improvements and appurtenances shall be maintained in working order and reasonably free of defects.

- f. 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.
- g. 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.
- h. 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.

9-3045 Home Occupations

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 which 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 Hobbies shall not be subject to the requirements of this section unless such hobby generates a gross yearly income of six hundred dollars (\$600.00) or more.
- .14 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.
- .15 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.
- .16 No more than one home occupation shall be permitted within any single dwelling unit.
- .17 There shall be no deliveries to or from a home occupation with a vehicle larger than a three-quarter ton truck.
- .18 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.
- .19 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.
- .20 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.
- .21 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.
- .22 The following uses are permitted in a home occupation:
 - Architectural, drafting, and graphic services;
 - Art restoration;
 - Art/photography studio;
 - Beauty salons;
 - Consulting offices;
 - Contracting offices;
 - Data processing;
 - Dressmaking, sewing, and tailoring;
 - Electronic assembly and repair;
 - Engineering services;

- Financial planning and investment services;
- Flower arranging;
- Gardening and landscaping services;
- Home crafts;
- House cleaning services;
- Insurance sales broker;
- Interior design;
- Jewelry making and repair;
- Locksmith;
- Mail order (not including retail sales from the site);
- Real estate sales broker;
- General sales representative;
- Tutoring;
- Furniture upholstering.

.23 The following uses are prohibited in a home occupation:

- Appliance and small engine repair;
- Auto repair, major and minor;
- Auto painting;
- Carpentry/cabinet making;
- Dance studios;
- Furniture construction;
- Machine shops;
- Rental businesses;
- Tow truck services;
- Welding shops;
- Other uses not listed as a permitted use.

9-3046 Buffers

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).

9-3046.1 Standards

- .1 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.

- .2 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.
- .3 All plant types required in this article shall consist of plants at least three (3) feet in height when planted.
- .4 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.
- .5 When the existing natural buffer provides adequate screening, the existing buffer should remain. The Zoning Enforcement Officer shall determine if sufficient buffer does exist.
- .6 The buffer shall be shown in detail on the site plan approved by the Town of Valdese.
- .7 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.
- .8 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.
- .9 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.

9-3046.2 Planting Specifications

- .1 **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.

.2 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.

.3 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.

.4 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 Accessory Dwellings

- .1 An accessory dwelling may be attached, within, or separate from the principal dwelling.
- .2 The principal use of the lot shall be a single family dwelling, built to the standards of the North Carolina Housing Code. 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 be owned by the same person as the principal dwelling.
- .5 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.
- .6 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.
- .7 A detached accessory dwelling shall be located in the established rear yard and meet the setback standards applicable for accessory buildings.
- .8 The maximum height for an accessory dwelling shall be 20 feet.
- .9 Accessory dwellings shall only be allowed after the issuance of a Conditional Use Permit for said use.
- .10** An accessory dwelling must be registered with the Planning Director at the time a certificate of occupancy is obtained.

ARTICLE E
USE REQUIREMENTS BY DISTRICT

9-3051 Neighborhood 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:
- Bed and breakfast inns
 - Boarding House
 - Cemeteries
 - Day care facility, medium
 - Essential services 1 and 2
 - Family Care Homes
 - Government buildings up to 5,000 square feet of gross floor area
 - Manufactured homes, Class A
 - Neighborhood and outdoor recreation
 - Parks
 - Religious Institutions
 - Single-family homes,
 - Two-family homes (duplexes)
- (b) Uses permitted with a conditional use permit:
- Accessory dwellings
 - Day care facility, large
 - Essential Services 3
 - Multi-family building
 - Nursing homes and residential care facilities
 - Planned Unit Development – Residential
 - Private and Public Elementary and Secondary Schools
- (c) Permitted accessory structures and uses:
- Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot
 - Day care facility (small)

- Home occupations

9-3051.2 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.

9-3051.3 Sign Requirements

See Article H of this Ordinance.

9-3051.4 Dimensional Requirements

- (a) Minimum Lot Width
 - Single-family home – 50 feet
 - Two-family home – 60 feet
 - Multi-family homes – 70 feet for three dwelling units plus 10 feet for each additional dwelling unit
 - Non-residential buildings – 70 feet
- (b) Minimum Building Setback
 - Minimum front building setback: 20 feet
 - Minimum side building setback: 10 feet (15 feet for side abutting a street ROW)
 - Minimum rear building setback: 25 feet
- (c) Maximum Building Height
 - Maximum building height for residential structures: 40 feet
 - 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:
 - w/o water or sewer: 20,000 square feet;
 - 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:

w/o 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:

w/o 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:

w/o water or sewer: not allowed.

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:

w/o water or sewer: not allowed.

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:

w/o water or sewer: not allowed;
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:
- Cemeteries
 - Churches
 - Essential services 1 and 2
 - Family Care Homes
 - Government buildings up to 5,000 square feet of gross floor area
 - Neighborhood and outdoor recreation
 - Parks
 - Single-family homes, excluding manufactured homes
- (b) Uses permitted with a conditional use permit
- Accessory dwellings
 - Bed and Breakfast Inns
 - Essential Services 3
 - Multi-family building
 - Nursing homes and residential care facilities
 - Planned Unit Development -Residential
 - Public and private elementary and secondary schools
- (c) Permitted accessory structures and uses
- Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot
 - Day care facility (small)
 - 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
 - Single-family home – 70 feet
 - Multi-family homes – 70 feet for three dwelling units plus 10 feet for each additional dwelling unit
 - Non-residential buildings – 70 feet
- (b) Minimum Building Setback
 - Minimum front building setback: 35 feet
 - Minimum side building setback: 10 feet (15 feet for side abutting a street ROW)
 - Minimum rear building setback: 25 feet
- (c) Maximum Building Height
 - Maximum building height for residential structures: 40 feet
 - Maximum building height for non-residential structures: 50 feet
- (e) 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:

w/o 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:

w/o 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:

w/o 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:

w/o water or sewer: not allowed.

