



Town of Valdese, NC Unified Development Ordinance

(Final Draft, 1-28-25)

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Town of Valdese, NC Unified Development Ordinance

CHAPTER 1: GENERAL PROVISIONS

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CHAPTER 1: GENERAL PROVISIONS

1.1 TITLE, AUTHORITY, AND PURPOSE

1.1.1 TITLE

This ordinance shall be known as the “Unified Development Ordinance” or “UDO,” and includes the “Watershed Chapter,” the “Flood Damage Prevention Chapter,” and “Subdivision Regulations,” among others. The map identified by the title “Official Zoning Map, Valdese, NC,” may be known as the “Zoning Map” or “Watershed Map.”

1.1.2 AUTHORITY

The Valdese Town Council enacts this Unified Development Ordinance under the authority granted by Chapter 160D and Chapter 160A, Article 8 of the North Carolina General Statutes, as well as any applicable or related local act or ordinance. .

1.1.3 PURPOSE

As authorized in Chapter 160D of the North Carolina General Statutes, this UDO 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 the population; creating districts for said purposes and establishing the boundaries thereof; the subdivision of land; 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 Chapters, and for other purposes.

1.2 APPLICABILITY

1.2.1 EFFECTIVE DATE

- A. This UDO shall apply to all existing and new land and development in the town of Valdese beginning on July 1, 2025.
- B. Between February 3rd, 2025 and July 1, 2025, this UDO shall be available as an alternative set of Town land use requirements for all new development proposed, including any



additions or enlargements to existing development and any changes of use on any properties.

1. Any applications for new development that are submitted after February 3rd, 2025 and before July 1, 2025 may choose to be reviewed under either the existing development standards or the new UDO standards.
2. No development application will be accepted for review during this time period until a letter has been provided that is signed by all property owners and notarized by a licensed Notary Public for all property proposed for inclusion in the new development.
 - a. The letter shall state which set of development standards the applicant has chosen to have their project reviewed under -- the existing standards or the new UDO standards -- and that they authorize this review using the applicable procedures specified by the Town in its ordinances.

1.2.2 JURISDICTIONS

Planning and development provisions of Chapter 160D shall apply to all property within the corporate limits of the Town of Valdese, and within any extraterritorial jurisdiction that may be established for the Town.

1.2.3 DEVELOPMENT APPROVALS RUN WITH LAND

Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made under this UDO attach to and run with the land.

1.2.4 ZONING MAP

The Official Zoning Map shall be identified by the signature of the Mayor attested by the Town of Valdese 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.

1.3 LEGAL STATUS

1.3.1 CONFLICT WITH OTHER REGULATIONS

Unless otherwise prohibited by N.C.G.S. 160A-174(b), when regulations in this UDO require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the



regulations made under authority of Chapter 160D of the North Carolina General Statutes shall govern. Unless otherwise prohibited by G.S. 160A-174(b), when the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations in this UDO, the provisions of that statute or local ordinance or regulation shall govern.

1.3.2 REPEAL OF EXISTING ZONING CHAPTER

On July 1, 2025, once this UDO has gone into effect for all property in the town of Valdese, all zoning Chapters or parts of same now in effect in the Town are hereby repealed; provided, however, that all suits at law or in equity and/or all prosecutions resulting from the violation of any zoning Chapter 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 because of the adoption of this UDO but shall be prosecuted to their finality the same as if this UDO had not been adopted; any violations of existing zoning Chapters, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this UDO 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.

1.3.3 VALIDITY

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





Town of Valdese, NC Unified Development Ordinance

CHAPTER 2: ADMINISTRATION

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CHAPTER 2: ADMINISTRATION

2.1 SUMMARY OF DEVELOPMENT REVIEW PROCEDURES

All proposals for the use of buildings, structures, and land shall follow the development review procedures for the applicable development review type identified in Table 2.1-1.

TABLE 2.1-1: SUMMARY OF DEVELOPMENT REVIEW PROCEDURES

KEY:		N = Newspaper advertisement providing published notice L = Letter providing mailed notice S = Sign providing posted notice C = Correspondence to applicable agencies						
APPLICATION TYPE	UDO SECTION	PROCESS TYPE	NOTIFICATION REQUIREMENT	PRE-APPLICATION MEETING	REVIEW RESPONSIBILITIES			
					PLANNING DIRECTOR	PLANNING BOARD	BOARD OF ADJUSTMENT	TOWN COUNCIL
Appeals								
Floodplain	7.3.4.D	Quasi-Judicial	L	?			D	
Zoning	2.8.6	Quasi-Judicial	L, S	?	R		D	
Certificate of Occupancy		Administrative		?	D			
Floodplain Development Permit	7.3.2	Administrative	C	?	D			
High-Density Development Permit	8.5.7	Quasi-Judicial	N, C	?	R	D		
Major Subdivision	6.2.8							
Sketch Plan		Administrative		?	D			
Preliminary Plat		Administrative	C	?	R	R		D
Final Plat		Administrative		?	R	R		D
Minor Subdivision	6.2.3							
Sketch Plan		Administrative		?	D			
Final Plat		Administrative		?	D			
Multi-Phased Development		Legislative	N, L, S	?	R	R		D
Planned Unit Development		Legislative	N, L, S	?	R	R		D
Sign Permit	5.5	Administrative		?	D			
Site Plan				?				
Major		Administrative	C	?	R	R		D
Minor		Administrative		?	D			
Special Use Permit (SUP)	2.9	Quasi-Judicial	N, L, S	?	R	D		
UDO Amendment	2.8							
Map Amendment		Legislative	N, L, S	?	R	R		D
Text Amendment		Legislative	N	?	R	R		D
UDO Compliance Letter		Administrative		?	D			
UDO Interpretation		Administrative		?	D			
Variance								
Floodplain	7.3.5	Quasi-Judicial	L		R		D	
Major Watershed	8.2.4(B)	Quasi-Judicial	N, C	?	R		D ¹	
Minor Watershed	8.2.4(B)	Quasi-Judicial	L	?	R		D	
Zoning		Quasi-Judicial	L, S	?	R		D	
Vested Rights Approval	2.7				Same as for underlying permit			

NOTES:

1. With review and approval by the N.C. Environmental Management Commission.

2.2 PLANNING BOARD

2.2.1 ESTABLISHMENT OF THE PLANNING BOARD

- A. The Planning Board is hereby established as provided in N.C.G.S. § 160D-301.
1. The Planning Board shall consist of five regular (5) members and two (2) alternate members appointed by the Town Council for four (4) year staggered terms.
 2. Each Planning Board Member shall take an oath of office before starting his or her duties, as required in N.C.G.S. § 160D-309.
- B. The Planning Board shall adhere to the following rules:
1. Alternate members of the Planning Board shall attend all meetings and hearings but may fully participate only at those meetings at which one or more regular members are absent or are unable to participate in hearing a case because of financial or other interest.
 2. Alternate members must be well informed, ready, and capable of serving as a Board Member whenever circumstances make that necessary.
 3. 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.
 4. Alternate members may ask questions and offer comments and suggestions but may not make or second motions and may not vote on recommendations, decisions, or other issues unless filling the role of a regular member.
 5. Any vacancies in the membership shall be filled for the unexpired term in the same manner as the initial appointments. An alternate member will fill the vacancy until a new member can be approved to fill the unexpired seat.
 6. The members appointed to the Board shall be residents and citizens of the Town. If the Town ever establishes an area of extraterritorial jurisdiction, then representation shall be provided on the Planning Board in the manner required in N.C.G.S. § 160D-307.

2.2.2 DUTIES OF THE PLANNING BOARD

The Planning Board shall have the following powers and duties:

1. The Planning Board shall be responsible for reviewing and making recommendations regarding the following:



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1. Adoption of or amendments to the Comprehensive Plan and related plans;
 2. Amendments to the text of this UDO;
 3. Applications for zoning map changes;
 4. Preliminary and final plat review for major subdivisions;
 5. Applications for multi-phased developments;
 6. Site plan review for major subdivisions; and
 7. Vested right approvals.
2. The Planning Board shall be responsible for reviewing and deciding the following:
 1. Applications for High-Density Development Permits; and
 2. Applications for Special Use Permits.
 3. All decisions and recommendations of the Planning Board shall require an affirmative vote.
 1. Tie votes shall be considered decisions or recommendations for denial.
 4. The Planning Board shall perform related duties as directed by the governing board.
 5. The Planning Board may exercise additional powers as may be described elsewhere in this UDO.

2.2.3 OFFICERS, MEETINGS, QUORUM OF PLANNING BOARD

- A. On the date and at the time of the first regular meeting in January, the Planning Board shall elect a chair and a vice-chair from its members who shall serve for one (1) year or until re-elected or until their successors are elected.
- B. The Planning Board shall adopt rules of procedure for the conduct of its business, consistent with State law and this UDO.
- C. Meetings of the Planning Board shall be held once a month or at the call of the Chair. The Planning Board shall keep minutes of its proceedings.
- D. All meetings of the Planning Board shall be open to the public.
 1. A majority of the members (excluding alternate members unless they are fully participating at a meeting at which one or more regular members are absent or are unable to participate) shall constitute a quorum.

2.2.4 CONFLICTS OF INTEREST

- A. Members of the Town of Valdese Planning Board shall not vote on any decision regarding a development regulation adopted where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the planning board member.
- B. An appointed board member shall not vote on any zoning amendment if the landowner of the property or the applicant is a person with whom the member has a close familial, business, or other associational relationship.
- C. If an objection is raised to a board member's participation at or before the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

2.3 BOARD OF ADJUSTMENT

2.2.1 ESTABLISHMENT OF THE BOARD OF ADJUSTMENT

- A. A Board of Adjustment is hereby established as provided in Chapter N.C.G.S. § 160D-302.
- B. The Planning Board shall function as the Board of Adjustments as provided in N.C.G.S. § 160D-302.
 - 1. The officers of the Board of Adjustment shall be the same officers as the Planning Board.
- C. Each Board of Adjustment member shall take an oath of office before starting his or her duties, as required in N.C.G.S. § 160D-309.

2.3.2 DUTIES OF THE BOARD OF ADJUSTMENT

The Board of Adjustment shall have the following powers and duties as specified in Table 2.1-1:

- A. The Board of Adjustment shall be responsible for final action regarding the following:
 - 1. Applications for variances, including zoning variances, floodplain variances, and major and minor watershed variances (in its role as Watershed Review Board); and
 - 2. Appeals of administrative decisions.



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- B. The Board of Adjustment shall perform related duties as directed by the governing board.

2.3.3 OFFICERS, MEETINGS, QUORUM OF BOARD OF ADJUSTMENT

- A. The Board of Adjustment shall elect a chair and a vice-chair from its members who shall serve for one (1) year or until re-elected or until their successors are elected.
- B. The Board of Adjustment shall adopt rules of procedure for the conduct of its business, consistent with State law and this UDO.
- C. Meetings of the Board of Adjustment shall be held once a month or at the call of the Chair. The Board of Adjustment shall keep minutes of its proceedings. All meetings of the Board of Adjustment shall be open to the public.
- D. A majority of the members of the Board of Adjustment shall constitute a quorum.

2.3.4 CONFLICTS OF INTEREST

- A. Members of the Board of Adjustment shall not vote on any appeal or variance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.
- B. An appointed board member shall not vote on any appeal or variance if the landowner of the property or the applicant is a person with whom the member has a close familial, business, or other associational relationship.
- C. Quasi-Judicial Decisions – A member of the Board of Adjustment exercising quasi-judicial functions according to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision-maker.
 - 1. Impermissible violations of the due process include, but are not limited to, a member having a fixed opinion before hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or financial interest in the outcome of the matter.
- D. Resolution of Objection – If an objection is raised to a board member's participation at or before the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.



2.3.5 QUASI-JUDICIAL PROCEDURE

Process Required. – The Board of Adjustment shall, in accordance with rules adopted by it for such purpose, follow statutory procedures for evidentiary hearings and quasi-judicial decisions required by N.C.G.S. § 160D-406, on any appeal or variance petition, which comes before it.

1. Notice of Hearing.

- (a) As per N.C.G.S. § 160D-406, notices of hearings shall be mailed to (1) the person or entity whose appeal, application or request is the subject of the hearing; (2) to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and (3) to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing.
- (b) In the absence of evidence to the contrary, the county tax listing shall be used to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.
- (c) Staff shall transmit to the Board of Adjustment all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board, a copy is also provided to the applicant and to the property owner if that person is not the applicant. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.
- (d) All parties with standing shall be allowed to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments.
- (e) For appeals of administrative decisions, the administrator or staff person who made the decision (or his or her successor if the person is no longer employed) shall be present at the quasi-judicial hearing to appear as a witness.
- (f)

2. Action by Board of Adjustment.

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- (a) The Board of Adjustment shall grant or deny the variance or shall reverse, affirm, or modify the order, decision, requirement, or determination under appeal.
 - (b) The board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record.
 - (c) The board shall vote in accordance with state law. Vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under N.C.G.S. § 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
 - (d) Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be approved by the board, signed by the chair or other duly authorized member of the board, and protected from further editing. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board.
 - (e) If any aggrieved party wishes to receive a written copy of the decision of the Board of Adjustment, then the aggrieved party, as stated in N.C.G.S. § 160D1402(c), should file a written request for a copy of the Board's decision with the Secretary or Chairperson of the Board of Adjustment prior to the date the decision becomes effective.
 - (f) The decision of the Board of Adjustment shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

3. Presentation of Evidence.

- (a) The applicant, the Town of Valdese, and any person who would have standing to appeal the decision under N.C.G.S. § 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing.
- (b) Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Board of Adjustment.
- (c) Objections regarding jurisdictional and evidentiary issues, including, but not limited

to, the timeliness of an appeal or the standing of a party, may be made to the Board of Adjustment.

(1) The Board of Adjustment chair shall rule on any objections, and the chair's rulings may be appealed to the full Board of Adjustment.

(2) These rulings are also subject to judicial review pursuant to N.C.G.S. § 160D-1402.

(3) Objections based on jurisdictional issues may be raised for the first time on judicial review.

4. Appearance of Official; New Issues. The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the local government would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.
5. Oaths. The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.
6. Subpoenas. The board making a quasi-judicial decision under this Chapter through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the local government, and any person with standing under N.C.G.S. § 160D-1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.
7. Appeals in Nature of Certiorari. When hearing an appeal pursuant to N.C.G.S. § 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below, and the scope of review shall be as provided in N.C.G.S. §



160D-1402(j).

8. Voting. The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under N.C.G.S. § 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
9. Decisions. The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.
10. Judicial Review. - Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to N.C.G.S. § 160D-1402. Appeals shall be filed within the times specified in N.C.G.S. § 160D-1405(d). The governing board of the local government that is a party to the judicial review of the quasi-judicial decision shall have the authority to settle the litigation, subject to Article 33C of Chapter 143 of the North Carolina General Statutes.

2.3.6 STAY OF PROCEEDINGS

- A. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the Board of Adjustment and any subsequent appeal in accordance with N.C.G.S. § 160D-



1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official who made the decision certifies to the board.

- B. Notwithstanding any other provision of this section, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation does not stay the further review of an application for development approvals to use the property; in these situations, the appellant or the Town of Valdese may request and the board may grant a stay of a final decision of development approval applications, including zoning permits affected by the issue being appealed.

2.3.7 FEES FOR SPECIAL USE PERMITS, VARIANCES, AND APPEALS

A fee, set by the Valdese Town Council through the adoption of a Fee Schedule, shall be paid to the Town of Valdese, North Carolina for each application for a variance, special use permit, or appeal to cover the necessary administrative costs and advertising.

2.3.8 VARIANCES

- A. When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the Board of Adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:
1. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
 3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing a property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
 4. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.
- B. The Board of Adjustment shall not grant a variance which would allow the establishment of a use which is not otherwise permitted in the district, would result in the extension or



expansion of a nonconforming use, or would change the district boundary, or zoning classification of any or all of the subject property.

- C. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

2.4 TOWN COUNCIL

2.4.1 DUTIES OF THE COUNCIL

The Town Council shall make all land use and development decisions assigned to it in the UDO and in Table 2.1-1.

2.4.2 CONFLICTS OF INTEREST

- A. Per N.C.G.S. § 160D-109, Town Council members shall not vote on any legislative or quasi-judicial land use or development decision where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.
- B. In addition, a council member shall not vote on any legislative or quasi-judicial land use or development decision if the landowner or the applicant is a person with whom the council member has a close family, business, or other associational relationship.
- C. If an objection is raised to a council member's participation at or before the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the council shall by majority vote rule on the objection.

2.5 ZONING ENFORCEMENT OFFICER

2.5.1 DUTIES OF THE ZONING ENFORCEMENT OFFICER

- A. This Chapter 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.