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.

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:

w/o water or sewer: not allowed.

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.

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:

w/o water or sewer: not allowed;

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:
- Cemeteries
 - Churches
 - Essential services 1 and 2
 - Family care homes
 - Government buildings up to 5,000 square feet of gross floor area
 - Neighborhood and outdoor recreation
 - Parks
 - Single-family homes, excluding manufactured homes
- (b) Uses permitted with a conditional use permit
- Accessory dwellings
 - Bed and Breakfast Inns
 - Bona fide farms but not agricultural industry
 - Essential Services 3
 - Nursing homes and residential care facilities
 - Public and private elementary and secondary schools
- (c) Permitted accessory structures and uses
- Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot
 - Day care facility (small)
 - 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
 - Single-family home – 70 feet
 - Non-residential buildings – 70 feet
- (b) Minimum Building Setback
 - Minimum front building setback: 35 feet
 - Minimum side building setback: 10 feet (15 feet for side abutting a street ROW)
 - Minimum rear building setback: 25 feet
- (c) Maximum Building Height
 - Maximum building height for residential structures: 40 feet
 - 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:

w/o 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:

w/o 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:

w/o 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.

9-3054 Office-Institutional District (O-I)

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.

9-3054.1 Permitted Uses

- (a) Uses permitted by right:
- Art galleries
 - Auditoriums, armories, publicly owned recreation facilities
 - Bed and breakfast Inns
 - Business-type office
 - Churches
 - Day care facility, medium or large
 - Essential services 1 and 2
 - Funeral homes
 - Financial services
 - Government buildings up to 5,000 square feet of gross floor area
 - Hospitals
 - Libraries
 - Medical or professional services
 - Mixed uses
 - Museums
 - Music or dance institutions/schools
 - Neighborhood and outdoor recreation
 - Nursing homes and residential care facilities
 - Parks
- (b) Uses permitted with a conditional use permit:
- Essential Services 3
 - Multi-family building
 - Planned Unit Development – Business
 - Planned Unit Development – Residential
 - Public and private elementary and secondary schools
- (c) Permitted accessory structures and uses:
- Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot
 - Day care facility(small)
 - Home occupations

- 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
 - Minimum front building setback: 20 feet
 - 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
 - Minimum rear building setback: 15 feet
- (c) Maximum Building Height
 - Maximum building height: 50 feet
- (d) Minimum Lot Sizes and Maximum Lot Coverages

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:

- Alcoholic beverages, packaged, retail sales
- Amusements such as indoor theater, poolrooms, and bowling alleys
- Art galleries
- Auditoriums, armories, publicly owned recreation facilities
- Automobile parking lots
- Automobile parts and supplies sales, new
- Bakeries, where the products are sold exclusively at retail on the premises
- Barber and beauty shops
- Bed and Breakfast Inns
- Bicycle sales and repair shops
- Bus terminals and railroad stations
- Business colleges, barber and beauty schools, art schools, music and dance studios, and similar organizations, but not vocational schools, all without students in residence
- Business-type office
- Churches
- Clubs and lodges catering exclusively to member and their guests
- Day care facility, Medium or Large
- Dry cleaning and laundry pickup stations and dry cleaning facilities
- Essential services 1 and 2
- Financial Services
- Florist shops, but not commercial greenhouses
- Food stores, retail only
- Funeral Homes
- Government buildings
- Gunsmiths
- Hand-made crafts, retail sale of, and production for on-site sales
- Hospitals
- Hotels, motels, boarding houses
- Laundromats
- Locksmiths
- Medical or professional services
- Massage therapy

- Mixed uses (mixture of uses permitted in this district)
- Museums
- Neighborhood and outdoor recreation
- Newstands, newspaper offices and printing facilities incidental to such offices
- Nursing homes and residential care facilities
- Office equipment and supplies, sales and service
- Parks
- Pawn shops
- Photographic studios and camera supply stores
- Produce stands and open air markets, retail only
- Retail printing, publishing and reproduction establishments
- Radio and television, electronics repair and sales
- Restaurants, including drive through windows as an accessory use
- 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
- Service stations and convenience stores, provided that all gasoline pumps shall be located at least twenty (20) feet from any property or right-of-way line
- Shoe repair shops
- Tailor, dressmaking and millinery shops
- Taxi stands
- Telecommunication offices
- Theaters, indoor

(b) Uses permitted with a conditional use permit:

- Drop Boxes (on-premise only)
- Essential Services 3
- Multi-family building
- Planned Unit Development – Business
- Planned Unit Development – Residential
- Public and private elementary and secondary schools

(c) Permitted accessory structures and uses:

- Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot
- Day care facility (small)
- Home occupations

(1) 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

- Minimum front building setback: 0 feet
- Minimum side building setback: 0 feet (15 feet for side abutting a residential district)
- 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 Coverages

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 District

- (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:

- Adult Establishments as defined in North Carolina General Statute Sec. 14-202.10 subject to the following requirements:
 - (1) No adult establishment shall be located within a radius of one thousand (1,000) feet of another adult establishment.
 - (2) 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.
 - (3) All distances related to Adult Establishments shall be measured as follows:
 - (A) 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.
 - (B) The distance for separation between adult uses shall be measured from the closest edges of the buildings occupied by adult uses.
 - (4) No more than one Adult Establishment may be located within the same structure.
- Alcoholic beverages, packaged, retail sales
- Amusements such as indoor theaters, poolrooms, and bowling alleys
- Art galleries
- Auditoriums, armories, publicly owned recreation facilities
- Automobile parking lots
- Automobile parts and supplies sales, new
- Automobile sales provided it meets the following requirements:
 - (1) All vehicles for sale shall be parked only on surfaces paved with asphalt or concrete.
 - (2) An indoor showroom that will accommodate at least 2 vehicles shall be built or provided.

(3) The storage of inoperable vehicles for more than 7 days shall be prohibited.

(4) All vehicles for sale shall be separated from other vehicles for sale by a distance not less than (4) feet.

(5) All vehicles shall be setback five (5) feet from any right of way line.

- Bakeries, where the products are sold exclusively at retail on the premises
- Barber and beauty shops
- Bed and Breakfast Inns
- Bicycle sales and repair shops
- Bus terminals and railroad stations
- Business colleges, barber and beauty schools, art schools, music and dance studios, and similar organizations, but not vocational schools, all without students in residence
- Business-type office
- Car washes, detail shops
- Churches
- Clubs and lodges catering exclusively to member and their guests
- Commercial and industrial trade schools
- Day care facility, Medium or Large
- Dry cleaning and laundry pickup stations and dry cleaning facilities
- Electrical appliances and equipment, sales and repair, but excluding open storage
- Essential services 1 and 2
- Feed, seed, and fertilizer sales, retail
- Financial Services
- Florist shops, but not commercial greenhouses
- Food stores, retail only
- Funeral Homes
- Government buildings
- Gunsmiths
- Hospitals
- Hotels, motels, boarding houses
- Laundromats
- Locksmiths
- Massage therapy
- Medical or professional services
- Mixed uses (mixture of uses permitted in this district)
- Miniwarehouses
- Museums
- Neighborhood and outdoor recreation
- Newstands, newspaper offices and printing facilities incidental to such offices
- Nursing homes and residential care facilities

- Office equipment and supplies, sales and service
- Parks
- Pawn shops
- Photographic studios and camera supply stores
- Plumbing, heating and refrigeration sales/service, but excluding open storage
- Produce stands and open air markets, retail only
- Public garages
- Radio and television, electronics repair and sales
- Restaurants, including drive through windows as an accessory use
- 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
- Retail printing, publishing and reproduction establishments
- Service stations and convenience stores, provided that all gasoline pumps shall be located at least twenty (20) feet from any property or right-of-way line
- Shoe repair shops
- Tailor, dressmaking and millinery shops
- Taxi stands
- Telecommunication offices
- Theaters, indoor

(b) Uses permitted with a conditional use permit:

- Essential Services 3
- Multi-family building
- Planned Unit Development – Business
- Planned Unit Development – Residential
- Public and private elementary and secondary schools
- Sign painting and fabrication shops
- Single family dwellings, excluding manufactured houses, provided they meet the setback requirements of the R-8 Zoning District

(c) Permitted accessory structures and uses:

- Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot
- Day care facility (small)
- Home occupations

(1) 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

- Minimum front building setback: 40 feet
- 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 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.
- 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 Coverages

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.

9-3057 Neighborhood Business District (B-3)

Intent: This district is intended for application in locations where a group or groups of small establishments may be appropriately located to serve commercial and personal service needs of residents within the surrounding neighborhood, while maintaining an appropriate community appearance. It is not intended to permit major commercial or service establishments.

9-3057.1 Permitted Uses

(a) Uses permitted by right:

- 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
- Barber and beauty shops
- Bed and Breakfast Inns
- Business-type office
- Churches
- Day care facility, Medium or Large
- Dry cleaning and laundry pickup stations and dry cleaning facilities
- Drugstores
- Essential services 1 and 2
- Financial Services
- Florist shops, but not commercial greenhouses
- Government buildings
- Grocery stores
- Medical or professional services
- Mixed uses (mixture of uses permitted in this district)
- Neighborhood and outdoor recreation
- Newstands, newspaper offices and printing facilities incidental to such offices
- Parks
- Produce stands and open air markets, retail only

(b) Uses permitted with a conditional use permit:

- Convenience stores with fuel pumps, provided that all fuel pumps shall be located at least twenty (20) feet from any property or right-of-way line. In addition, it shall be limited to a maximum of four (4) pumping stations, allowing the simultaneous fueling of no more than eight (8) vehicles.
- Essential Services 3
- Laundromats
- Multi-family building
- Planned Unit Development – Business
- Planned Unit Development – Residential
- Public and private elementary and secondary schools

- Single family dwellings, excluding manufactured houses, provided they meet the setback requirements of the R-8 Zoning District
- (c) Permitted accessory structures and uses:
- Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot
 - Day care facility (small)
 - Home occupations
- (1) Within the B-3 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.

9-3057.2 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.

9-3057.3 Sign Requirements

See Article H of this Ordinance.

9-3057.4 Dimensional Requirements

- (a) Minimum Lot Width
- None
- (Minimum frontage on a public street shall be thirty-five (35) feet).
- (b) Minimum Building Setback
- Minimum front building setback: 20 feet
 - 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 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
 - 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 Coverages

Within the B-3 Neighborhood Business District, there is no minimum lot size and development activities can cover 100% of the total lot area not within the required building 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.

9-3058 Manufacturing District (M-1)

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.