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2. To collect the fees set forth herein for a zoning permit, variances, appeals, rezoning, special use permits, and subdivisions.
 3. To make and keep all records necessary and appropriate to the office, including a record of the issuance and denial of all zoning permits and receipt of complaints of violation of this Chapter and action taken to the same.
 4. To inspect any building and/or land to determine whether any violations of this Chapter have been committed or exist.
 5. To enforce this Chapter 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 an injunction, mandamus, or other necessary action.
 6. To keep the Board of Adjustment advised of all matters other than routine duties on the enforcement of this Chapter and to transmit all applications and records on appeals, variances, or requests for Special Use permit approval.

2.5.2 CONFLICTS OF INTEREST

- A. No Zoning Enforcement Officer shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship.
- B. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.
- C. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under Chapter 160D of the North Carolina General Statutes unless the staff member is the owner of the land or building involved.
- D. No staff member or other individual or an employee of a company contracting with the Town of Valdese to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town of Valdese.



2.6 ZONING PERMIT

2.6.1 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 Valdese Planning Department of the Town of Valdese.

2.6.2 APPLICATION FOR A ZONING PERMIT

- A. Each application for a zoning permit shall be made in person or electronically using the current Town forms if provided by the landowner or his/her representative or a person holding a valid option, lease, or contract to purchase and –accompanied by a permit fee, set by the Town Council in its current adopted fee schedule.
- B. The landowner representative or authorized person shall show or provide 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 about the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this ordinance.
- C. Any zoning permit issued shall become invalid if the work authorized by it has not substantially commenced within twelve (12) months of its date of issue or if the work authorized by it is suspended, stopped, or is abandoned.
 - 1. For the purposes of this ordinance, a project is considered to have not substantially commenced unless either one of the following has occurred:
 - (a) The development has installed substantial on-site infrastructure, such as but not limited to the installation of a road, water line, sewer line, or stormwater management pond; or
 - (b) The development has received and maintained a valid building permit for the construction and approval of a building foundation.
- B. Unless otherwise provided by law, zoning permits run with the land.



2.6.3 PERMIT CHOICE

- A. If a development permit applicant submits a permit application for any type of development and an ordinance is amended, including an amendment to any applicable land development regulation, between the time the development permit application was submitted and a development permit decision is made, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application.
- B. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit.
- C. If a permit application is placed on hold at the request of the applicant for a period of six consecutive months or more, or the applicant fails to respond to comments or provide additional information reasonably requested by the Town for a period of six consecutive months or more, the application review shall be discontinued and the development regulations in effect at the time permit processing is resumed shall be applied to the application.
- D. Where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit.
 - 1. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit.
- E. For purposes of this subsection, erosion and sedimentation control permit or a sign permit is not an initial development permit.

2.7 VESTED RIGHTS

- A. The types of development approvals that are eligible to be a **site-specific vesting plan** are those listed in the definition of this term in Chapter 11.



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- B. The notice and approval process for a site-specific vesting plan shall be the same as that for the underlying permit type, and may be included as part of that underlying review and approval if requested as part of the permit application.
 - C. A vested right for a site-specific vesting plan remains vested for two years.
 - 1. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the Town of Valdese.
 - D. Notwithstanding the provisions of section, the Town of Valdese may provide for rights to be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations.
 - E. Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months.
 - F. The 24-month discontinuance period is automatically tolled during the pendency of any Board of Adjustment proceeding regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this ordinance.
 - G. The purpose of this section is to implement the provisions of N.C.G.S. § 160D-108.1 under which a statutory zoning vested right is established upon approval of a site-specific vesting plan.

2.8 AMENDMENTS

2.8.1 PROCEDURES FOR AMENDMENTS

The Town Council may amend, supplement or change the text regulations and zoning district lines on the official Zoning Map 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.



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2. **Downzoning.** No amendment to zoning regulations or a zoning map that down-zones property shall be initiated, enacted, or enforced without the written consent of all property owners whose property is the subject of the down-zoning amendment. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:
 - (a) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
 - (b) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.
 - (c) By creating any type of nonconformity on land not in a residential zoning district, including a nonconforming use, nonconforming lot, nonconforming structure, nonconforming improvement, or nonconforming site element.
 3. **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.
 - (a) Such petition shall be filed with the Zoning Enforcement Officer not later than three (3) weeks before the meeting at which the petition is to be considered.
 4. **Fee.** A fee, as specified in the current adopted fee schedule, shall be paid to the Town Clerk of the Town, North Carolina, for each petition for an amendment to cover the costs of advertising and other administrative expenses involved.

2.8.2 ACTION BY THE PLANNING BOARD

- A. The Planning Board shall consider and make recommendations to the Town Council concerning each proposed zoning amendment.
- B. The Planning Board, at its discretion, may hold a public hearing if deemed necessary by the Planning Board.
- C. Otherwise, the Planning Board will send its recommendation directly to the Town Council who shall hold a public hearing for every proposed zoning amendment.
- D. The recommendation to Town Council shall include a written statement that evaluates whether the amendment is consistent with the Town of Valdese's Land Use Action Plan and any other adopted plan that exists and is applicable.



2.8.3 REQUIRED NOTIFICATIONS

- A. Legal Notice of Public Hearing. No amendment shall be adopted by the Town Council until after public notice and hearing.
- B. Under N.C.G.S. § 160D-601, notice of public hearing shall be published in a newspaper of general circulation in the Town at least once each week for two (2) successive weeks before the hearing.
 - 1. The first notice shall appear in the newspaper not less than ten (10) days or more than twenty-five (25) days before the scheduled date of the hearing.
 - 2. In computing, this notice period, the day of publication is not to count but the day of the hearing shall be included.
- C. Mail Notice Requirements.
 - 1. Under N.C.G.S. § 160D-602 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 adjoining, even if separated by a street, railroad, or other transportation corridors, shall be mailed a notice of the proposed reclassification and a notice of the public hearing required.
 - 2. Such notice shall be sent by first-class mail to the last address listed for such owners on the county tax listing.
 - 3. The person responsible for making the mailed notice shall certify to the Town Council that such notice was indeed prepared and mailed.
- D. Under N.C.G.S. § 160D-602(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.
 - 1. When multiple parcels are included within a proposed zoning map amendment, the Town shall post sufficient notices to provide reasonable notice to interested persons.
- E. Substitute Notice.
 - 1. Under N.C.G.S. § 160D-602(b) individual mailed notices may be waived if the Zoning Map amendment involves more than fifty (50) properties, owned by a total of at least fifty (50) different owners, and the Town elects to publish notice of the hearing as required by N.C.G.S. § 160D-601.



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2. The public hearing notice shall be published following N.C.G.S. § 160D-60, provided the advertisement is no less than one-half a page.
 3. The Town must notify by first-class mail any property owner who resides outside the circulation area of the newspaper in which the notice is published.
 - (a) The notice must be mailed to the last address listed for such owners on the most recent county tax listing.
 - (b) Absent evidence to the contrary, the Town of Valdese may rely on the county tax records to determine who is a landowner.

2.84 TOWN COUNCIL ACTION

- A. The Town Council shall consider changes and amendments to the UDO 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.
- B. 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.
 1. 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.
- C. Before 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 (N.C.G.S. § 160D-605).
- D. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required.
- E. A plan amendment and a zoning amendment may be considered concurrently.
- F. The plan consistency statement is not subject to judicial review.
- G. If a zoning map amendment qualifies as a "large-scale rezoning" under N.C.G.S. § 160D-602(b), the governing board statement describing plan consistency may address the overall



rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

H. Additional Reasonableness Statement for Rezoning

1. When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the Town Council.
2. This statement of reasonableness may consider, among other factors:
 - (a) The size, physical conditions, and other attributes of the area proposed to be rezoned;
 - (b) The benefits and detriments to the landowners, the neighbors, and the surrounding community;
 - (c) The relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;
 - (d) Why the action is taken is in the public interest; and
 - (e) Any changed conditions warranting the amendment.
3. If a zoning map amendment qualifies as a "large-scale rezoning" under N.C.G.S. §160D-602(b), the governing board statement on reasonableness may address the overall rezoning.

I. Single Statement Permissible – The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

J. Under no circumstances shall the Town Council adopt such amendments that would cause the UDO to violate the watershed protection rules as adopted by the North Carolina Environmental Management Commission.

1. Amendments affecting the watershed protection portions of the UDO shall be filed with the North Carolina Division of Water Resources.

2.8.5 APPEALS

Appeals of administrative decisions under N.C.G.S. § 160D-405 shall be made to the Board of Adjustment.



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- A. Appeals of decisions according to erosion and sedimentation control regulations, stormwater control, or housing code provisions shall be made to the Board of Adjustment, unless other Town ordinances specify a different review body, in which case the specified review body shall hear the appeal.
 - B. The property owners or signers have 30 days from receipt of the written notice of the determination to file an appeal.
 - C. In the absence of evidence to the contrary, notice given pursuant to N.C.G.S. § 160D-403(b) by first-class mail is deemed received by the property owner or signer on the third business day following deposit of the notice for mailing with the United States Postal Service.
 - D. Staff shall transmit (written or electronic) to the Board all documents and exhibits that constitute the record for the matter being considered.
 - E. Staff shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
 - F. An appeal of enforcement actions stays all enforcement actions, including fines, during the appeal process.
 - G. If, however, the staff person who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation, then enforcement proceedings are not stayed except by a restraining order, which may be granted by a court.
 - H. The Board of Adjustment shall meet to hear the appeal within 30 days following the filing of the appeal.
 - I. The appeal shall not apply to any amendment, which initially zones a property added to the territorial coverage because of annexation or other means.

2.8.6 APPEALS TO SUPERIOR COURT

Pursuant to N.C.G.S. 160D-1401, appeals against any change in or amendment to the Zoning Ordinance or Zoning Map may be filed in Superior Court.

2.8.7 ZONING OF ANNEXED AREAS

- A. Any areas annexed into the Town, 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, including N.C.G.S. §§160D-202 and 160D, Article 6.

- B. Where possible, the Town will work to initiate the rezoning so that it can be adopted at the same time as it completes the process of annexation of an area.

2.9 SPECIAL USE PERMITS

2.9.1 SPECIAL USES

The Planning Board shall grant in particular cases and subject to the principles, procedures, conditions, and safeguards described in the UDO, permits for Special Uses in regulations and set forth as special uses under the various use districts.

2.9.2 DECISION-MAKING PROCESS

- A. The Planning Board shall not grant a Special Use Permit unless and until:
 - 1. A written application for a Special Use Permit is submitted to the Planning Director indicating the section of this UDO under which the Special Use Permit is sought.
 - (a) For the purposes of this UDO, no application shall be considered to have been submitted until it is complete.
 - 2. Public hearings shall be conducted using the procedures described in UDO Subsection 2.2.5.
 - 3. The Planning Board finds that in the particular case in question the use for which the Special Use Permit is sought will not:
 - (a) Adversely affect the health, or safety of persons residing or working in the neighborhood of the proposed use, and
 - (b) Will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood.
 - 4. In granting such a permit, the Planning Board may establish such conditions as are reasonable and appropriate to help ensure that the proposed use will conform to the requirements and spirit of the UDO.



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- (a) Petitioners must provide written consent to the Town to any conditions established for the special use permit before the special use permit can be valid.
 - (b) Town Council does not have the authority to impose conditions and safeguards for which the council does not have authority under state statutes to regulate or which the courts have held to be unenforceable.
- B. If at any time after a Special 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 Special Use Permit, the permit shall be terminated and the operation of such a use discontinued.
 - C. If a Special Use Permit is terminated for any reason, it may be reinstated only after a public hearing is held.
 - D. When deciding Special Use Permits, the Town Council shall follow quasi-judicial procedures as specified in UDO Subsection 2.2.5. This includes:
 - 1. No vote greater than a majority vote shall be required for the Council to issue such permits.
 - 2. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite majority.
 - 3. Every such decision of the Council shall be subject to review of the superior court like certiorari consistent with N.C.G.S. § 160D-406.

2.9.3 CHANGES TO APPROVED SPECIAL USE PERMITS

- A. **Major Amendments.** Except as allowed under Minor Modifications below, all changes to approved special use permits are major amendments and shall follow the same process applicable for the original approval.
- B. **Minor Modifications.** The Planning Director is authorized to review and approve administratively a minor modification to an approved special use permit, subject to the following limitations.
 - 1. **General Limitations.** The minor modification:
 - (a) Does not involve a change in uses permitted or the density of overall development permitted;



(b) Does not increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval; and

(c) Meets all other ordinance requirements.

2. **Site Design.** Site design minor modifications are limited adjustments to the terms or design of an approved development plan or plat, including a site plan attached as a condition to a special use permit. In addition to the general limitations for minor modifications, a site design minor modification must:

(a) Comply with underlying zoning standards and other applicable conditions of the approval;

(b) Be limited to a minor change such as, without limitation, a minor adjustment to road configuration or internal circulation, a minor adjustment to building location, or a minor adjustment to utility alignment.

3. **Dimensional Standards.** Dimensional standard minor modifications are adjustments to the dimensional standards of the zoning ordinance. Dimensional standards may only be modified upon a finding by the administrator, based on evidence from the permit holder, that the modification is needed to address a site characteristic or technical design consideration not known at the time of initial approval.

(a) In addition to the general limitations for minor modifications, dimensional standard minor modifications are limited to:

(1) An adjustment to parking requirements up to the lesser of 10 spaces or 10 percent of the total parking.

(2) An adjustment to setback requirements up to the lesser of 10 feet or 10 percent of the standard setback.

(3) An adjustment to landscape standards up to 10 percent of the required landscaping, based on the number or dimensions of plants, trees, or other screening features required.

C. **Appeals and Variances.** A decision on a minor modification may be appealed to the Board of Adjustment as an administrative determination.

1. An application for a minor modification does not preclude an applicant from seeking a variance from the Board of Adjustment.



2.10 CONDITIONAL ZONING

- A. Purpose. This UDO authorizes the creation of conditional zoning districts proposed by the property owners and customized to the context of a particular development project or land use on a particular site. Each conditional zoning district includes one or more conditions of approval that help the project conform to the adopted ordinances and plans of the Town of Valdese, and mitigate the impacts reasonably expected to be generated by the development or use of the site.
- B. Procedure. Each conditional district may only be considered by the Town Council through a legislative decision-making process, following the procedures for zoning map amendments outlined in this Ordinance.
- C. Initiating a Conditional Rezoning. A conditional zoning proposal may only be considered by the Town Council in response to a petition signed by all owners of the property proposed for one of the following:
1. Planned Unit Development; or a
 2. Multi-Phased Development proposed in one of the general use zoning districts specified in Chapter 3.
- D. Conditions and Requirements. The approval for each conditional district shall specify all conditions of development and use of land, and for Multi-Phased Developments, how those conditions differ from the requirements of the corresponding general use district.
1. Specific conditions may be proposed by the petitioner, by staff, or by the Town Council, but only those conditions approved by the Town Council and consented to by the petitioner in writing may be incorporated into the zoning regulations.
 2. Such conditions must be designed to help the project conform to the Town of Valdese's adopted ordinances and plans, and/or mitigate the impacts reasonably expected to be generated by the development or use of the site.
 3. For Planned Unit Developments, such conditions may be stricter or less strict than those in the UDO.
 4. For Multi-Phased Developments, such conditions may be:
 - a. Stricter than the corresponding general use district;



b. Less strict than the corresponding general use district, as long as all of the following requirements are met:

- i. No dimensional standard is relaxed by more than 10%;
- ii. The uses permitted by the corresponding general use district are not expanded; and
- iii. The density of overall development is not increased beyond the density allowed in the corresponding general use district.

5. For both Planned Unit Developments and Multi-Phased Developments, an approved project shall not be valid until the applicant has provided a signed list of all the specified conditions.

E. Eligible Uses.

1. For Planned Unit Developments, any uses allowed in Table 4.1-1 Permitted Uses except for those in the “Warehousing and Industrial Uses” category are eligible to be considered in the corresponding conditional district, as modified by any conditions of approval.
2. For Multi-Phased Developments, uses allowed by right in the general use district are eligible to be considered in the corresponding conditional district, as modified by any conditions of approval.

F. Development Standards. For Multi-Phased Developments, any proposed development within a conditional district must meet all requirements of the corresponding general use district, as modified by any conditions of approval.

G. Submittal of Site Plan. This zoning option is intended only for development proposals that are ready to proceed from plan approval to construction in a timely manner. As a result, each project must include a site plan that meets the site plan requirements listed in this UDO, as modified by any site-specific conditions.

H. Relationship to Overlay District Standards. Regulations applicable in an overlay zoning district shall apply to a conditional district. If the standards governing a conditional district expressly conflict with those governing an overlay district, the more restrictive standards shall apply.