9-3058.1 Permitted Uses

(a) Uses permitted by right:

- Wholesale and warehousing establishments, but excluding the storage of hazardous or offensive items such as uncured hides, explosives, and nuclear waste products
- Industrial/commercial trade school
- Precision instrument manufacturing
- Recycling centers and recycling collection points
- Service stations, provided that all gasoline pumps shall be located at least twenty (20) feet from any property line
- Upholstery shops
- 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.
- Secondary Schools

(b) Uses permitted with a conditional use permit:

- Agricultural Industry
- 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
- Automobile wrecking yards and scrap metal dealers, provided the premises are enclosed by a buffer
- Business-type offices
- Essential Services 3
- Flea markets
- Lumberyards
- Mobile/manufactured home sales lots

- Marinas
 - Mixing plants for concrete or paving materials
 - Stone crushing, cutting, and polishing
 - Planned Unit Development – Business
 - 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.
 - Tobacco processing and storage
- (c) Permitted accessory structures and uses:
- Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot
 - Offices that are accessory to any permitted use of this district
 - Open storage as an accessory use

9-3058.2 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.

9-3058.3 Sign Requirements

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
- Minimum front building setback: 25 feet (50 feet where abutting a residential district, excluding right-of-way)
 - 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 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
- Minimum rear building setback: 20 feet (50 feet for side abutting a residential district)

(c) Maximum Building Height

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

(d) Minimum Lot Sizes and Maximum Lot Coverages

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.

9-3059.1 Permitted Uses

(a) Uses permitted by right:

- Agricultural uses, including general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, forestry, sod farming, and wild crop harvesting but not agricultural industry
- Non-structural industrial and commercial accessory uses, including loading areas, parking areas, and private airport landing strips
- 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
- Residential non-structural accessory uses
- 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.
- 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:

- Essential Services 3
- Marinas

(c) Permitted accessory structures and uses:

- Accessory uses permitted in underlying zoning district(s)

9-3059.2 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.

9-3059.3 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)
- (e) Minimum Lot Sizes and Maximum Lot Coverages

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

ARTICLE F
OFF-STREET PARKING AND LOADING REQUIREMENTS

9-3071 Parking Space 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 nine (9) feet by twenty-two (22) feet.

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 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.

9-3072 Use of Parking Lots Permitted

- (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.

9-3073 Enforcement

- (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

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. 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:

- (a) Retail operations: One (1) loading space for each 5,000 square feet of gross floor area or fraction thereof.
- (b) 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

Off-street parking areas should be designed to create a safe and comfortable passage for the pedestrians. All off-street parking lots, including exits, entrances, drives and parking areas shall:

- (a) Be designed to allow for traffic movement in accordance with generally accepted geometric design principles
- (b) Have physical access to a public street
- (c) 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.
- (d) 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
- (e) Be maintained as long as the use, which it serves exist. Each parking space shall be marked and maintained
- (f) 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.

.1 Parking area landscaping requirements of this section are as follows:

- (a) Landscaping shall be placed in a manner which meets the intent of this Ordinance and shall be maintained.
- (b) Any fraction of requirements shall be rounded up to the next whole number.
- (c) 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.
- (d) 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.
- (e) When using an existing tree, the area under the dripline (maximum extension of branches) of the tree must remain undisturbed. This includes grading, fill, paving, etc.
- (f) If an existing tree dies, it must be replaced with two (2) trees during the next planting season.
- (g) If any vegetation dies, replacement is required within the next planting season.

.2 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).

- (a) 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.
- (b) There shall be one (1) large shade tree for every two thousand (2,000) square feet of total parking area.
- (c) 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.

- (d) 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.
- (e) No vehicular parking space shall be farther than fifty (50) feet from a planting area.
- (f) No more than fifty (50 %) percent of the trees and/or shrubs shall be deciduous.

.3 Landscaping requirements for street yards of parking areas:

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

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

.4 Tree and shrub specifications:

- (a) "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.
- (b) 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.

.5 Abutting property landscaping requirements

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.

Screening for any parking area regardless of use or zoning district shall meet the requirements of 9-3046.1.2.

9-3078 Dumpsters/Trash Containers

- .1 Dumpsters and trash containers shall meet all the requirements of the Solid Waste Ordinance as adopted by the Town of Valdese.

9-3079 Compliance with Stormwater and Erosion Control Standards

- .1 Parking areas constructed or improved under this Article shall comply with all applicable stormwater and erosion control standards adopted by the Town of Valdese.

Sections 9-3080 through 9-3082 reserved.

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.

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.

- 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. This definition shall not include manufactured home sales lots on which unoccupied manufactured home are located for the purpose of inspection and sale. New manufactured home parks are not allowed in the Town of Valdese, and this definition therefore only applies to existing manufactured home parks that comply with Article G.

9-3083 Location of Manufactured Homes

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. 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.

9-3084 Provisions for Manufactured Homes

- .1 Class B manufactured homes shall not be permitted in the Town of Valdese.
- .2 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.
- .3 Manufactured homes shall be subject to the following requirements:
 - (a) If municipal utilities are not available, the well (if applicable) and septic tank (if applicable) must be approved by the Burke County Health Department.
 - (b) Class A manufactured homes shall contain at least one thousand one hundred and fifty (1,150) square feet of enclosed and heated living area.
 - (c) 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.