I. Revisions to Approved Conditional Zonings.

1. Major Amendments. Except as allowed under Minor Modifications below, all

changes to approved special use permits are major amendments and shall follow the same process applicable for the original approval.

2. Minor Modifications. The Planning Director is authorized to review and approve administratively a minor modification to an approved special use permit, subject to the following limitations.
 - a. General Limitations. The minor modification:
 - i. Does not involve a change in uses permitted or the density of overall development permitted;
 - ii. Does not increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval; and
 - iii. Meets all other ordinance requirements.
 - b. Site Design. Site design minor modifications are limited adjustments to the terms or design of an approved development plan or plat, including a site plan attached as a condition to a special use permit. In addition to the general limitations for minor modifications, a site design minor modification must:
 - i. Comply with underlying zoning standards and other applicable conditions of the approval;
 - ii. Be limited to a minor change such as, without limitation, a minor adjustment to road configuration or internal circulation, a minor adjustment to building location, or a minor adjustment to utility alignment.
 - c. Dimensional Standards. Dimensional standard minor modifications are adjustments to the dimensional standards of the zoning ordinance. Dimensional standards may only be modified upon a finding by the administrator, based on evidence from the permit holder, that the modification is needed to address a site characteristic or technical design consideration not known at the time of initial approval.
 - i. In addition to the general limitations for minor modifications, dimensional standard minor modifications are limited to:



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- a. An adjustment to parking requirements up to the lesser of 10 spaces or 10 percent.
 - b. An adjustment to setback requirements up to the lesser of 10 feet or 10 percent of the standard setback.
 - c. An adjustment to landscape standards up to 10 percent of the required landscaping, based on the number or dimensions of plants, trees, or other screening features required.
- J. Appeals and Variances. A decision on a minor modification may be appealed to the Board of Adjustment as an administrative determination.
- 1. An application for a minor modification does not preclude an applicant from seeking a variance from the Board of Adjustment.

2.11 MORATORIA

- A. Town Council may adopt temporary moratoria on any development approval required by law, except to develop and adopt new or amended plans or development regulations governing residential uses, as specified in N.C.G.S. §160D-107.
- B. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant the imposition of the moratorium and may not exceed the period necessary to correct, modify, or resolve such conditions.
- C. Except in cases of an imminent and substantial threat to public health or safety, before adopting a development regulation imposing a 60 day or shorter moratorium, Town Council shall hold a legislative hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing.
- D. A moratorium 61 days or longer, or any extension of a moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing requirements of N.C.G.S. § 160D-601.
- E. Absent of an imminent threat to public health or safety, a moratorium does not apply to any project for which a valid building permit has been issued and is outstanding, to any project for which a special use permit application has been accepted as complete, to development outlined in an approved site-specific vesting plan, to development for which



substantial expenditures have already been made in good-faith reliance on a prior valid development approval, or to preliminary or final subdivision plats that have been accepted for review by Town Council before the call for a hearing to adopt the moratorium.

- F. Any preliminary subdivision plat accepted for review by the Town of Valdese Town Council before the call for a hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium.
 - 1. Notwithstanding the foregoing, if a complete application for development approval has been submitted before the effective date of a moratorium, N.C.G.S. § 160D-108(b) applies when permit processing resumes.
- G. Any development regulation establishing a development moratorium must include, at the time of adoption, each of the following:
 - 1. A statement of the problems or conditions necessitating the moratorium and what courses of action, an alternative to a moratorium, were considered by the Town of Valdese and why those alternative courses of action were not deemed adequate.
 - 2. A statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to the imposition of the moratorium.
 - 3. A date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to the imposition of the moratorium.
 - 4. A statement of the actions, and the schedule for those actions, proposed to be taken by the Town of Valdese during the duration of the moratorium to address the problems or conditions leading to the imposition of the moratorium.
- H. No moratorium may be subsequently renewed or extended for any additional period unless the Town of Valdese has taken all reasonable and feasible steps proposed to be taken in its ordinance establishing the moratorium to address the problems or conditions leading to the imposition of the moratorium and unless new facts and conditions warrant an extension.
- I. Any ordinance renewing or extending a development moratorium must include, at the time of adoption, the findings outlined in subdivisions (1) through (4) of subsection G of this section, including what new facts or conditions warrant the extension.
- J. Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the General Court of Justice for an order enjoining the



enforcement of the moratorium.

- K. Actions brought under this section shall be scheduled for an expedited hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts.
 - 1. In such actions, the Town of Valdese has the burden of showing compliance with the procedural requirements of this subsection.





Town of Valdese, NC Unified Development Ordinance

CHAPTER 3: ZONING DISTRICTS

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CHAPTER 3: ZONING DISTRICTS

3.1 USE DISTRICTS

The Town is hereby divided into eleven (11) zoning districts designated as follows:

R-12	Residential District
R-12A	Residential District
R-8	Residential District
O-I	Office-Institutional District
DBC	Downtown Business Corridor District
B-1	Central Business District
B-2	General Business District
PUD	Planned Unit Development
M-1	General Manufacturing District
FP	Floodplain Overlay District

3.2 RESIDENTIAL DISTRICTS

3.2.1 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.

3.2.2 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.



3.2.3 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.

3.3 COMMERCIAL DISTRICTS

3.3.1 DOWNTOWN BUSINESS CORRIDOR DISTRICT (DBC)

Intent: The purpose of the Downtown Business Corridor District is to accommodate and encourage further expansion and renewal along Main Street Valdese. Select business, retail, professional, financial, cultural, and other related services are encouraged to provide a corridor of select retail opportunities.

3.3.2 B-1 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 the Town 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.

3.3.3 GENERAL BUSINESS DISTRICT (B-2)

Intent: The General Business District intends to encourage the establishment of areas for a general business that does not require a central location. These districts are generally located along major radial highways leading out of town, providing retailing goods and services to the traveling public and residents.

3.3.4 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.



3.4 PLANNED UNIT DEVELOPMENT

3.4.1 PLANNED UNIT DEVELOPMENT (PUD)

Intent: The purpose of the planned unit development is to encourage the development of living and working 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 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 this UDO. 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; and
- E. Provide guidelines for the development of planned unit developments.

The Town Council may approve this form of development in the districts that allow it through a conditional zoning process that follows the procedures specified in Section 2.10.

3.4 INDUSTRIAL DISTRICT

3.4.1 GENERAL 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.



3.5 FLOOD DAMAGE PREVENTION DISTRICT

3.5.1 FLOODPLAIN OVERLAY DISTRICT (FP)

Intent: This district is intended to assist in protecting against the 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 the Town of Valdese. Uses in this district are intended to be associated with open space, recreational and agricultural land uses and shall not hinder the movement of floodwaters.

3.6 DIMENSIONAL STANDARDS

All uses in each zoning district shall be subject to the dimensional standards as listed in Table 3.6-1.



TABLE 3.6-1: DIMENSIONAL STANDARDS

DIMENSIONAL REQUIREMENT				ZONING DISTRICT										
				R8	R12A	R12	DBC	B-1	B-2	O-I	M-1	FP		
Minimum Lot Width (feet)	Single-Family Home			50	70	70	0/35 ⁸	0/35 ⁸	0/35 ⁸	0				
	Two-Family Home			60										
	Multi-Family Homes			70 ¹	70	70	0/35 ⁸	0/35 ⁸	0/35 ⁸	0	0/35 ⁸	0 ⁹ /35 ⁸		
	Non-Residential Building			70	70									
Minimum Building Setback (feet)	Front			20	35	35	0	0	40	20	25/50 ¹⁴	_ ¹⁶		
	Side			10 ²	10 ²	10 ²	0 ¹⁰ /15 ¹¹	0 ¹⁰ /15 ¹¹	10 ⁶ /20 ¹³	10 ⁶	10 ⁶ /50 ¹⁴			
	Rear			25	25	25	0 ¹⁰ /15 ¹¹	0 ¹⁰ /15 ¹¹	10/20 ¹³	15	20/50 ¹⁴			
Maximum Building Setback (feet)							5 ¹²							
Maximum Building Height (square feet)	Residential Structures			40	40	40	50	50	50	50		_ ¹⁶		
	Non-Residential Structures			50	50	50	50	50	50	50	50 ¹⁵	_ ¹⁶		
Minimum Lot Size (square feet)	Single-Family Detached Dwellings	Lots Deeded Before 10/1/93	Water <u>or</u> Sewer		20,000	20,000	20,000	0	0	0	0	0		
			Water <u>and</u> Sewer		8,000	12,000	12,000	0	0	0	0	0	0	
		Lots Deeded On or After 10/1/93 (where S&E Control Plan required under State law)	Option 1	No Water <u>and</u> No Sewer		40,000	40,000	40,000	0	0	0	0	0	_ ¹⁶
				Either Water <u>or</u> Sewer		20,000	20,000	20,000	0	0	0	0	0	
				Water <u>and</u> Sewer		8,000	12,000	12,000	0	0	0	0	0	
			Option 2	No Water <u>and</u> No Sewer		40,000	40,000	40,000						
				Either Water <u>or</u> Sewer		21,780	21,780	21,780						
				Water <u>and</u> Sewer		14,520 or 21,780 ³	14,520 or 21,780 ³	14,520 or 21,780 ³						

DIMENSIONAL REQUIREMENT					ZONING DISTRICT								
					R8	R12A	R12	DBC	B-1	B-2	O-I	M-1	FP
Minimum Lot Size (square feet) (continued)	Multi-Family Dwellings	S&E Erosion Control Plan <u>not required</u>	Water and Sewer Required		8,000/4,000/3,000 ⁴	12,000/4,000/3,000 ⁴		0	0	0	0	0	
		S&E Erosion Control Plan <u>required</u>	Water and Sewer Required	Option 1	8,000/4,000/3,000 ⁴	12,000/4,000/3,000 ⁴							
				Option 2	14,520 or 21,780 ³	14,520 or 21,780 ³							
Maximum Lot Coverage (% of total lot area covered by principal and accessory buildings)	Single-Family Detached Dwellings	Lots Deeded <u>Before</u> 10/1/93		40%	40%	40%	100% or 36%/24% ⁷	100% or 36%/24% ⁷	100% or 36%/24% ⁷	100% or 36%/24% ⁷	100% or 36%/24% ⁷	100% or 36%/24% ⁷	_ ¹⁶
		Lots Deeded <u>On or After</u> 10/1/93	Option 1	36%/24% ⁵	36%/24% ⁵	36%/24% ⁵	100% or 36%/24% ⁷	100% or 36%/24% ⁷	100% or 36%/24% ⁷	100% or 36%/24% ⁷	100% or 36%/24% ⁷	100% or 36%/24% ⁷	_ ¹⁶
			Option 2	30%	30%	30%							
	Multi-Family Dwellings	S&E Erosion Control Plan <u>not required</u>	Water and Sewer Required		30%								
		S&E Erosion Control Plan <u>required</u>	Water and Sewer Required	Option 1	36%/24% ⁵								
Option 2	40%												

NOTES:

1. The minimum lot width is 70 feet for three dwelling units, plus 10 feet for each additional dwelling unit.
2. The minimum side setback is 15 feet for side adjoining a street ROW.
3. The larger minimum lot size is required if the lot is located within a WS-4 critical area or if the lot adjoins a curb and gutter street system.
4. The minimum lot size for first unit is 8,000 s.f. in the R8 district and 12,000 s.f. in the R12A district. In both districts, the minimum lot size for the second unit is 4,000 s.f., and 3,000 s.f. for each additional unit.
5. The smaller maximum lot coverage percentage is required if the building is located in a WS-4 critical area or it adjoins a curb and gutter street system.
6. An average of 10 feet may meet the side building setback requirements under the following requirements:
 - A) A Special Use Permit is required.
 - B) Under no circumstances shall the principal building be any closer than five (5) feet from the side property line.
 - C) An opaque, vegetative buffer is required along the side property line where the averaging option is approved. However, if topography or other issues make the buffer impractical, other options may be used.
7. Within the Office-Institutional District, 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 UDO, 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 adjoins a curb and gutter street system.
8. Minimum frontage on a public street shall be thirty-five (35) feet.
9. The minimum front setback shall be 0 or as required by the underlying zoning district, whichever is greater.
10. If a side yard or rear yard is provided, it must be at least 10 feet wide.
11. The minimum side and/or rear setback shall be 15 feet for a side and/or rear adjoining a residential district.
12. The maximum front setback is 5 feet, if provided.
13. The minimum side and/or rear setback shall be 20 feet for a side and/or rear adjoining a residential district.
14. The minimum front, side, and/or rear setback shall be 50 feet where it adjoins a residential district.
15. Buildings exceeding 50 feet in height are permitted upon issuance of a Special Use Permit.
16. Minimum building setback, maximum building height, min. lot size, and max. lot coverage shall meet those of underlying zoning district.





Town of Valdese, NC Unified Development Ordinance

CHAPTER 4: USE STANDARDS

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CHAPTER 4: USE STANDARDS

4.1 PERMITTED USES

Uses are allowed with approval from the Town based on the review process listed in Table 4.1-1 for each use in each zoning district.

TABLE 4.1-1: PERMITTED USES

Key P = Use permitted with subdivision plat and/or site plan approved by Town staff USS = Use permitted with subdivision plat and/or site plan approved by Town staff, and compliance with Use-Specific Standards referenced SUP = Use permitted with approval of a Special Use Permit issued by the Town; CZ = Conditional Zoning Blank Cell = Use prohibited												
Use Category	Use	Zoning Districts								Conditional Zoning District	Overlay District	Use-Specific Standards
		R8	R12A	R12	DBC ¹	B-1 ²	B-2 ³	O-I ⁴	M-1			
Accessory Uses	Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot	P	P	P		P	P	P	P			
	Accessory uses permitted in underlying zoning district(s)										P	
	Day care home	P	P	P				P				4.3.9
	Drop boxes (on-premise only)				P	P		P				
	Parcel drop boxes				P							
	Home occupation	P	P	P		P	P	P				
	Non-structural industrial and commercial accessory uses, including loading areas, parking areas, and private airport landing strips										P	
	Offices that are accessory to any permitted use of this district								P			
	Open storage as an accessory use								P			
Residential non-structural accessory uses										P		



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Use Category	Use	Zoning Districts								Conditional Zoning District	Overlay District	Use-Specific Standards
		R8	R12A	R12	DBC ¹	B-1 ²	B-2 ³	O-I ⁴	M-1			
Agricultural and Animal Uses	Agricultural uses, including general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, forestry, sod farming, and wild crop harvesting but not agricultural industry										P	
	Animal keeping			USS								4.3.3
	Bona fide farms but not agricultural industry			SUP								
	Farmers market					P	P					
	Kennels						USS		USS			4.3.14
	Open-air markets, retail only					P	P					
	Produce stands	P	P	P				P	P			
	Veterinary hospital or clinic							P	P	P		
Residential Uses	Single-family homes	P	P	P		P	SUP	USS				R8 setback
	Two-family homes (duplexes)	P	P									
	Townhome	P	P		SUP	SUP	SUP	SUP				
	Manufactured Homes, Class A	P										4.3.15
	Manufactured Homes, Class B											4.3.15
	Manufactured Home Parks (in USS)											4.3.16
	Modular Home	P	P	P		P	SUP	P				
	Multi-family building	SUP	SUP		SUP	SUP	SUP	SUP				
	Accessory dwellings	USS	USS	USS				USS				4.3.1
	Temporary health care structure	USS	USS	USS								4.3.22
	Family care homes	P	P	P								
	Residential care facility	SUP	SUP	SUP			P	P				
	Planned unit development									CZ		4.3.19
	Ten-acre exempt development	SUP	SUP	SUP								
	Gated subdivision	SUP	SUP	SUP								
	Bed and breakfast inns	USS	USS	USS		USS	USS	USS				4.3.7
	Boarding house	P	P				P	P				
Hotels, Motels				P	P	P						
Detached garage in front or side yard [see "accessory uses and structures" to allow in backyard]		USS	USS								4.3.10	



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Use Category	Use	Zoning Districts								Conditional Zoning District	Overlay District	Use-Specific Standards
		R8	R12A	R12	DBC ¹	B-1 ²	B-2 ³	O-I ⁴	M-1			
Civic Uses	Business colleges, barber + beauty schools, art schools, music + dance studios, and similar orgs., but not vocational schools, all without students in residence					P	P					
	Cemeteries	P	P	P								
	Churches	P	P	P	P	P	P	P				
	Commercial, industrial trade schools						P		P			
	Community center					P	P	P				
	Govt. buildings up to 5,000 square feet of gross floor area	P	P	P				P				
	Government buildings				P	P	P					
	Libraries					P		P				
	Municipal, county, state, and federal govt. uses, which must have specific location, i.e. stream gauge station, sewerage pump station, etc.										P	
	Museums				P	P	P	P				
	Music or dance institution schools							P				
	Neighborhood + outdoor recreation	P	P	P		P	P	P				
Parks	P	P	P	P	P	P	P			P		
Public and private elementary and secondary schools	SUP	SUP	SUP		SUP	SUP	SUP					
Recreation and Entertainment	Adult establishments								SUP and USS			4.3.2
	Amusements such as indoor theaters, poolrooms, and bowling alleys				P	P	P					
	Auditoriums, armories, publicly owned recreation facilities				P	P	P	P				
	Clubs and lodges catering exclusively to member and their guests						P					
	Electronic gaming operations							USS				4.3.11
	Marinas								SUP		SUP	



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Use Category	Use	Zoning Districts								Conditional Zoning District	Overlay District	Use-Specific Standards
		R8	R12A	R12	DBC ¹	B-1 ²	B-2 ³	O-I ⁴	M-1			
Recreation and Entertainment (continued)	Private and public recreational uses, including, golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, playgrounds, greenways, wildlife and nature preserves, hiking trails, and equestrian trails										P	
Medical Uses	Hospice and palliative care facility							P	P			
	Hospitals							P	P			
	Medical or professional services				P	P		P	P			
	Nursing homes							P	P			
Transportation and Utility Uses	Automobile parking lots				P	P	P					
	Bus terminals and railroad stations						P	P				
	Essential services 1 and 2 etc.	P	P	P			P	P	P		USS	4.3.12
	Essential Services 3								SUP		SUP	
	Public garages							P				
	Taxi stands							P				
Tele-communications Uses	Alternative tower structure	USS	USS	USS	USS	USS	USS	USS	USS			4.3.21
	Antenna (attached or collocation)	USS	USS	USS	USS	USS	USS	USS	USS			4.3.21
	Small wireless facility	USS	USS	USS	USS	USS	USS	USS	USS			4.3.21
	Telecommunications tower							USS	USS			4.3.21



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Blank Cell = Use prohibited

Use Category	Use	Zoning Districts								Conditional Zoning District	Overlay District	Use-Specific Standards	
		R8	R12A	R12	DBC ¹	B-1 ²	B-2 ³	O-I ⁴	M-1				
Retail, Eating, Drinking, and Service Uses	Alcoholic beverages, packaged, retail sales					P	P						
	Art galleries				P	P	P	P					
	Artisan food + beverage producer				P	USS	USS		USS			4.3.4	
	Automobile parts and supplies sales, new						P						
	Automotive repair, minor						P		P				
	Automobile sales, major						USS					4.3.5	
	Automobile sales, minor						USS		USS			4.3.5	
	Bakeries, delis, and the like, if products prepared/processed on site only sold at retail on site	SUP				P	P	P					
	Bars				P	P	P						
	Brewpubs				P	P		P					
	Car washes, detail shops						P						
	Child care institution						P	P					
	Chiropractic Center				P								
	Cigar bar												
	Convenience stores						P						
	Day care center	SUP	USS				USS	USS	USS				4.3.10
	Feed, seed, + fertilizer sales, retail						P						
	Financial services				P	P	P	P					
	Flea markets								SUP				
	Florist shops, but not commercial greenhouses	SUP				P	P	P					
	Food stores, retail only						P						
	Funeral home						P	P					
	Grocery stores	SUP											
	Gunsmiths						P						
	Hand-made crafts, retail sale of, and production for on-site sales				P	P							
	Locksmiths						P						
Massage therapy				P	P	P							
Microbreweries				P	P	P	P						
Mixed uses	SUP			P	P	P	P						
Mobile/manufactured home sales lots								SUP					
Newsstands, newspaper offices, and printing facilities incidental to such offices						P	P						



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SUP = Use permitted with approval of a Special Use Permit issued by the Town; **CZ** = Conditional Zoning
Blank Cell = Use prohibited

Use Category	Use	Zoning Districts								Conditional Zoning District	Overlay District	Use-Specific Standards
		R8	R12A	FP	DBC ¹	B-1 ²	B-2 ³	O-1 ⁴	M-1			
Retail, Eating, Drinking, and Service Uses (continued)	Office equipment and supplies, sales and service					P	P					
	Outdoor seasonal sales					USS	USS					4.3.18
	Pawnshops						P					
	Personal service establishment						P					
	Photographic studios and camera supply stores				P	P	P					
	Planned Unit Development -- Business	SUP			SUP	SUP	SUP	SUP	SUP			
	Plumbing, heating, and refrigeration sales/service, but excluding open storage						P					
	Radio and television, electronics repair and sales				P	P	P					
	Restaurants, excluding drive-through windows				P	P	P	USS				
	Restaurants, including drive-through windows as an accessory use						P					
	Retail printing, publishing, and reproduction establishments					P	P					
	Retail sales				p ⁵	P	P					
	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								SUP			
	Telecommunication offices						P					
Vape shop												
Office Uses	Business office type				P	P	P	P	P		SUP	



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Use Category	Use	Zoning Districts								Conditional Zoning District	Overlay District	Use-Specific Standards
		R8	R12A	FP	DBC ¹	B-1 ²	B-2 ³	O-I ⁴	M-1			
Warehousing and Industrial Uses	Agricultural industry								SUP			
	Automotive repair, major							SUP	P			
	Automotive wrecking yards and scrap metal dealers								SUP			4.3.6
	Brewery, large								P			
	Brewery, small							SUP	P			
	Crematory or crematorium								USS			4.3.7
	Landfill								SUP			
	Lumberyards								SUP			
	Manufacturing, heavy								SUP			
	Manufacturing, medium								P			
	Manufacturing, light								USS	P		4.3.17
	Mini-warehouses								P			
	Mixing plants for concrete or paving materials									SUP		
	Precision instrument manufacturing									P		
	Recycling center									P		
	Recycling collection points									P		
	Recycling plant									P		
	Sign painting and fabrication shops								SUP			
	Stone cutting, crushing, and polishing									SUP		
	Tobacco processing and storage									SUP		
Truck terminal									P			
Upholstery shops									P			
Wholesale and warehousing establishments, and prohibiting the storage of hazardous or offensive materials such as uncured hides, explosives, and nuclear waste products									P			
Winery									P			



NOTES:

1. Within the DBC District, all principal and accessory non-residential uses shall be conducted wholly within enclosed buildings except for 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.
2. 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.
3. 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.
4. Within the O-I District all principal and accessory uses shall be conducted wholly within enclosed buildings except for drive-through service, vending machinery, incidental displays of merchandise, displays associated with official festivals, and similar incidental outdoor displays.
5. The "Retail, sales and service" use in the DBC district excludes sales or leasing of passenger vehicles, motorcycles, light, and medium trucks, and other recreational vehicles.

4.2 UNLISTED USES

4.2.1 INTERPRETATION OF UNLISTED USES

- A. Procedure for approving unlisted uses.** When a proposed use is not specifically listed in Table 4.1-1 Permitted Uses, the Planning Director may permit the use upon a finding that the standards of subsection 4.2.1(B), Standards for Approving Unlisted Uses, are met. The Planning Director shall give due consideration to the purpose and intent statements in this ordinance concerning the base zoning district(s) involved, the character of the uses specifically identified, and the character of the use(s) proposed.
- B. Standards for approving unlisted uses.** In order to determine if the proposed use(s) has an impact that is similar in nature, function, and duration to the other uses allowed in a specific zoning district, the Planning Director shall assess all relevant characteristics of the proposed use, including, but not limited to, the following:
1. The volume and type of sales, whether retail, wholesale, or other.
 2. The size and type of items sold and nature of inventory on the premises.
 3. Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, and distribution.
 4. Any dangerous, hazardous, toxic, or explosive materials used in the processing.



-
5. The nature and location of storage and outdoor display of merchandise, whether enclosed, open, inside, or outside the principal building.
 6. The type, size, and nature of buildings and structures.
 7. The number and density of employees and customers per unit area of site in relation to business hours and employment shifts.
 8. Transportation requirements, including the demand for people and freight, by volume type and characteristic of traffic generation to and from the site.
 9. Trip purposes and whether trip purposes can be shared by other use types on the site.
 10. Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other use types.
 11. The amount and nature of any nuisances generated on the premises, including, but not limited to, noise, smoke, odor, glare, vibration, radiation, and fumes, and whether these nuisances are contained within fully enclosed buildings or not.
 12. Any special public utility requirements for serving the proposed use type, including, but not limited to, water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities.
 13. The impact on adjacent lands and the surrounding neighborhood created by the proposed use, which should not be greater than that of other uses in the zoning district.

C. Effect of finding by Ordinance Administrator.

1. Use found to be appropriate. When the Planning Director finds that an unlisted use is appropriate and congruent with the base zoning district for which it is proposed, he or she shall issue a written opinion allowing such use to be established in the particular district. If the Planning Director believes that requests for such a use will become common, or that adding the use to Table 4.1-1 Permitted Uses is beneficial, he or she shall initiate a text amendment to insert the use into Table 4.1-1 in a convenient and expeditious manner.
2. Use found to be inappropriate. When the Planning Director finds that an unlisted use is inappropriate and incongruent with the base zoning district for which it is proposed, he or she shall issue a written opinion stating that such use is not allowed in the particular district.



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- (a) This finding may be appealed to the Board of Adjustment in accordance with the procedures for appealing an administrative decision.

4.3 USE-SPECIFIC STANDARDS

4.3.1 ACCESSORY DWELLINGS

Accessory Dwellings may be created on the same property as a single-family dwelling as an accessory use, only if such units comply with the following limits, requirements, and conditions:

- A. An Accessory Dwelling must meet all standards of the minimum housing code for independent living units.
- B. The principal use of the lot shall be a single-family dwelling.
- C. Manufactured homes shall not be used as Accessory Dwellings.
- D. No more than one accessory dwelling shall be permitted on a single lot in conjunction with the principal dwelling unit.
- E. 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.
- F. 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 a dwelling only or may combine a dwelling with a garage, workshop, studio, or similar use. The accessory dwelling living area shall not exceed 650 square feet of floor area.
- G. A detached Accessory Dwelling shall be located in the established rear yard and meet the setback standards applicable for accessory buildings.
- H. The maximum height for an Accessory Dwelling shall be 20 feet.
- I. The Accessory Dwelling must comply with the Town of Valdese Utility Connection Requirements.
- J. An Accessory Dwelling must be registered with the Planning Director at the time a certificate of occupancy is obtained.



4.3.2 ADULT ESTABLISHMENTS

Adult Establishments as defined in North Carolina General Statute Sec. 14-202.10 are subject to the following requirements:

- A. All windows, doors, entries, etc. for shall be so located, covered, screened, or otherwise treated (such treatment shall not include painting) so that views of the interior of the establishment shall not be visible to the public from any public or semi-public area, or public or semi-public street.
- B. No adult establishment shall be located within a radius of one thousand (1,000) feet of another adult establishment.
- C. No more than one Adult Establishment may be located within the same structure.
- D. No principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult use/sexually oriented business.
- E. No adult establishment shall be located within a radius of one thousand (1,000) feet of any residential zoning , nursing home, retirement home, church, child care center, park, or playground, or school.
- F. All distances related to Adult Establishments shall be measured as follows:
 - 1. Separation is measured from the closest edge of the building occupied by an adult use to the nearest residential zoning district or the property line of protected use.
 - 2. The distance for separation between adult uses shall be measured from the closest edges of the buildings occupied by adult uses.
- G. All structures associated with an adult-use/sexually oriented business shall be set back at least 40 forty feet from all property lines and street right-of-way.
- H. Any adult establishment shall be located on an individual lot of record and shall not be part of combined development.
- I. Except for business signs permitted with the zoning ordinance, no other promotional materials, displays, or signs shall be visible from sidewalks, walkways, alleys, or streets.
- J. No merchandise or pictures of the products or entertainment on the premises shall be displayed in windows or any area viewed from the sidewalk in front of the building. Neither the performance nor any photograph, drawing, sketch, or other pictorial or graphic representation of a performance displaying any portion of the breast below the top of the



areola or any pubic hair, buttocks, genitals, or anus may be visible outside of the adult establishment.

- K. No signs shall be placed in any window. A one-square-foot sign is permitted on the door to state hours of operation and admittance to adults only.
- L. All adult establishments shall be open to inspection at all reasonable times by any law enforcement officers, the Planning Director, or such other persons as the Planning Director may designate in the ordinary course of his duties.
- M. Nothing shall be construed to permit the operations of any business or the performance of any activity prohibited under any other section of the Valdese Zoning Ordinance or the laws of the Town of Valdese or the State of North Carolina.

4.3.3 ANIMAL KEEPING

- A. **Purpose.** The purpose of this section is to regulate the keeping of a horse, mule, goat, cattle, fowl, and other birds that are not part of a bona fide farming operation. The Chapter applies to properties located within the corporate limits of the Town.
- B. **Prohibitions.** Horses, mules, goats, cattle, all other types of livestock, fowl, and other birds shall not be permitted within the Town limits, except as provided in Subsection C.
- C. Exceptions:
 - 1. Horses: The keeping of horses is permitted provided the following conditions are met:
 - (a) Allowed only in the R-12 Residential Zoning District.
 - (b) A minimum of three acres of property is available for each horse.
 - (c) The part of the property where the horse is kept shall be completely enclosed by a fence.
 - 2. Chickens. The keeping of chickens is permitted in the R-8, R-12, and R-12-A Residential Districts, provided the following conditions are met:
 - (a) Maximum number of chickens on the property – 10.
 - (b) No Roosters are allowed.
 - (c) Placement of the pen shall be in the rear yard only.
 - (d) No free-range (chickens are penned at all times).



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- (e) Pens shall be a minimum of 100 feet from all adjoining residences.
 - (f) Pens shall be a minimum of 50 feet from all property lines.
 - (g) Must comply with all applicable provisions of the Town of Valdese Animal Code (ex. cleanliness, odor).
3. Keeping Domestic Pets. In all zones where dwelling units are allowed, domestic animals are allowed to be kept as household pets.
- (a) Up to an aggregate of 6 domestic animals per dwelling unit is permitted subject to restrictions outlined in Section 8-2008 through Sections 8-2012, and Section 8-2022 of the Town of Valdese Code of Chapter.
 - (b) Birds (canary, parakeet, etc.); amphibian/reptile (turtle, lizard, etc.); rodent (rat, hamster, gerbil, etc.); and tropical fish are excluded from the numerical limitations.

4.3.4 ARTISAN FOOD AND BEVERAGE PRODUCER

Artisan Food and Beverage Producer are subject to the following requirements:

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

4.3.5 AUTOMOBILE SALES, MAJOR OR MINOR

- A. All properties engaged in “Automobile Sales, Major” as defined in this ordinance must meet all of the following requirements:



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1. 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 of not less than (4) feet; and
 5. All vehicles shall be setback five (5) feet from any right of way line.
- B. All properties engaged in “Automobile Sales, Minor” as defined in this ordinance must only meet the requirements of Subsections 1, 3, 4, and 5 of Section 4.3.5(A).

4.3.6 AUTOMOBILE WRECKING YARDS AND SCRAP METAL DEALERS

“Automobile wrecking yards and scrap metal dealers” are only allowed in the specified zoning districts through the process identified, provided the premises include a buffer.

4.3.7 BED AND BREAKFAST INNS

Bed and Breakfast Inns are subject to the following requirements:

- A. The operators must be full-time residents of the premises.
- B. No more than four (4) bedrooms may be devoted to guest accommodations.
- C. One non-illuminated sign, a maximum of 4 square feet, is permitted.
- D. Minimum parking spaces required – 2 spaces plus 1 space for each room devoted to guest accommodations.

4.3.8 CREMATORY OR CREMATORIUM

Crematory or Crematorium is subject to the following requirement:

- A. Use: No crematory shall be established **except** as an accessory use or structure to a North Carolina licensed funeral home in the B-2 General Business District.
- B. License: Any funeral home operating a crematory shall have and maintain a licensed crematory manager on staff, keep in force and affect all other licenses required under the North Carolina Crematory Act, and provide proof of continued re-licensing.



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

4.3.9 DAY CARE HOMES AND DAY CARE CENTERS

All Day Care Homes and Day Care Centers shall meet the following standards:

- A. In single-family residential districts, day care homes must be clearly incidental to the residential use of the dwelling and must not change in the essential residential character of the dwelling.
- B. Play space must be provided per the regulations of the NC Department of Health and Human Services.
- C. The outdoor play space as required by the Department of Health and Human Services must be enclosed on all sides by building, and/or permitted types of walls or fences; it may not include driveways, parking areas, or land otherwise unsuited for children's play space.
- D. A Day Care Center shall provide a minimum of 25 square feet of indoor space per child.
- E. A Day Care Center shall provide a minimum of 75 square feet of outdoor space per child, subject to the following conditions.
 - 1. Play space may not be in the established front yard.
 - 2. Fences must comply with the fence regulations in Section 4.4.
 - 3. Day Care Centers in a residential district on a site greater than three acres shall have frontage on a collector or thoroughfare street.