- (d) 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.
- (e) 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.
- (f) 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.**
- (g) 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:
 - (1) The underpinning must consist of brick, masonry, or concrete block with a stucco finish.
 - (2) Products and materials manufactured for the purpose of underpinning shall be installed in accordance with the manufacturer's specifications.
 - (3) The underskirting shall be vented in accordance with the North Carolina Building Code.
 - (4) The underskirting must be installed within thirty (30) days after the final inspection date by the Burke County Building Inspections.
- (h) The manufactured home's footings shall meet the requirements set forth in the North Carolina Building Code.
- (i) 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.

- (j) 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.

9-3085 Provisions for Existing Manufactured Home Parks

- .1 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.
- .2 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.
- .3 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:
 - (a) Promote public health, safety, welfare and orderly residential development;
 - (b) 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;
 - (c) Provide adequate buffering and screening to ensure privacy and protection for both the residents in the park and adjacent property owners;
 - (d) Provide sufficient open space for outdoor uses essential to the manufactured home;
 - (e) Ensure the furnishing of adequate water supply and sewage disposal systems;
 - (f) Provide an acceptable environment for small communities of manufactured homes; and
 - (g) Provide a process by which existing manufactured home parks will be improved to meet the minimum level of safety, sanitation, comfort and privacy.

- .4 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.
- (a) Phased Schedule for Improvements. The improvement proposal shall conform to the improvement requirements listed herein within the following phased time schedule.
 - (1) Within **six (6) months** of notification, the property owner shall submit and have approved an improvement proposal, including schematic plans, for upgrading the park.
 - (2) Within **one (1) year** of adoption of this Ordinance, all roads shall be stabilized with packed gravel if not already paved.
 - (3) Within **three (3) years** of adoption of this Ordinance, all other requirements listed herein shall be complied with, including the paving of roads.
 - (b) 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:
 - (1) Name of the manufactured home park, name and address of owner and operator.
 - (2) A manufactured home park design drawn onto a plat at a scale that can be reasonably interpreted by the Town.
 - (3) Date, north arrow, and scale.
 - (4) Boundaries of the manufactured home park property to include intersections and adjacent property with the boundaries of the manufactured home park property.
 - (5) 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.

- (6) 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.
 - (7) Outline of all existing home spaces and buildings within the manufactured home park property with lot numbers indicated.
 - (8) Location of parking bays, walkways, service and accessory buildings, utility easements, utility poles, and buffer and screening areas.
 - (9) Method of sewage disposal in accordance with existing Town, County and State regulations.
 - (10) Method of water supply in accordance with existing Town, County and State regulations.
 - (11) Plan of electric lighting.
 - (12) Development standards.
- (c) 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.
- (1) 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.
 - (2) 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.

- (3) 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.
- (4) All manufactured homes manufactured prior to July 15, 1976 shall be removed from the manufactured home park.
- (5) A minimum distance of 20 feet shall be provided between each manufactured home.
- (6) 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.
- (7) All interior streets shall be paved according to North Carolina Department of Transportation specifications for a public street.
- (8) 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.
- (9) 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.
- (10) 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.
- (11) 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.

Sections 9-3086 to 9-3090 reserved.

**ARTICLE H
SIGN REGULATIONS**

9-3091 Purpose

The purpose of this section is:

- .1 To maintain public safety and traffic safety by ensuring that signs are properly designed, constructed, installed, and maintained;
- .2 To minimize the distractions and obstruction of view that contribute to traffic hazards and endanger public safety;
- .3 To protect existing development and promote high standards of quality in new development by encouraging appropriately designed, placed, and sized signage; and
- .4 To provide an effective guide for communicating identification through signage while preventing signs from dominating the visual appearance of the areas in which they are located.

9-3092 Applicability

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.

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.

9-3093 General Provisions

The following provisions shall apply to all signs.

- .1 Construction Standards. All signs shall be constructed and installed in accordance with the applicable provisions of the North Carolina State Building Code.
- .2 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.
- .3 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.
- .4 Content. Content of message, commercial or non-commercial, is not regulated by this ordinance.
- .5 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
B-3 (Neighborhood Business)	Mixed Use
M-1 (Manufacturing)	Commercial

9-3095 Sign Types

Sign types are defined as follows:

.1 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.

- a) 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.

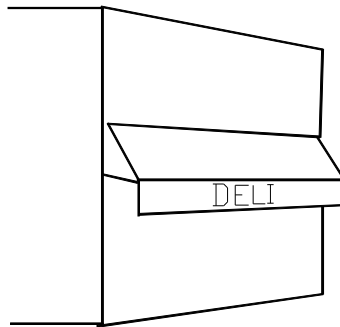


- b) A hanging sign is also a wall sign. A hanging sign is suspended from a simple bracket attached to a building wall and requires 8 or more feet of vertical clearance from the ground.

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.



c) A canopy or awning sign is sign copy applied directly onto a canopy or awning.



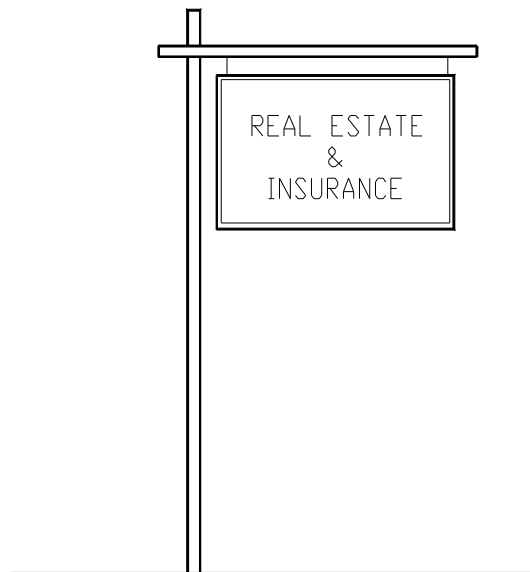
.2 Ground Mounted Signs

Ground mounted signs are defined as follows:

- a) 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.



- b) 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.



9-3096 Sign Measurement

- .1 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.
- .2 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 Signs Requiring a Permit

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

<p align="center">CIVIC BUILDINGS IN ANY DISTRICT</p> <p align="center">Wall Mounted Sign</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 align="center">Ground Mounted Sign (Only Monument Style Permitted)</p> <p>Maximum Number: 1 per street front Maximum Area: 32 square feet Maximum Height: 10 feet Setback: Must be setback at least 10 feet from any right-of-way or property line.</p> <p>Government buildings, religious institutions, public service clubs, and schools are examples of Civic Buildings. Public safety buildings & hospitals may erect a monument sign with a surface area up to 400 square feet upon recommendation by the Planning Board and approval by the Council.</p>	<p align="center">ANY BUILDING TYPE IN A MIXED USE DISTRICT EXCEPT A SINGLE-FAMILY HOUSE (B-1, B-3, O-I, FP)</p> <p align="center">Wall Mounted Sign</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 align="center">Ground Mounted Sign (Only Monument Style Permitted)</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 align="center">ANY BUILDING TYPE IN A COMMERCIAL DISTRICT EXCEPT SINGLE- FAMILY HOUSE (B-2, M-1)</p> <p align="center">Wall Mounted Sign</p> <p>10% of any wall face area fronting a street, up to a maximum of 50 square feet. Each secondary business is allowed Secondary Business Sign (<i>defined in Section 9-3106</i>), up to a maximum area of 32 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 align="center">Ground Mounted Sign (Only Monument Style Permitted)</p> <p>Maximum Number: 1 per street front Maximum Area: 100 square feet Maximum Height: 12 feet Setback: Must be setback at least 10 feet from any right-of-way or property line.</p>	<p 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 Permanent Off-Premise Signs Limited to Non-Commercial Public Service Directional Signs

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.

- .1 Non-Commercial Public Service Directional Signs are permitted subject to the following standards:
 - a) The community facility is open to the general public and operated by a non-commercial civic, charitable, religious, community, or similar organization.
 - b) No more than 2 directional signs shall be erected for each facility.
 - c) Signs may not exceed 4 square feet in area nor 5 feet in height.
 - d) Signs may be placed no more than one mile from the subject property.
 - e) 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.
 - f) 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.
 - g) No sign shall be placed on private property without the written consent of the property owner on the permit application.
 - h) 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.

9-3097.3 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.

9-3098 Temporary Signs Requiring a Permit
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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.

- .1 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.

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

- .1 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:
 - a) 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.
 - b) **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.
 - c) Signs or banners may be posted up to 14 days before the event and must be removed within 7 days following the event.
 - d) 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.
 - e) 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.
- .2 Real estate signs not exceeding a total of 2 square feet in sign face area shall be permitted.

- .3 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.

9-3100 Signs Permitted without a Permit
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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 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 1 1/2 square feet in area that indicate the name and/or address of the occupant. Maximum height: 4 feet.
- .6 Window signs with a total copy area not exceeding 50 percent of the window or glass door on which the sign(s) are located.
- .7 Incidental signs.
- .8 Flags on permanent poles.
- .9 Campaign or Election signs provided that:
 - a) Individual signs shall not exceed 32 square feet in area or 6 feet in height.
 - b) All signs shall be removed within 7 days after the election for which they were made.
 - c) No signs shall be permitted in the public right-of-way.
- .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 quadriplex, 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 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 an 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 after the completion of a project.

.12 Temporary farm products 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 districts, 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.

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

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.

9-3102 Prohibited Signs

The following signs are prohibited in all zoning districts:

- .1 Signs extending into the public right-of-way other than those permanent signs approved by the Zoning Enforcement Officer of Valdese along town-maintained streets and the North Carolina Department of Transportation along State System Streets.
- .2 Roof signs.
- .3 Portable signs.
- .4 Flashing, fluttering, swinging, or rotating signs other than time and/or temperature signs and electronic scrolling signs.
- .5 Signs that are similar in color, design, and appearance to traffic control signs.
- .6 Vehicular signs as defined in Article H of this ordinance.
- .7 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.
- .8 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.
- .9 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.
- .10 Other signs not expressly allowed by this ordinance.

9-3103 Application and Issuance of Sign Permits

9-3103.1 Application.

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

- .1 The street name and street number of the building, structure or lot on which a sign is to be placed.
- .2 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.
- .3 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.
- .4 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.

- .5 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.
- .6 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.
- .7 Other information as the Zoning Enforcement Officer may require to determine 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.

9-3104 Unlawful Cutting of Trees or Shrubs

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:

- .1 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.
- .2 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.

- .3 In any areas where such trees or shrubs are required to remain under a permit issued under this Ordinance.

9-3105 Nonconforming Signs

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:

- .1 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.
- .2 A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Article.
- .3 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.
- .4 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).
- .5 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.
- .6 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:
 - a) It advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted; or
 - b) The message displayed becomes illegible in whole or substantial part; or

- c) 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.

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.

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.

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.

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.

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.

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.

Copy. Any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign display surface area.

Farm Product Sales. Seasonal sale of farm products raised on the premises where products are sold only as an accessory to an agricultural use.

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.

Linear Frontage. The length of a property abutting a public right-of-way from one side lot line to another.

Logo. A business trademark or symbol.

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.

Parapet. A low wall encircling the perimeter of a flat building roof, generally used to screen

roof-mounted mechanical equipment.