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- 4. A Day Center must meet a permitted lot type for the district in which it is to be located.
 - F. There is no limit on the hours of operation of a Day Care Center, but no outdoor play shall be permitted after sunset.



4.3.10 DETACHED GARAGES (SIDE YARD OR FRONT YARD)

- A. Garages in Side Yards: The following standards shall apply to all detached garages located in side yards:
1. The garage shall not be used as a dwelling unit.
 2. The garage must meet all minimum setback requirements for the primary structure in the applicable zoning district.
 3. The maximum wall height shall not exceed 15 feet.
 4. The footprint of any detached garage shall not exceed six hundred seventy-six square feet (676 sf), or 10 percent of the lot area up to 1,200 square feet, whichever is greater.
 5. The garage shall be enclosed with an operable garage door to be maintained in good working order.
 6. If the garage door is on the front façade, the door shall be kept closed when the house is unoccupied for more than a day.
 7. A buffer as described in Section 5.2.3(B) is required between the garage and the side property line.
 - a. This buffer requirement shall be waived by the Town if the garage is constructed of a material of like kind and quality as that of the primary structure.
- B. Breezeway Connected Dwelling to Detached Garage: A breezeway connection between a single-family dwelling and detached garage is allowed provided the following design standards are met:
1. The breezeway must be physically attached to both buildings.
 2. The breezeway must be at least 6 feet in width and can be no more than 30 feet in length.
 3. The breezeway must consist of a roof, with more than sixty percent of the total perimeter enclosed by walls, doors, or windows.
 4. The breezeway height shall not exceed 15 feet, measured from the average grade to the highest part of the structure.
 5. Walkways are not permitted on the roof of a breezeway.



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- C. Garages in Front Yards: The following standards shall apply to a detached garage that is completely or partially within the front yard:
1. A buffer as described in Section 5.2.3(B) is required between the garage and the side property line.
 - a. This buffer requirement shall be waived by the Town if the garage is constructed of a material of like kind and quality as that of the primary structure.
 2. A garage shall only be considered for placement in the front yard when the topography or other natural features make it impractical to locate the garage in the side or rear yard.
 3. A minimum of 75 percent of the principal structure shall be visible from all viewpoints along the front property line.
 4. A garage shall only be allowed in a residential lot that has a natural ground slope of 25% or greater, as measured from the center of the front lot line to the center of the front facade of the principal building, or in a residential lot where the only feasible driveway route to the principal building would result in the driveway slope being greater than 18% due to topography and/or natural obstructions.

4.3.11 ELECTRONIC GAMING OPERATIONS

Electronic Gaming Operations are subject to the following requirements:

- A. Electronic Gaming Operations are allowed only in the B-2 General Business District as a principal use.
- B. Electronic Gaming Operations are not allowed as an accessory use in any zoning district.
- C. No electronic gaming operation shall be located within one thousand (1,000) feet of another electronic gaming operation.
- D. No electronic gaming operation shall be located within one thousand (1,000) feet of any residential district, nursing home, retirement home, church, child care center, school, park, or playground.
- E. All distances related to Electronic Gaming Operations shall be measured as follows:
 1. The distance for the separation from residential zoning districts and protected uses shall be measured from the closest edge of the building in which an electronic gaming



operation is located to the nearest residential zoning district or to the property line of each protected use.

2. The distance for separation between electronic gaming operations shall be measured from the closest edges of the buildings in which an electronic gaming operation is located.
- F. Any location for Electronic Gaming operations must meet the parking requirement of the B-2 General Business District.
- G. Each Electronic Gaming Operation shall have all required permits and licenses and shall have paid all applicable fees outlined in the Town's fee schedule.

4.3.12 ESSENTIAL SERVICES

- A. "Essential Services 1 and 2" are allowed in the Floodplain Overlay district, provided the location, design, elevation, and construction shall minimize or eliminate damage by flooding.

4.3.13 HOME OCCUPATIONS

- A. In a zoning district in which a home occupation is permitted, the home occupation must meet the following requirements:
 1. The home occupation must be incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling.
 2. A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure typically associated with a dwelling.
 3. The use shall employ no person who is not a resident of the dwelling.
 4. A home occupation housed within the dwelling shall occupy no more than 25 percent of the total floor area of the dwelling.
 5. There shall be no visible outside display of stock in trade that is sold on the premises.
 6. There shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation, excepting equipment or materials of a type and quantity that could reasonably be associated with the principal residential use.
 7. Operation of the home occupation shall not be visible from any dwelling on an adjacent lot, nor a street.
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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 regularly.
 11. No business identification or advertising signs are permitted.
 12. All home occupations shall require a zoning permit. Permits are not transferable from address to address.
 13. There may be one annual inspection by the town staff to ensure the home occupation is operating within the requirements specified by this Chapter. The town staff shall have the right at any time, upon reasonable request, to enter and inspect the premises covered by the zoning permit for safety and compliance purposes.
 14. In no case shall a home occupation be open to the public at times earlier than 8:00 a.m. no later than 9:00 p.m.
 15. No more than one home occupation shall be permitted within any single dwelling unit or accessory structure.
 16. There shall be no deliveries to or from a home occupation with a vehicle larger than a three-quarter-ton truck.
 17. No home occupation shall cause an increase in the use of any public utilities or services (water, sewer, garbage collection, etc.) so that the combined total use for the dwelling unit and home occupation purposes exceeds the average for residences in the neighborhood.
 18. Home occupations shall comply with all local, state, and federal regulations pertinent to the activity pursued, and the requirements of or permission granted by this section shall not be construed as an exemption from such regulations.
 19. Any non-conforming home occupation shall be discontinued or comply with all applicable provisions of this section within sixty (60) days after the home occupation first became non-conforming.



B. The following uses are permitted in a home occupation:

1. Architectural, drafting, and graphic services;
2. Art restoration
3. Art/photography studio
4. Barber Shop
5. Beauty salons
6. Consulting offices
7. Contracting offices
8. Data processing
9. Dressmaking, sewing, and tailoring
10. Electronic assembly and repair
11. Engineering services
12. Financial planning and investment services
13. Flower arranging
14. Gardening and landscaping services
15. Home crafts
16. House cleaning services
17. Insurance sales broker
18. Interior design
19. Jewelry making and repair
20. Locksmith
21. Mail order (not including retail sales from the site)
22. Real estate sales broker
23. General sales representative



24. Tutoring

25. Furniture upholstery

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

1. Adult-oriented businesses

2. Large Appliance Repair

3. Automotive repair shops

4. Automotive painting

5. Carpentry/cabinet making

6. Caterers and food vendors

7. Commercial cabinetry shop

8. Dance studios

9. Furniture construction

10. Kennels

11. Machine shops

12. On-site vehicular sales

13. Rental businesses

14. Engine/mechanical repair shops

15. Trucking services

16. Welding shops

17. Other uses not listed as a permitted use.

4.3.14 KENNELS

Kennels are subject to the following requirements:

A. The minimum lot size for a Kennel shall be as outlined in the following:



Number of Animals	Minimum Lot Size (Acres)
1-10	2
11-20	4
21-30	6
<p>Notes:</p> <ol style="list-style-type: none"> 1) The minimum lot size may be waived by the Planning Department if the Kennel is entirely enclosed to protect adjacent uses from noise, odors, and other objectionable characteristics. 2) An additional 10 animals may be added for each additional acre of land over 6 acres. 	

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

4.3.15 MANUFACTURED HOMES

- A. **Purpose.** 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.
- B. **Location.**
 1. No manufactured home shall be permitted in any district for any use other than living or sleeping purposes.

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2. Manufactured homes are permitted only in the R-8 District, and must comply with each of the following:
 - (a) 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.
 - (b) 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 is conducted therein while such manufactured home is so parked or temporarily stored.
 - (c) A temporary building or structure, including construction trailers for office use, is 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.
 - (d) An existing manufactured home 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.

C. Provisions for Manufactured Homes.

1. Class B manufactured homes shall not be permitted in the Town.
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



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- 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 the 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. This provision is encouraged for manufactured homes on land leased to the homeowner (see N.C.G.S. 160D-910(g)).
 - (2) Products and materials manufactured for underpinning shall be installed following the manufacturer's specifications.
 - (3) The under skirting shall be vented in accordance with the North Carolina Building Code.
 - (4) The under skirting 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 outlined in the North Carolina Building Code.



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- (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.

4.3.16 MANUFACTURED HOME PARKS

- A. The creation of manufactured home parks is not allowed in the Town.
- B. Existing manufactured home parks at the time of adoption of this UDO 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.
- C. In manufactured home parks, manufactured homes may be replaced within 180 days of the removal of the home by only Class A manufactured homes that meet the provisions of Section 4.3.13 and other applicable provisions.
- D. 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.
- E. It is the purpose of this Section to provide protection for the public against unwise and hazardous existing manufactured home parks and provide a reasonably safe and sound environment for manufactured home park inhabitants and to:
 - 1. Promote public health, safety, welfare, and orderly residential development.
 - 2. Ensure that every individual manufactured home lot (stand) has safe and efficient vehicular access for residents of the home, emergency vehicles, utility and service vehicles, and others needing access to the park.
 - 3. Provide adequate buffering and screening to ensure privacy and protection for both the residents in the park and adjacent property owners.
 - 4. Provide sufficient open space for outdoor uses essential to the manufactured home.
 - 5. Ensure the furnishing of adequate water supply and sewage disposal systems.
 - 6. Provide an acceptable environment for small communities of manufactured homes.
 - 7. Provide a process by which existing manufactured home parks will be improved to meet the minimum level of safety, sanitation, comfort, and privacy.



4.3.17 MANUFACTURING, LIGHT

Manufacturing, Light in the B-2 General Business District is subject to the following requirements:

- A. All activities shall be conducted entirely within an enclosed building.
- B. Outdoor storage of goods and materials used in the assembly, fabrication, or processing is prohibited.
- C. Total floor area shall not be more than 10,000 square feet per zoning lot.
- D. Business shall not employ more than 20 employees.
- E. Parking and loading requirements shall be per Section 5.4.
- F. Shall meet all North Carolina State environmental standards.

4.3.18 OUTDOOR SEASONAL SALES

Outdoor Season Sales are subject to the following conditions:

- A. Outdoor Seasonal Sales may be open for eight (8) weeks per calendar year.
- B. The use may be located on a vacant lot or a lot occupied by a nonresidential use.
- C. Construction of a permanent building is not permitted.
- D. Storage of goods in or sale of goods from a trailer(s) on the site is prohibited.
- E. Parking may be provided and need not comply with Article F.
- F. The use, including all sale items, parking, and maneuvering shall observe a setback line of 20 feet.
- G. Sale items shall not be located in the sight distance triangle as outlined in Section 5.3.7 Visibility at Intersections.
- H. Any signage shall be per the sign requirements of the underlying zoning district.
- I. The operator is responsible for the removal of any vestige of the outdoor sale including signage.
- J. The owner of the property shall, if not the same as the outdoor seasonal sales operator, give written permission for seasonal sales to the operator.



K. Stands shall be open on two or more sides.

4.3.19 PLANNED UNIT DEVELOPMENT

All Planned Unit Developments must meet the following requirements:

- A. Prior to application, the applicant shall submit a concept plan to the Planning Director for review and non-binding advisory comment by the Town staff and Planning Board in accordance with the regular review schedule. The concept plan shall describe the following:
1. The boundaries of the site;
 2. Significant topographical and other natural features affecting development of the site;
 3. The type, intensity, and approximate location of all uses proposed;
 4. The approximate location on the site of the proposed buildings, structures, and other improvements;
 5. The approximate dimensions, including height, of the proposed buildings and other structures;
 6. The approximate location of all parks, buffers, and protected open space; and
 7. The approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, stormwater facilities, and pedestrian walkways.

The applicant shall consider all comments received and make revisions as appropriate to the project design and plans prior to formal submittal.

- B. Each proposed PUD must follow the process for conditional zoning included in Section 2.10, as modified by the provisions in this section.
- C. Each proposed PUD shall include a development plan that follows the application requirements for a major subdivision included in Section 6.2.8(B).
- D. 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.
- E. A planned unit development shall be located on a site containing at least two (2) contiguous acres.
- F. A PUD may propose any permitted uses in Table 4.1-1 except for those in the Warehousing and Industrial Uses category, as long as all applicable use-specific conditions are addressed.
- G. If land or structures within a proposed PUD are to be sold to more than one person, firm, corporation, or other entity, then the proposed PUD shall be subject to Chapter 6:



Subdivision Regulations. Deviations from said standards may be proposed provided they are stated as part of the PUD Application Requirements.

- H. A minimum of 10 percent of the land area for the PUD shall be a 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. Required open space may not be part of any proposed platted single-family residential lots.
- I. All new planned unit developments shall provide concrete sidewalks along both sides of all existing and proposed public streets within the PUD. Sidewalks shall only be required on the internal side of existing streets that are on the perimeter of the PUD. 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.
- J. The design and layout of a PUD shall consider the relationship of the site of the surrounding areas. Additionally, the perimeter of the PUD shall be so designed as to minimize any negative impact on adjacent properties.
- K. Development of a PUD may be phased, in which case, all the property anticipated for the PUD development shall be submitted as part of the PUD development plan showing a conceptual depiction of the eventual development and approximate phase lines shown. During the phased development of a PUD, 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.
- L. Following a review of the proposed PUD, the Planning Board shall recommend approval or denial of the application and accompanying PUD development plan. The Planning Board may recommend to Town Council approval with such conditions as allowable in Section 2.10.
- M. For an application for a PUD to be approved, the Town Council must find that the proposed development will be compatible with the comprehensive land use plan, and neighborhood development plans, and will not place an excessive traffic load on local streets. Also, 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.
- N. Site development within the PUD shall conform to the PUD development plan and associated requirements of the PUD approved by the Town Council. Modification of the development plan may be made in accordance with the requirements in Section 2.10(I).



4.3.20 RESTAURANTS IN O-I DISTRICT

Restaurants in the O-I district are subject to the following requirements:

- A. Outdoor storage of goods and materials used in assembly, fabrication, or processing is prohibited.
- B. A buffer, as outlined in Section 5.2, is required where such use is adjacent to a residentially zoned area.
- C. Must comply with all state and federal alcohol laws.
- D. Must comply with all other standards of the zoning district having jurisdiction.

4.3.21 TELECOMMUNICATIONS FACILITIES

A. General Guidelines and Requirements:

- 1. Purpose; Goals. The purpose of this subsection is to establish general guidelines for the sighting of towers and antennas. The goals of this subsection are to:
 - (a) Encourage the location of towers in non-residential/non-historical areas, and minimize the total number of towers throughout the community.
 - (b) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
 - (c) Encourage strongly the joint use of new and existing tower sites.
 - (d) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
 - (e) 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.
 - (a) Alternative tower structures may be considered principal or accessory uses.
 - (b) 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.



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3. Administrative Approved Uses. The following uses may be approved by the Zoning Administrator after conducting an administrative review:
- (a) 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 or increase the height of the structure by more than 10%, whichever is greater.
 - (b) 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 or increase the height of the structure by more than 10%, whichever is greater.
 - (c) 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 or increase the height of the structure by more than 10%, whichever is greater.
 - (d) Locating any alternative tower structure in any zoning district if, in the judgment of the Zoning Administrator, it conforms with the goals outlined in Section 4.3.21(A) of this UDO.
 - (e) Replacing an existing tower that adds no more than 20 feet to the overall height of the existing structure.
 - (f) 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:
 - (1) 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 users



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- (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.
- (2) 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 to comply with the requirements of this subsection. Buffering shall be required as stated in Section 5.2.
- (3) 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 to comply with the requirements of this subsection.
- (4) No outside storage shall be allowed on any telecommunication facility site.
- (5) 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.
- (6) 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 the surrounding residential property.
- (7) The minimum lot size requirement shall be under the zoning district where the tower is proposed to be located or the setback requirements of Section 4.3.21(A)(3)(f)(11), whichever is greater.
- (8) The color of the tower shall be neutral, except to the extent required by Federal law, to minimize its visual impact.



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- (9) 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.
- (10) No commercial advertising shall be allowed on the facility's site.
- (11) 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 that 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 the 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 construction of the structure will cause the tower to crumble inward so that in the event of collapse no damage to structures on adjacent zoning lots will result.
- (12) Notice shall be provided to the Zoning Administrator when the tower is placed out of service. Towers that are not used for six (6) months or more shall be removed by the owner within 120 days of receipt of notification to that effect.
- (13) Monopole construction for all new telecommunication towers shall be required. Stealth technology and application are encouraged to be consistent with the surrounding area.
- (14) A telecommunications tower shall not exceed the maximum height of one hundred ninety-nine (199) feet above ground level.
- (g) Locating a telecommunication tower on Town-owned property in any zoning district anywhere in the Town Limits as a principal or accessory use if the Town Manager approves this use of Town property and the Zoning Administrator determines that conforms to goals outlined in Section 4.3.21(A)(1) of this UDO and meets all the requirements of Section 4.3.21(A)(3)(f).



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- (h) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure no more than (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance, whichever is greater.
 - (i) Increasing the square footage of the existing equipment compound by up to 2,500 square feet.
 - (j) Review a collocation of a small wireless facility consistent with the provisions of G.S. 160D-935 – 938.
- B. Pursuant to G.S. 160D-934(b), a collocation or eligible facilities request application is deemed complete unless the Town provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The Town may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, State, and local safety requirements. The Town may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.
- C. Pursuant to G.S. 160D-934(c), the Town shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the Town shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.

4.3.22 TEMPORARY HEALTH CARE STRUCTURES

- A. Definitions. The following definitions shall apply to Temporary Health Care Structures:
- B. Activities of daily living. - Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
- C. Caregiver. - An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first- or second-degree relative of the mentally or physically impaired person for whom the individual is caring.



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- D. First- or second-degree relative. - A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.
 - E. Mentally or physically impaired person. - A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.
 - F. Temporary family health care structure. - A transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.
 - G. The Town of Valdese shall consider a temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.
 - H. The Town of Valdese shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.
 - I. Only one temporary family health care structure shall be allowed on a lot or parcel of land. Such temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.
 - J. Any person proposing to install a temporary family health care structure shall first obtain a permit from the Town of Valdese. The Town of Valdese may require that the applicant provide evidence of compliance. The evidence may involve the annual inspection by the Town of the temporary family health care structure at reasonable times and convenient to the caregiver, not limited to any annual compliance confirmation and annual renewal of the doctor's certification.
 - K. Notwithstanding subsection (i) of this section, any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances,



and other requirements, including Article 11 of this Chapter, as if the temporary family health care structure were permanent real property.

- L. No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.
- M. Any temporary family health care structure installed under this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used or may be reinstated on the property within 60 days of its removal, as applicable.
- N. The Town of Valdese may revoke the permit granted under subsection (e) of this section if the permit holder violates any provision of this section or N.C.G.S. 160A-202. The Town may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or N.C.G.S. 160A-202.
- O. Temporary family health care structures shall be treated as tangible personal property for purposes of taxation.

4.4 PERMITTED ACCESSORY USES AND STRUCTURES

4.4.1 PERMITTED ACCESSORY USES

The following accessory uses are permitted:

- A. Accessory uses and structures that are related to and incidental to the permitted principal use or structure on the lot (see Section 5.3.7).
- B. Fences and Walls: Fences consisting of masonry, rock, wire, or wooden material and hedges may be installed on any residential lot, provided that the height of such fencing or walls shall be limited to a maximum height of four (4) feet in the front yard. Fencing and walls in the side or rear yard of residential property shall be limited to a maximum of eight (8) feet in height. Retaining walls and required screenings shall not be subject to the above height requirements.
- C. Parking Lots (see Section 5.4, Off-Street Parking Requirements).





Town of Valdese, NC Unified Development Ordinance

CHAPTER 5: DEVELOPMENT STANDARDS

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CHAPTER 5: DEVELOPMENT STANDARDS

5.1 APPLICABILITY

5.1.1 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 UDO or amendments thereto, for the district in which it is located.

5.1.2 HEIGHT

No building shall hereafter be erected or altered to exceed the height limit, or to exceed the density regulations of this UDO or amendments thereto, for the district in which it is located.

5.1.3 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 UDO are not maintained, except in cases of street widening.

5.1.4 YARD USE LIMITATIONS

No part of a yard or other open space required around any building to comply with the provisions of this UDO shall be included as a part of a yard or other open space similarly required for another building.

5.1.5 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 Chapters 2, 3, and 4 of this UDO.

5.1.6 BUILDING LOT MUST ADJOIN PUBLIC STREET

No building shall be constructed, erected upon, or moved to any lot that does not adjoin by at least thirty-five (35) feet a publicly dedicated or maintained street or on a private street, that meets the standards of the North Carolina Department of Transportation Street standards as to maintenance, disclosure, and construction except as provided in Section 5.3.2, Provisions for

Landlocked Lots, Section 5.3.9, Provisions for Ten-Acre Exempt Developments, and Section 5.3.10, Provisions for Gated Subdivisions.

5.1.7 NECESSARY REPAIRS PERMITTED

Nothing in this UDO 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.

5.1.8 WATER AND SEWER REQUIREMENTS

The lot sizes for the various districts in Table 3.6-1 of this UDO were drawn based upon the assumption that adequate water supply and sewage disposal systems are available to every lot. The lack of adequate systems for one or both facilities may require larger lot areas or, in some instances, not permit development as intended.

5.2 BUFFERS

5.2.1 INTENT

The purpose of this article is to preserve and protect the health, safety, and general welfare of the residents of the Town of Valdese by promoting the environmental and public benefits of buffers. It is intended to improve compatibility and provide a transition between different zones and preserve the character and aesthetics of an area (see “Buffer” definition in Section 11.2).

5.2.2 STANDARDS

- A. When an industrial and commercial property is developed adjacent to vacant property zoned residential or when nonresidential uses are developed in residential zones, a buffer shall be required.
- B. The planted buffers as provided in Section 5.2 shall be required in all industrial and commercial zones when these areas adjoin residential zones and for all nonresidential uses in residential zones.
- C. All plant types required in this article shall consist of plants at least three (3) feet in height when planted.



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- D. When two (2) rows of plantings are required, plants shall be staggered in a triangular pattern so that there is a plant spaced the required distance apart as specified in Section 5.2.3(D).
 - E. When the existing natural buffer provides adequate screening, the existing buffer should remain. The Zoning Enforcement Officer shall determine if sufficient buffer does exist.
 - F. The buffer shall be shown in detail on the site plan approved by the Town.
 - G. The buffer shall be installed and approved before a certificate of occupancy will be granted except when seasonal weather conditions are not conducive; a temporary certificate of occupancy may be issued for up to ninety (90) days.
 - H. The buffer shall be maintained, and dead and diseased plants replaced by the owner or occupant of the premises. The outside storage of materials shall be prohibited in the area between the planted buffer and the residential district. The owner or occupant of the premises shall properly and continuously maintain this area.
 - I. If a fence is erected on the residential district side of the planted buffer by the party establishing the buffer, the fence shall be one of the following types:
 - 1. A six-foot-high wood, basket weave type fence;
 - 2. A six-foot-high picket type fence;
 - 3. A six-foot-high chain-link type fence;
 - 4. A six-foot-high open type fence; or
 - 5. A six-foot-high solid masonry wall.
 - J. 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.

5.2.3 PLANTING SPECIFICATIONS

- A. Manufacturing-Industrial Zones (M-1) that adjoin 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 5.2.3(D) shall be used, and



the plants shall be located no further apart than the distance indicated for each plant type. The planted buffer area shall be at least ten (10) feet wide.

- B. Commercial or Business Zones (B-1, B-2, O-1) that adjoin 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 5.2.3(D) shall be used, and the plants shall be located no further apart than the distance indicated for each plant type. The planted buffer area shall be at least ten (10) feet wide.
- C. Required buffer heights and topographic considerations: The required height of the planted buffer shall be measured with 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 the said difference in elevation.
- D. Plant types and spacing: Below are listed the types of plants that shall be used in planted buffers and the maximum distance each plant type shall be planted apart. Substitution for another plant type not listed is to be made in writing to the zoning administrator and is subject to verification that the proposed plant will thrive and provide adequate screening. No more than thirty (30) percent of the total plantings in a buffer shall be deciduous plants.

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

5.3 MISCELLANEOUS PROVISIONS

5.3.1 LOT OF RECORD

- A. Where the owner of property consisting of one (1) or more lots of record in any district at the time of adoption of this UDO or his successor in title does not own sufficient contiguous land to conform to the minimum area and width requirements of this UDO, such property may be used as a building site, provided that the requirements of the district are complied with or a variance is obtained from the Board of Adjustment.
- B. Notwithstanding the foregoing, whenever two or more adjoining vacant lots of record are in single ownership at any time after the adoption of this UDO 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 UDO for the district in which such lots are located.
- C. Every lot to be built upon shall adjoin, by at least thirty-five (35) feet, a public street or another public way, and no dwelling shall be placed or built upon a lot that does not adjoin upon a public street or another public way by the same distance except as provided in Section 5.3.2, Provisions for Landlocked Lots, Section 5.3.9 Provisions for Ten-Acre Exempt Development, and Section 5.3.10, Provisions for Gated Subdivisions.

5.3.2 FLAG LOTS

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



5.3.3 PROVISIONS FOR LANDLOCKED LOTS

- A. Existing landlocked lots within the residential zoning district, defined as a lot that does not adjoin a public street by at least thirty-five (35) feet and therefore does not meet the requirement that the lot has 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 all of 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 for this UDO;
 - (2) The recorded documents creating the easement provide 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 include a maintenance agreement specifying the party or parties responsible for maintaining the easement and its traveled surface;
 - (4) The easement has and maintains at all times 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; and
 - (5) The landlocked lot or lots are not subdivided.

5.3.4 FRONT YARD SETBACKS FOR DWELLINGS

The front yard setback requirements of this UDO 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 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.



5.3.5 SETBACKS ALONG THOROUGHFARES

A. Under the authority granted by N.C.G.S. § 160D-916 the following setback requirements shall apply to lots along thoroughfares:

1. The minimum street setbacks for lots in each zoning district that adjoins a thoroughfare shown in the Adopted Thoroughfare Plan shall be measured from the existing right-of-way line for each classification of the 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.

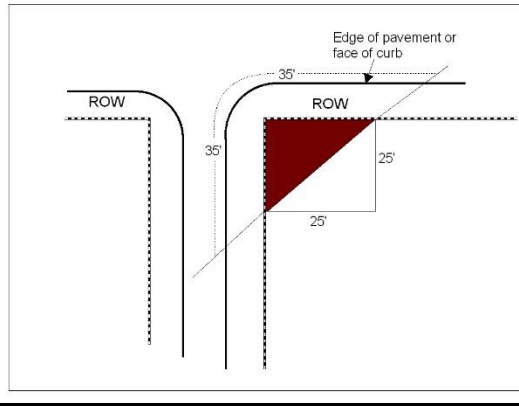
5.3.6 HEIGHT LIMITATIONS

A. The height limitations of this UDO 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 Section 4.3.21.



5.3.7 VISIBILITY AT INTERSECTIONS

A. The minimum development standards outlined in this Section shall apply to land adjoining street intersections delineated as follows:



1. A triangular area formed by:
 - (a) Intersecting the edge of pavement measuring 35 feet in each direction along the pavement edge from the point of intersection, and on the third side by the diagonal line connecting the ends of the 35-foot sides as illustrated; or
 - (b) Starting at the edge of pavement within the roadway, intersect the street right of way lines measuring 25 feet in each direction from the point of intersection along the street right of way, and on the third side by the diagonal line connecting the ends of the 35-foot sides as illustrated
2. Within the triangular areas as described above, and except as provided below, no structure, sign, plant, shrub, tree, berm, fence, wall, or other objects of any kind shall be installed, constructed, set out, or maintained to obstruct cross-visibility at a level that exceeds 30 inches above the level of the center of the street.
3. On streets maintained by the North Carolina Department of Transportation, additional sight distance requirements may apply.
4. In other than 90-degree intersections or where grades mandate, the Town of Valdese may impose additional sight triangles, as long as they begin within the roadway or edge of pavement of a proposed or existing street, as required in N.C.G.S. § 160A-306(b).
5. Exemptions include the following:
 - (a) The restrictions outlined in Section 5.3.6(A) shall not apply to the following:

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

5.3.8 LOCATION OF ACCESSORY BUILDINGS OR STRUCTURES

- A. On any residential lot, except as hereafter provided, accessory buildings shall not be located in any front or side yard, shall not cover more than thirty percent (30%) of any rear yard, and shall be at least five (5) feet from any other building on the same lot and at least twenty (20) feet from any buildings used for human habitation on adjoining lots. Also, the size of the footprint of any accessory structure shall not exceed the size of the total footprint of the principal structure, and the footprint of the accessory structure shall not be greater than 1,000 square feet. 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.
- B. Residential carports may be permitted in the side yard of a single-family dwelling provided such carports meet the side yard setback of a principal structure for the applicable zoning district. For 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.
- C. A detached garage may be permitted in the side or front yard if it follows the requirements in Section 4.3.9.
- D. 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. In addition, the size of the footprint of any accessory structure shall not exceed the size of the total footprint of the principal structure, and the footprint of the accessory structure shall not be greater than 1,000 square feet.

- E. 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 a 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 of five (5) feet from any lot or right of way line.
- F. Swimming pools may be allowed in side yards if all of the following conditions are met:
 - 1. Maximum size of the accessory (swimming pool) shall be 27 feet in diameter;
 - 2. No additional accessory building permitted in the side yard;
 - 3. Minimum setback from any property line shall be 10 feet;
 - 4. Minimum setback from any other building on the same lot shall be 5 feet;
 - 5. The pool, with any surrounding decking, shall not encroach into the front yard; and
 - 6. A 6-ft privacy fence shall be installed around the perimeter of the pool within 60 days following installation.

5.3.9 PROPERTY MAINTENANCE

- A. This section shall apply to all properties within the Town jurisdiction.
- B. Town of Valdese Code Enforcement staff shall have primary responsibility for enforcing this section.
- C. Construction. All new structures shall be designed, constructed, and maintained per the following standards:



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1. All structures shall comply with applicable provisions of this UDO, the North Carolina State Building Code as adopted by N.C. State Building Code Council, the Town Minimum Housing Code, and other development standards that may be adopted and/or amended by the Town from time to time.

D. Maintenance. All structures erected, occupied, or continued under this UDO shall be maintained in good structural condition, in compliance with all applicable codes and provisions of this. Specifically:

1. All existing structures shall comply with applicable provisions of this UDO 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 Minimum Housing Code.
2. A structure shall have no more than 20 percent of its exterior roofs, walls, and other elements of the structure covered with disfigured, cracked, or peeling surface materials for more than 30 consecutive days.
3. A structure shall not be maintained with broken windows, holes in exterior surfaces including roofs and walls, ripped awnings, loose materials, loose elements, or other obvious exterior defects for more than 30 consecutive days. Exterior materials shall form a weather-tight surface with no holes, excessive cracks, or decayed surfaces that permit air to penetrate rooms where such rooms are designed, used, permitted, or intended for human occupancy or use.
4. A structure shall not have weeds, trees, vines, or other vegetation growing upon it greater than 12 inches in height in an untended manner for more than 15 consecutive days.
5. 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.

5.3.10 PROVISIONS FOR 10-ACRE EXEMPT DEVELOPMENTS

- A. Ten-Acre Exempt Developments shall be approved by the Town upon the allowance of a Special Use Permit. Before an application for the permit is approved, there shall be findings that the following general standards are met:
1. The use will not materially endanger public health, safety, and general welfare.
 2. The use:

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

5.3.11 PROVISIONS FOR GATED COMMUNITIES

- A. Gated Subdivisions shall be approved by the Town upon the allowance of a Special Use Permit. Before an application for the permit is approved, there shall be findings that the following general standards are met:
 1. The use will not materially endanger public health, safety, and general welfare.
 2. The use will not substantially injure the value of adjoining or abutting property.
 3. The use is consistent with any adopted area plans that encompass the property subject to the application.
 4. Subdivision roads within gated subdivisions shall remain private.



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5. Subdivision roads shall be paved following the North Carolina Department of Transportation Road Standards and shall comply with the North Carolina Fire Prevention Code standards.
 6. The subdivision gate and access road for ingress and egress shall be compliant with the North Carolina Fire Prevention Code and subject to approval by the Planning Department, Fire Department, Police Department, and Public Works Department.
 7. An easement shall be granted to the Town to guarantee access for Public Safety, Public Works, and Planning Department.
 8. An entity other than the Town, such as property owners, homeowners' association, community group, property management company, or similar type of organizations, shall be responsible for upkeep and maintenance.
 9. The gated ingress/egress areas, along with the exterior gate(s) encompassing the development, shall be kept in working order and shall be repaired and/or replaced in the event they are disabled and/or damaged.
 10. The development shall comply with the requirements outlined in the Code of Chapters Part 5 Municipal Utilities, Chapter 1, Water Supply and Distribution, and Chapter 2, Sewer Collection and Disposal.