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).

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.

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.

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.

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.

Sign Structure or Support. Any structure that supports or is capable of supporting a sign.

Sign Types. The following are types of signs included in this ordinance.

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.

Bulletin Board. A sign used to announce meetings or programs to beheld on the premises of a church, school, auditorium, library, museum, community recreation center, or similar noncommercial place of public assembly.

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.

Campaign or Election Sign. A sign that advertises a candidate or issue to be voted upon on a definite election day.

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.

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.

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.

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.

Directory Sign. A sign 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.

Ground Mounted Sign. A sign which extends from the ground or which has a support which places the bottom thereof less than 3 feet from the ground.

Government Sign. Any temporary or permanent sign erected and maintained for any governmental purposes.

Flag. A piece of durable fabric of distinctive design attached to a permanent pole, that is used as a symbol or decorative feature.

Flashing Sign. A sign that uses an intermittent or flashing light source to attract attention.

Identification Sign. A sign which displays only the name, address, and/or crest, insignia, trademark, occupation or profession of an occupant, or the name of any building on the premises.

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.

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.

Monument Sign. A monolithic sign in which the bottom of the sign is flush with the ground.

Nonconforming Sign. Any sign which 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.

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.

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.

Outdoor Advertising Sign. A type of sign, generally, but not always, consisting of a rigidly assembled sign, display, or device, 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.

Planned Development Sign. A sign used in conjunction with an approved planned residential, office, business, industrial, or mixed use development.

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.

Projecting Sign. A sign which 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.

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.

Real Estate Sign. A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.

Primary Sign. The main or principal sign located on the premises.

Roof Sign. A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.

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.

Secondary Sign. A sign used in addition to a primary sign on a premises.

Temporary Sign. A sign which 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.

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.

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.

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.

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

**ARTICLE I
PLANNED UNIT DEVELOPMENTS**

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

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

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

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

9-3111.1 Permitted Uses and Requirements

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

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

approval with such conditions as are necessary to ensure conformity to all applicable requirements. If conditions are placed on the approval of the PUD-R, a revised plan including the required changes must be submitted to the Valdese Town Council.

- (9) In order for an application for a PUD-R to be approved, the Town Council must find that the proposed development will be compatible with comprehensive land use, and neighborhood development plans, and will not place an excessive traffic load on local streets. In addition, Town Council must find that the site can be developed according to a site plan that will be compatible with existing neighborhood development, and that the site can be provided with adequate utility services.
- (10) Site development within the PUD-R shall conform to the schematic plan and associated requirements of the conditional use permit approved by the Town Council. Modification of the development plan may be made by the Town Council subsequent to its initial approval upon application by the owner of the property.
- (11) Following approval by the Town Council of a PUD-R Conditional Use Permit, the property for which approval was granted shall be labeled “PUD-R” on the official zoning map.
- (12) Lot Design and Requirements: Clustering of structures on smaller lots is encouraged. Lots in a PUD-R may be smaller than established in the Zoning Ordinance provided that the overall average lot size and density of the entire PUD-R meets Zoning requirements and the proposed lot sizes are shown in the PUD-R application. The following are the minimum building setbacks:

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

(c) Application requirements:

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

- (1) Proposed location of buildings and their general exterior dimensions of all non-single family structures;
- (2) Proposed use of all the land within the area requested for a PUD-R, in addition to the zoning designation and land use of adjacent properties;
- (3) Dimensions between all buildings and from buildings to property lines;
- (4) Traffic, parking and circulation plan, showing proposed locations and arrangement of parking spaces and ingress and egress to and from adjacent streets;
- (5) Proposed location and material of any screening walls, fences, or plantings;
- (6) Proposed exterior design of buildings for all non-single family structures;
- (7) Schedule of number and size of dwelling units within the project;
- (8) Proposed time schedule and staging, if any, for construction of the project;
- (9) Statement of Intent, including plans for selling or renting the property;
- (10) Provision to assure maintenance of all common areas and open space; Example: Property owners' association, private conservancy, etc;
- (11) Location of all common yards, open space and recreational areas;
- (12) Street lighting, if any;
- (13) Signage plan, if it will vary from base zoning ordinance (Section 9-3097);
- (14) The location and size of all non-residential structures;
- (15) If approved, prior to construction the following items must be submitted to Planning Staff:

1. Professionally prepared plans of each phase with the items listed below

as a minimum must be submitted and approved by the Planning Board:

- Existing site topographical conditions, showing contours at five (5) foot intervals, if reasonably available, and location of significant geographical features, including watercourses;
- The location of drainage facilities/basins and other similar features;
- A boundary survey;
- 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;
- Sealed engineering plans for water, sewer, storm drainage and erosion/sedimentation;
- Preliminary subdivision plat if the property is to be subdivided;
- General concept landscape plans for open space, common areas, streets, pedestrian ways and recreational facilities;
- Location, arrangement and number of parking facilities and loading areas;
- 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:
 - Uses permitted within the zoning district for which the project site is located.
- (b) Permitted building and lot types:
 - Building and lot types permitted within the zoning district for which the project site is located.
- (c) Permitted accessory structures and uses:
 - 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.

Sections 9-3113 through 9-3115 reserved

**ARTICLE J
ADMINISTRATION, ENFORCEMENT AND PENALTIES**

9-3116 Zoning Enforcement Officer

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, rezonings, 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

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.

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

- .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.

9-3121 Remedies

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.

Sections 9-3122 through 9-3125 reserved
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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.

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.