5.4 OFF-STREET PARKING REQUIREMENTS

5.4.1 PARKING TO BE REQUIRED AND PERMANENT

- A. Off-street parking space shall be provided per 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 section shall be permanent space and shall not be used for any other purpose.
- C. Each parking space shall be:
 1. Angle parking:
 - (a) 30-degree, 45-degree, 60-degree or 90-degree
 - (b) Minimum nine (9) feet by eighteen (18) feet; or



2. Parallel parking:

(a) Minimum seven (7) feet by twenty (20) feet.

(b) On State of North Carolina maintained roads, an eleven (11) foot lane width is recommended.

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

D. Minimum aisle widths shall be according to the angle of the parking as follows:

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

E. Off-street parking spaces shall not be located in such a manner that parked cars will extend onto a public street or sidewalk.

F. Off-street parking areas shall not be permitted within the front yard in the B-1 Zoning District.

G. Off-street parking areas shall be setback at least 10 feet from any public street.

H. Required off-street parking spaces for any use shall be located no more than 400 feet from the use they are intended to serve. This standard does not apply to parking spaces for auditoriums, stadiums, assembly halls, gymnasiums, hospitals, and other places of assembly.

5.4.2 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 UDO.
- C. Parking in one zoning district in connection with the principle use in another zoning district is permitted so long as all requirements of Section 5.4, 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 30 feet in height and the light direction angle shall not exceed 45 degrees from vertical.

5.4.3 ENFORCEMENT

Each application for a zoning permit 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 UDO are met.

5.4.4 SCHEDULES 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:

USE CLASSIFICATION	PARKING SPACE REQUIREMENT
Single Family	2 for each dwelling unit
Duplex	2 per unit
Group Living Quarters	1 per 4 residents
Senior Housing	1 per unit
Multi-family	1.5 per unit
Commercial	1 space for every 500 square feet of gross floor area
Industrial	1 space for every 500 square feet of gross floor area
Office	1 space for every 500 square feet of gross floor area
Warehouse	1 space for every 4,000 square feet of gross floor area
Civic	1 space for every 500 square feet of gross floor area



High Schools or Colleges and University 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
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5.4.5 REQUIRED LOADING AND UNLOADING

A. Every building or structure used for business, trade, or industry hereafter erected shall provide space as indicated herein for the loading and unloading of vehicles off the street or public right-of-way. Such space shall have access to an alley or street.

For this Section 5.4.5, an off-street loading space shall have a minimum dimension of twelve (12) feet by forty (40) feet and overhead clearance of fourteen (14) feet in height above the alley or street grade.

B. Off-street loading and unloading shall be permanently maintained by the owners and occupants of the following types of property uses on the basis indicated:

1. Retail operations: One (1) loading space for every 5,000 square feet of gross floor area or fraction thereof.
2. Wholesale and industrial operations: One (1) loading space for every 10,000 square feet of gross floor area or fraction thereof.

5.4.6 PARKING LOT DESIGN REQUIREMENTS

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

- A. Be designed to allow for traffic movement following generally accepted geometric design principles;
- B. Have physical access to a public street;
- C. Be so designed that stormwater runoff from the parking area does not create erosion, flooding, or other nuisance condition or hazard, on the parking area property or adjoining properties or roadways. Wherever practicable, runoff shall be directed into existing stormwater 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 UDO

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, exists. Each parking space shall be marked and maintained; and
- 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 following Section 5.4.7(B) to protect residences from light, glare, noise, and fumes.

5.4.7 LANDSCAPING OF PARKING AREAS

- A. 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.
 - 1. 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.
 - 2. All parking areas regardless of size shall meet buffer requirements outlined in Section 5.4.7(C).
- B. Parking area landscaping requirements of this section are as follows:
 - 1. Landscaping shall be placed in a manner that meets the intent of this UDO and shall be maintained.
 - 2. Any fraction of requirements shall be rounded up to the next whole number.
 - 3. Landscaping shall not obstruct the view of motorists using any street, private driveway, parking aisles, or the approach to any street intersection to constitute a traffic hazard.
 - 4. Credit for using existing trees on site greater than or equal to those required by standards shall be two (2) trees for every one tree retained.
 - 5. When using an existing tree, the area under the drip line (maximum extension of branches) of the tree must remain undisturbed. This includes grading, fill, paving, etc.
 - 6. If an existing tree dies, it must be replaced with two (2) trees during the next planting season.



7. If any vegetation dies, replacement is required within the next planting season.

C. Landscaping requirements for interior areas of parking areas:

1. Interior areas are defined in this subsection as the areas within the property used for vehicular storage, parking, or movement.
2. 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.
3. There shall be one (1) large shade tree for every two thousand (2,000) square feet of the total parking area.
4. There shall be one shrub for every one thousand (1,000) square feet of the 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.
5. 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.
6. No vehicular parking space shall be farther than fifty (50) feet from a planting area.
7. No more than fifty (50%) percent of the trees and/or shrubs shall be deciduous.

D. Landscaping requirements for street yards of parking areas:

1. Street yards are defined in this subsection as the area between the public right-of-way and interior area.
2. Street yards are required to be a minimum of ten (10) feet in width.
3. 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.
4. Shrub beds shall meet the following requirements:
 - a. Shrub beds are required every forty (40) feet along the street frontage;
 - b. Each bed shall have:
 - i. An area of fifty (50) square feet minimum; and
 - ii. A minimum of ten (10) shrubs per shrub bed.



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- c. Berms may be used instead of shrubs if they meet all of the following stipulations:
 - i. Berms must be the required height of shrubs with no more than a 3:1 slope;
 - ii. Shorter shrubs may be used in combination with berms as long as the required total height is met;
 - iii. Berms must be capped or topped with groundcover vegetation;
 - iv. Berms shall be grassed;
 - v. Berms must occupy sixty (60%) percent of the frontage area; and
 - vi. 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.

E. Tree and shrub specifications:

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

F. Abutting property landscaping requirements

- 1. Any non-residential use located or developed on property adjoining any residential district, unless separated by a public street or rail right-of-way, shall provide landscaping

as outlined in Section 5.2 Buffers. Landscaping shall be provided even if the adjoining residentially zoned property is vacant. A buffer shall be provided along the full length of any common property line and shall be maintained as long as the conditions requiring the screening exist.

2. Screening for any parking area regardless of use or zoning district shall meet the requirements of Section 5.2.

5.4.8 DUMPSTERS/TRASH CANS

Dumpsters and trash containers shall meet all the requirements of the Solid Waste Chapter as adopted by the Town.

5.4.9 COMPLIANCE WITH STORMWATER AND EROSION CONTROL MEASURES

Parking areas constructed or improved under this UDO shall comply with all applicable stormwater and erosion control standards adopted by the Town.

5.5 SIGN REGULATIONS

5.5.1 PURPOSE

The purpose of this section is:

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



5.5.2 APPLICABILITY

- A. Except as otherwise provided in this UDO, 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. Also, a certificate of occupancy for the change in the use of a property shall require compliance with Section 5.5 Sign Regulations.
- B. Notwithstanding the above, changing or replacing the permanent copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign to render it in violation of this UDO.

5.5.3 GENERAL PROVISIONS

The following provisions shall apply to all signs:

- A. Construction Standards. All signs shall be constructed and installed following the applicable provisions of the North Carolina State Building Code.
- B. Electrical Standards. All illuminated signs shall be installed following the applicable provisions of the North Carolina State Electrical Code and all detached signs shall be illuminated by an underground electrical source.
- C. Maintenance of Signs. All signs shall be maintained in good structural and aesthetic conditions. Deficiencies such as chipped paint, broken plastic, missing letters, and exposed light bulbs shall be evidence of a lack of maintenance.
- D. Content. Content of the message, commercial or non-commercial, is not regulated by this UDO.
- E. No sign shall be placed to obstruct the clear sight triangle at a street intersection.
- F. Whenever the ordinance permits a commercial sign, a non-commercial message may be substituted for the commercial message. The right to substitute the non-commercial message does not waive any other requirement imposed the Town's ordinances as to the number, size, type, construction, location, lighting, safety or other regulated attribute.

5.5.4 DISTRICT CLASSIFICATION

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



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

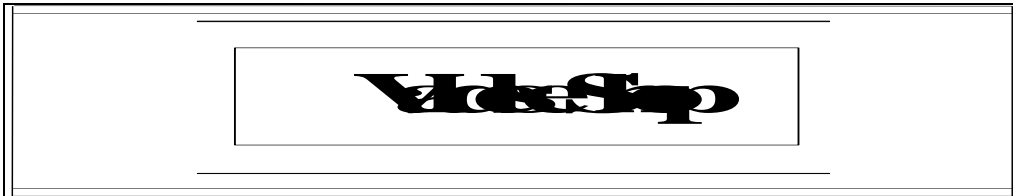
5.5.5 SIGN TYPES

Sign types are defined as follows:

A. Wall Mounted Signs

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

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



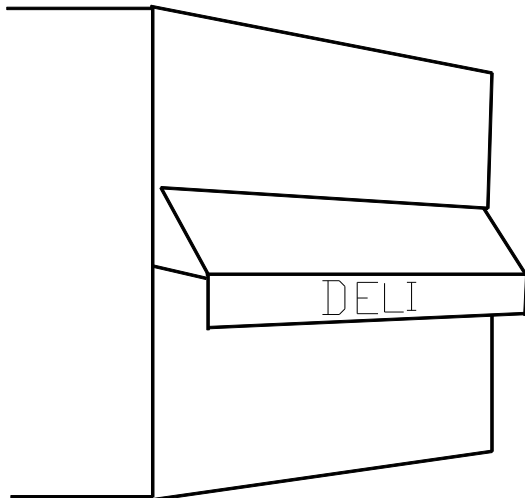
2. A hanging sign is also a wall sign. A hanging sign is suspended from a simple bracket attached to a building wall and requires 9 or more feet of vertical clearance from the ground.

It is most appropriately used along pedestrian-oriented streets to identify attached or closely spaced shops, restaurants, and service businesses. Only one hanging sign is

permitted per building or business bay (in a multi-tenant building). The sign face area does not include the area of the bracket. A hanging sign may project no more than 5 feet from the building wall. It may project up to 5 feet over a sidewalk in a town-maintained right-of-way (or state ROW if permitted). However, in any case, the sign shall not be closer than 3 feet to power or other utility line or the outside edge of street pavement.



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



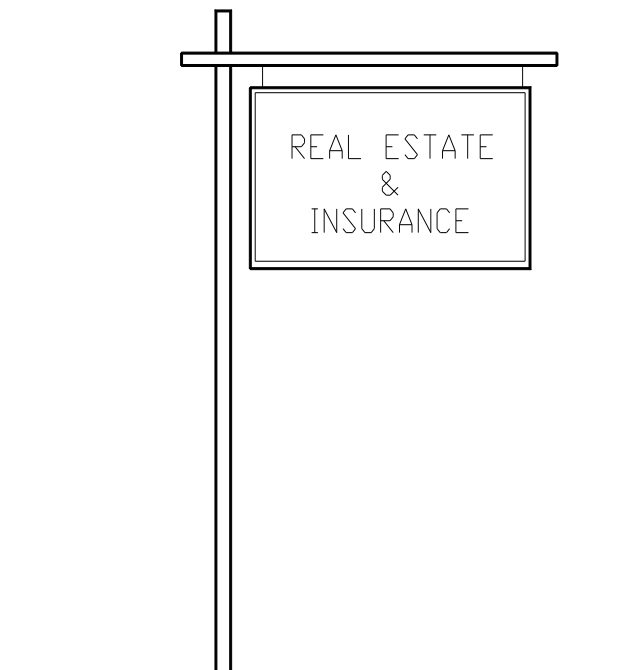
B. Ground Mounted Signs are defined as follows:

1. A monument sign is mounted generally flush with the ground plane. It may not be mounted on a pole or pylon, nor raised by mounting on a man-made berm, wall, or similar structure. Supporting elements may not exceed three feet in height and are

included in the measurement of sign height. All signs shall be set back at least ten (10) feet from any property or right-of-way line.



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



5.5.6 SIGN MEASUREMENT

- A. Sign Face Area: the area within a single, continuous perimeter enclosing the characters, lettering, logos, illustrations, and ornamentation, together with any material or color-forming an integral part of the display or used to differentiate the sign from the background against which it is placed.

- B. Sign Height: The distance from the ground plane beneath the sign to the highest point of the sign’s frame. Ornamentation atop signs, such as small caps and spires, are not included in the height measurement.

5.5.7 PERMANENT ON-PREMISES SIGNS REQUIRING A PERMIT

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

<p style="text-align: center;">INSTITUTIONAL IN ANY DISTRICT</p> <p>Wall Mounted Sign: 1 square foot of sign surface area for every linear foot of building frontage up to a maximum of 75 square feet</p> <p style="text-align: center;"><u>Ground Mounted Sign</u> (Only Monument Style Permitted)</p> <ul style="list-style-type: none"> • Maximum Number: 1 per street front • Maximum Area: 50 square feet • Maximum Height: 10 feet • Setback: Must be setback at least 10 feet from any right-of-way or property line. <p>For the purpose of this section, institutional facilities include public schools, libraries, and buildings operated by the Town of Valdese.</p>	<p style="text-align: center;">ANY BUILDING TYPE IN A MIXED USE DISTRICT EXCEPT A SINGLE-FAMILY HOUSE (B-1, O-I, FP)</p> <p style="text-align: center;"><u>Wall Mounted Sign</u></p> <ul style="list-style-type: none"> • 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. • 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 style="text-align: center;"><u>Ground Mounted Sign</u></p> <ul style="list-style-type: none"> • 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 style="text-align: center;"><u>Flag Signs Prohibited</u></p>
<p style="text-align: center;">ANY BUILDING TYPE IN A COMMERCIAL DISTRICT EXCEPT SINGLE-FAMILY HOUSE (B-2, M-1)</p> <p style="text-align: center;"><u>Wall Mounted Sign</u></p> <ul style="list-style-type: none"> • One (1) wall sign shall be permitted for each principal building frontage or storefront of an individual bay or store. • Wall signs shall be limited to one (1) square foot per linear foot of principal building front façade, not to exceed one hundred twenty (120) square feet for any single sign. • Each secondary business is allowed Secondary Business Sign (<i>defined in Section 9-3106</i>), up to a maximum area of sixty (60) square feet. • Notwithstanding the above, the total area of all wall mounted signs shall not exceed 10% of the applicable wall face area. <p style="text-align: center;"><u>Ground Mounted Sign</u> (Only Monument Style Permitted)</p> <ul style="list-style-type: none"> • Maximum Number: 1 per street front • Maximum Area: 50 square feet • Maximum Height: 12 feet • Setback: Must be setback at least 10 feet from any right-of-way or property line. 	<p style="text-align: center;">PLANNED DEVELOPMENT ENTRANCE SIGN</p> <ul style="list-style-type: none"> • Maximum Number: 1 per street front • 2 sign faces may be used with a wall, fence, or other architectural entrance feature • Maximum Area: 24 square feet • Maximum Height: 8 feet • (permitted for all-residential, mixed use, and non-residential projects of 10 acres or more) • Limited to name and/or logo

5.5.8 ELECTRONIC MESSAGE SIGNS

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

1. Electronic Message Signs are prohibited in all zoning districts unless used in connection with the Town of Valdese or public-school facilities.
2. Graphic images are prohibited.
3. Each message on the sign must be displayed for a minimum of *eight (8) seconds*.
4. The message must be complete during the duration of the display, without continuation in content to the next image. Transitions from one static message to the next shall appear instantaneous without the appearance of movement of any kind.
5. Such displays shall contain static messages only, and shall not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement or appearance of movement of any illumination or the flashing, scintillating or varying of light intensity.
6. Each static message display shall be limited to one monochrome color display on a solid black background at any one time and have a medium resolution true pixel pitch of no greater than twenty (20) mm. Full-color display is permitted provided such signs have a high-resolution true pitch of ten (10) mm or less.
7. The level of direct or indirect illumination on the vertical surface of any electronic message sign shall not exceed three (3) foot candles for wall-mounted and two (2) foot candles for ground-mounted signs.
8. The electronic message sign shall not exceed fifteen (15) square feet or seventy (70) inches diagonally.
9. Electronic Message Display Signs must meet all other requirements for on premise signs.