Sections 9-3128 through 9-3130 reserved

**ARTICLE L
BOARD OF ADJUSTMENT**

9-3131 Establishment of the Board of Adjustment

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.

9-3132 Jurisdiction and Decision of the Board of Adjustment

The concurring vote of four-fifths (4/5) members of the Board of Adjustment – four (4) of the five (5) voting members – shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Enforcement Officer of the Town of Valdese, or to decide in favor of the applicant any matter upon which it is required to pass under the Ordinance or to effect any variation of such Ordinance. In accordance with NCGS 160A-388(e) 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 be majority vote rule on the objection. Vacant positions and members who are disqualified from voting are not calculated for the concurring four-fifths vote or simple majority vote. On all appeals, applications and other matters brought before the Board of Adjustment, said Board shall inform in writing all parties involved of its decision and the reasons therefore.

9-3133 Proceedings of the Board of Adjustment

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. The Chairman, or in his absence the Vice-Chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public.

9-3134 Appeals, Hearings and Notice

Appeals to the Board of Adjustment may be submitted by any person affected by any decision of the Zoning Enforcement Officer or other town official based on this Ordinance. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Zoning Enforcement Officer and with the Board of Adjustment a written notice of appeal specifying the grounds thereof. All papers constituting the record upon which the action appealed from was taken shall forthwith be transmitted to the Board of Adjustment.

The Board of Adjustment shall fix a reasonable time for the hearing of appeals or other matters referred to it, and give due notice thereof to the parties in interest, and decide the same within a reasonable time. Upon a hearing, any party may appeal in person, or by agent, or by attorney.

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

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 practical difficulty or 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.

9-3138 Appeals from the Board of Adjustment

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.

Sections 9-3139 through 9-3140 reserved

**ARTICLE M
AMENDMENTS**

9-3141 Procedure for Amendments

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

- .1 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.

.2 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.

.21 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.

.3 Substitute Notice.

(a) 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:

- 1) if the zoning reclassification directly involves more than fifty (50) properties, owned by a total of at least fifty (50) different owners;
- 2) 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;
- 3) if the Town is adopting a water supply watershed protection program as required by NCGS 143-214.5

(b) Notice requirements for amendments meeting any of the three criteria of Section 9-3144.3 (a) above are as follows:

- 1) 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;

- 2) ~~The Town must post at least one or more prominent signs immediately adjacent to the subject area. The signs must be of a type and size that may be reasonably expected to provide adequate notice of the proposal to the public;~~
- 2) 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

- .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

ease 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.

9-3147 Conditional Use Permits

- .1 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:
- (a) 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.
 - (b) 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.
 - (c) A public hearing is held. Notice of such public hearing shall be mailed to property owners within one hundred (100) feet of the property for which the conditional use permit is sought and advertised in a local newspaper the first time at least ten (10) days and not more than twenty-five (25) days prior to the public hearing. This legal notice shall describe the request and appear at least once weekly for two (2) consecutive weeks prior to the public hearing.
 - (d) 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.
 - (e) 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.

Sections 9-3148 through 9-3150 reserved.

**ARTICLE N
WATERSHED PROTECTION**

9-3151 Authority and Enactment

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.

9-3152 Jurisdiction

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 accompanies and is hereby made a part of this Article.

9-3153 Exceptions to Applicability

- (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-Upon 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 stormwater 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).

9-3154 Cluster or Planned Unit Development

Cluster or Planned Unit Development is allowed in all Watershed Areas under the following conditions:

- (A) Development activities shall comply with the respective requirements of Article D and Article I of this Ordinance.
- (B) All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
- (C) 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.

9-3155 Buffer Areas Required

- (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 streambank 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 stormwater Best Management Practices.

9-3156 Watershed Administrator and Duties thereof
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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:

- (A) 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.
- (B) The Watershed Administrator shall serve as staff to the Planning Board, Board of Adjustment, and Town Council.
- (C) 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.
- (D) 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.
- (E) 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.

9-3160 Appeals from the Town Council or Board of Adjustment
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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:

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.

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.

9-3163 Stormwater Control Structures

- (A) All stormwater control structures shall be designed by a North Carolina registered professional engineer.
- (B) All stormwater controls shall use wet detention ponds as a primary treatment system unless alternative stormwater 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 stormwater 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 stormwater 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 stormwater 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 stormwater 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 stormwater 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.
- (E) Qualifying areas of the stormwater 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.

9-3164 Posting of Financial Security Required
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- (A) All new stormwater 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 stormwater 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 stormwater control structure, as estimated by the applicant and approved by the Town. The total cost of the stormwater 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 stormwater control structure or the estimated cost of maintaining the stormwater control structure over a ten (10) year period, whichever is greater. The estimated cost of maintaining the stormwater 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 stormwater 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 stormwater 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 stormwater 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.

9-3165 Maintenance and Upkeep

- (A) An operation and maintenance plan or manual shall be provided by the developer for each stormwater 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 stormwater 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 stormwater 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 stormwater control structure. All improvements shall be made consistent with the approved plans and specifications of the stormwater 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 stormwater 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 approve the proposed changes, the owning entity of the stormwater control structure shall file sealed copies of the revisions with the Office of the Watershed Administrator.
 - (2) If the Town Council disapprove 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.

9-3166 Application and Inspection Fees

- (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 stormwater 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.

9-3167 Inspections and Release of the Performance Bond

- (A) The stormwater 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 stormwater 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 stormwater 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 approve 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 stormwater 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 stormwater 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 stormwater 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 stormwater 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 stormwater 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 materialman'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

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

- .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.

9-3197 Administrative Approved Uses

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.