B. Limited Exceptions:

1. Time, Date, and Temperature (TDT) Signs display area shall not exceed five (5) square feet per face, and shall not be included in the allowable sign area provided such displays collocated within an existing sign.
2. Petroleum Digital Price Signage:



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- (a) The display area shall not exceed ten (10) square feet, and illuminated numerals shall not exceed twelve (12) inches in height.
 - (b) Signs shall be collocated on an approved ground-mounted or pole mounted sign
 - (c) The digital display area shall not be calculated as part of the total allowable display area
 - (d) The sign may contain single-faced or double-faced display areas.
3. Lottery signs shall be limited to a maximum of two square feet and subject to the requirements outlined in Section 5.5.8. Lottery signs shall not be calculated as part of the allowable display area.

5.5.9 PERMANENT OFF-PREMISE SIGNS

- A. To direct the public-at-large to non-commercial community facilities of general interest, permanent off-premises directional signs may be erected in addition to signs otherwise permitted in these regulations.
- B. This authorization is limited to non-commercial public service directional signs.
- C. Non-Commercial Public Service Directional Signs are permitted subject to the following standards:
 - 1. The community facility is open to the general public and operated by a non-commercial civic, charitable, religious, community, or similar organization.
 - 2. No more than 2 directional signs shall be erected for each facility.
 - 3. Signs may not exceed 4 square feet in area or 5 feet in height.
 - 4. Signs may be placed no more than one mile from the subject property.
 - 5. Along state roads, such signs shall be located outside of the right-of-way or farther than 11 feet from the edge of any public street, whichever distance from the edge of pavement is greater; signs shall not violate the sight distance triangle requirements of this UDO.
 - 6. Along town-maintained roads, such signs shall be located outside of the right-of-way or farther than 11 feet from the edge of any public street, whichever distance from the edge of pavement is greater; signs shall not violate the sight distance triangle requirements of this UDO.



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7. No sign shall be placed on private property without the written consent of the property owner on the permit application.
 8. Every Non-Commercial Public Service Directional Sign shall be separated by a distance of 400 feet from any other such sign on the same side of the street and by a distance of 200 feet from any other such sign on the opposite side of a street.

5.5.10 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.

5.5.11 TEMPORARY SIGNS REQUIRING A PERMIT

- A. Properties being offered for sale or lease, or properties undergoing construction or development may post temporary signs on site, subject to the requirements below:
 1. Signs at the front of the development:
 - a. Only one primary sign and two secondary signs shall be allowed per street in front of the development.
 - b. The maximum sign face area of a primary sign shall not exceed 32 square feet; the 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; the 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. The signs shall be removed within 72 hours after the sale, lease, or rental of the property, or after a request has been submitted to the Town or its designees for a final inspection of the completed development on the property.



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2. Temporary directional signs within a planned development, but not visible from the road(s) fronting the overall development:
 - a. Shall be permitted so long as such signs do not exceed 12 square feet in sign area, 6 feet in height, and are removed upon completion of the portion of the project to which the signs are giving direction.
 - B. Flag signs shall be allowed in the B-2 General Business and M-1 Manufacturing Districts, provided they meet the following requirements:
 1. One (1) sign shall be permitted per property;
 2. Signs can be erected up to 14 days per calendar year; and
 3. The sign cannot be located inside any public right-of-way.

5.5.12 TEMPORARY OFF-PREMISE SIGNS REQUIRING APPROVAL

The following temporary off-premise signs are permitted subject to the standards below.

- A. Temporary off-premise signs or banners for special community events open to the general public, provided:
 1. At least five business days before signs are to be posted, the designated representative of the sponsoring group shall provide a sign installation and removal plan for review by the Zoning Enforcement Officer, who shall grant written permission for signs to be posted if the standards in this section are met.
 - a. 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 the edge of pavement is greater; signs shall respect the sight distance triangle.
 - b. Signs or banners may be posted up to 14 days before the event and must be removed within 7 days following the event.
 2. 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.
 3. 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 the written consent of the owner.

- B. Real estate signs not exceeding a total of 2 square feet in sign face area shall be permitted.
- C. Temporary cross-street banners for community events may be approved by the Town Manager according to policies established by the Town Council.

5.5.13 SIGNS PERMITTED WITHOUT A PERMIT

- A. Notwithstanding the above, changing or replacing the permanent copy on a lawful sign shall not require a permit provided the copy change does not change the nature of the sign to render it in violation of this UDO.
- B. 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 UDO.
 - 1. Historical markers erected by a government body, memorial signs, plaques, or grave markers.
 - 2. Public interest signs.
 - 3. Public information kiosks on public or private property, subject to design approval by the Town Council and written permission of the owner of the property upon which the kiosk is to be placed.
 - 4. On-premises directional and instructional signs not exceeding 6 square feet in area, unless such sign is a monument sign, in which case it may not exceed 9 square feet. Maximum height: 4 feet.
 - 5. Identification signs not exceeding 2 square feet in area, not of a commercial nature, and bearing only property identification numbers and names, post office box numbers, and names of occupants of the premises. Maximum height: 4 feet.
 - 6. Window signs shall be allowed on the inside or outside window glass of non-residential properties provided that they cover an area with a total copy area not exceeding 50 percent of the window or glass. Open/closed signs shall be included in the total window sign area.
 - 7. Incidental signs used in conjunction with equipment or other functional elements of use or operation. These shall include but are not limited to, drive-thru window menu boards, signs of automatic teller machines, gas pumps, express mailboxes, vending machines, or newspaper delivery boxes.

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8. Official flags on permanent poles, emblems, or insignia of government, corporation, professional, fraternal, civic, religious organizations.
 9. Political Signs provided that:
 - a. Political signs located in the right of way along NCDOT maintained roads are subject to N.C.G.S. § 136-32.
 - b. Political signs located in the right of way along local roads subject to the requirements of N.C.G.S. § 136-32, as amended, including the following:
 - i. The permittee must obtain the permission of any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected.
 - ii. Signs must be placed in accordance with the following:
 - a. No sign shall be permitted in the right-of-way of a fully controlled access highway.
 - b. No sign shall be closer than three feet from the edge of the pavement of the road.
 - c. No sign shall obscure motorist visibility at an intersection.
 - d. No sign shall be higher than 42 inches above the edge of the pavement of the road.
 - e. No sign shall be larger than 864 square inches in area.
 - f. No sign shall obscure or replace another sign.
 - c. Political signs are prohibited on Town-owned property, except when the Town property is being used as a polling site.
 - i. In such cases, political signs may only be placed on the Town property starting one day before the election, and must be removed the day after the election.
 10. The following temporary signs are allowed on residential property at any time, provided they meet the following requirements:
 - a. A property owner may place no more than one sign;



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- b. The sign face shall be no larger than four (4) square feet in area.
11. Signs on property that is being offered for sale or lease, other than the temporary signs described in Section 5.5.11, provided they meet the following requirements:
- a. Signs located on a single-family home or lot, a duplex, triplex, or quad, or an individual unit within an attached housing development shall not exceed 6 square feet. Maximum height: 4 feet.
 - b. Signs located on all other uses shall not exceed one square foot for every 5 linear feet of frontage of the advertised property, up to a maximum sign face area of 32 square feet and a maximum height of 6 feet.
 - c. Only one sign per street front of the advertised property shall be erected.
 - d. Properties having a continuous frontage over 850 linear feet may be allowed additional sign so long as such sign is no closer than 850 feet from another real estate sign on the property.
 - e. Signs shall not be illuminated.
 - f. Signs shall be removed within 7 days after the sale is closed or rent or lease transaction is finalized.
12. Signs on property undergoing construction or development, other than the temporary signs described in Section 5.5.11, provided they meet the following requirements:
- a. Signs located on single-family lots or duplex, triplex, or quadruplex lots shall not exceed 6 square feet in area. Rider signs not exceeding 2 square feet in area shall be permitted in addition to the 6 square feet. Maximum height: 4 feet.
 - b. Signs for all other uses shall not exceed one square foot for every 5 linear feet of frontage of property under construction, up to a maximum sign face area of 32 square feet and a maximum height of 6 feet.
 - c. Signs are confined to the site of construction.
 - d. Only one sign per street front of the property under construction shall be erected.
 - e. Signs shall not be illuminated.
 - f. Signs shall be removed within 7 days of the termination of a project.



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13. Temporary signs on properties selling farm products provided they meet the following requirements:
 - 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.
 14. Temporary special event signs or banners, 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.
 15. Temporary banners in the commercial and mixed-use district, provided they meet the following requirements:
 - 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. All banners shall be considered temporary banners.
 16. Signs in association with athletic fields, provided they meet the following requirements:
 - a. Signs may only be posted with the permission of the property owner.



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- b. 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:
 - i. No sign face area shall be visible from any public street or any adjoining property in a residential or mixed-use district.
 - ii. No sign shall extend above the top of the enclosing fence.

17. Open/Closed Signs, provided they meet the following requirements:

- a. Illuminated or non-illuminated
- b. Shall not exceed 2 square feet in surface area.

5.5.14 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 Town of Valdese Planning Board.

5.5.15 PLANNED DEVELOPMENT FLEXIBILITY OPTION

- A. To provide flexibility and incentives for coordinated, well-designed sign systems for large-scale development, special provisions varying the standards of this UDO may be approved by the Town Council.
- B. 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 requirements:
 - 1. The development shall be:
 - a. A planned residential, nonresidential, or mixed use development;
 - b. 10 acres or greater in size;
 - c. 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:

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- 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 three (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.

5.5.16 PROHIBITED SIGNS

The following signs are prohibited in all zoning districts:

- A. Signs attached to utility poles, street signs, or placed on Town-owned property; other than those signs approved by the Town or the North Carolina Department of Transportation as outlined in G.S. 136-32 may be removed;
- B. Roof signs;
- C. Portable signs;
- D. Flashing, fluttering, swinging, rotating, and electronic scrolling signs; provided, however, electronic time and/or temperature signs are permitted.
- E. Signs that by their position, illumination size, shape or color, obstruct, impair, obscure, or interfere with traffic signs, signal devices, or visibility at intersections (see Section 5.3.6 Visibility at Intersections);



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- F. Vehicular signs as defined in Section 11.2 of this UDO;
 - G. Off-premise signs, including Outdoor Advertising Signs. See Sections 5.5.8 and 5.5.12, special exceptions for certain non-commercial signs (Example: directional signs, real-estate directional signs, etc.). Town-owned directional signs are not prohibited by this Section;
 - H. Obsolete signs: Signs that do not comply with the provisions of this UDO and identify or advertise a use that has ceased operation for one year or more. Obsolete signs shall be removed;
 - I. Signs which use a series of two or more signs placed in a line parallel to a street or highway right-of-way, or similar fashion, all carrying a single advertising message, part of which is contained on each sign;
 - J. Other signs not expressly allowed by this UDO;
 - K. Any sign that incorporates a television screen, a computer screen, electronic images, or electronic characters that do not meet the standards for Electronic Message Signs;
 - L. Any illuminated tubing is not permitted, including but not limited to those outlining property lines, open sales areas, rooflines, doors, windows, landscaping, or the edges of the wall, except for perimeter down-lighting that is shielded to illuminate open sales areas but no land outside those areas;
 - M. Illuminated signs in any residential district, except as provided in Section 5.5.8; and
 - N. Electronic Message Signs, unless expressly permitted by this UDO.

5.5.17 APPLICATION AND ISSUANCE OF SIGNS PERMITS

- A. Application: Applications for permits, if required, 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 or the Burke County 911 Address Chapter, whichever is applicable; and
7. Other information as the Zoning Enforcement Officer may require determining full compliance with this and other applicable codes.

B. Issuance of Permit

1. 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.
2. If the proposed sign is following all the requirements of this UDO and other applicable codes, a permit will be issued.
3. Any permit issued under 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.
4. 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.

C. Fees: To obtain a sign permit, all fees, under the requirements of the permitting agency, shall be paid.

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



5.5.18 UNLAWFUL CUTTING OF TREES AND SHRUBS

No person may, to increase or enhance the visibility of any sign, damage, trim, destroy or remove any trees, shrubs, or other vegetation located:

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





Town of Valdese, NC Unified Development Ordinance

CHAPTER 6: SUBDIVISION REGULATIONS

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CHAPTER 6: SUBDIVISION REGULATIONS

6.1 GENERAL PROVISIONS

6.1.1 PURPOSE

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

6.1.2 SERVICES AND PERMITS

- A. No street shall be accepted and maintained by the Town;
- B. Nor shall any street lighting, water, or sewer be extended to nor connect with any subdivision of land;
- C. Nor shall any permit be issued by an administrative agent or department of the Town for the construction of any building or other improvement requiring a permit upon any land for which plat approval is required, unless and until the requirements outlined in this chapter have been complied with.

6.1.3 PREREQUISITE TO PLAN RECORDING

After the effective date of this UDO, each major subdivision plat of land within the Town's jurisdiction shall be approved by the Town Council following a recommendation from the Planning Board before plat recordation. Minor subdivisions, as defined in the chapter, shall be approved by the Subdivision Administrator before plat recordation. Nothing herein compels the approval of any proposed subdivision by the Town Council or the Subdivision Administrator except under the provisions of this chapter.

6.1.4 REGISTRATION OF PLATS

Registration of all plats shall be in accordance with N.C.G.S. § 47-30.

6.1.4 THOROUGHFARE PLANS

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

6.1.5 SCHOOL SITES ON LAND USE PLAN

- A. N.C.G.S. § 160D-804 provides for the reservation of school sites under a comprehensive land-use plan approved by the Town Council.
- B. Prior to approval of a proposed school site, the Town Council and the Burke County Board of Education shall jointly determine the specific location and size of any school sites to be reserved, which information shall appear in the comprehensive land-use plan.
- C. Whenever a subdivision is submitted for approval which includes part or all of a school site to be reserved under the plan, the Town shall immediately notify the Board of Education, and the Board of Education shall promptly decide whether it still wishes the site to be reserved.
 - 1. If the Board of Education does not wish to reserve the site, it shall so notify the Town of Valdese, and no site shall be reserved.
 - 2. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without such reservation.
 - (a) The Board of Education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings.

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- (b) If the Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the subdivider may treat the land as free of the reservation.

6.1.6 ZONING AND OTHER PLANS

Proposed subdivisions must comply in all respects with the zoning requirements and other requirements of this UDO and with the requirements of any other adopted plans.

6.2 PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

6.2.1 APPROVAL PREREQUISITE TO PLAT RECORDATION

No final plat of a general subdivision within the jurisdiction of the Town as established in Section 1.2.1 Jurisdictions shall be recorded by the Register of deeds of Burke County until it has been approved by the proper board or official as provided herein. To secure such approval of a final plat, the subdivider shall follow the procedures established in this UDO.

6.2.2 PLAT REQUIRED

Under 160D, Article 8 of the North Carolina General Statutes, a final plat shall be prepared, approved, and recorded according to the provisions of this UDO whenever any subdivision of land takes place. Whenever any manipulation of property lines or property boundaries takes place within the jurisdiction of the Town as established in Section 1.2.1 Jurisdictions of this UDO that is exempt from these regulations as provided by Section 11.2 of this UDO, a plat displaying such change must be presented to the Subdivision Administrator. Each plat must be accompanied by a fee outlined in the Town's Fee Schedule.

6.2.3 MINOR SUBDIVISION APPROVAL PROCESS

- A. Property owners or their authorized agents may apply to the Planning Director for minor subdivision approval.
- B. If the land to be subdivided meets the requirements of a minor subdivision as defined in Section 11.2, the subdivider will not have to follow the same procedures as for a major subdivision.
- C. The Subdivision Administrator shall review and have authority to approve minor subdivision plats that meet the applicable UDO requirements.

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- D. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or a representative to make applications for development approvals.
 - E. The developer of a **minor subdivision** shall obtain all required permits and provide all necessary information related to water, sewer, sediment/erosion control, stormwater control, stream assessment, wetland assessment, and watershed, historical and archeological sites.
 - F. The review process for a minor subdivision shall be adequate to protect the public interest but shall also provide minimum delay and expense to the subdivider. A preliminary plat is not required. The developer may go from a sketch plan to a final plat if the Subdivision Administrator determines that the applicant's sketch plan is on track to meet all applicable UDO requirements. However, the following minor plat approval process may be used only where the subdivision meets the requirements of a minor subdivision as defined in Section 11.2.

6.2.4 PROCEDURE FOR REVIEW OF MINOR SUBDIVISION

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

- A. A sketch vicinity map showing the location of the subdivision with neighboring tracts, subdivisions, roads, and waterways;
- B. The boundaries of the entire tract and the portion of the tract to be subdivided;
- C. The total acreage to be subdivided;
- D. The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;
- E. The existing street layout and right-of-way width, lot layout, and size of lots;
- F. The name, address, and telephone number of the owner;
- G. The name, if any, of the proposed subdivision;
- H. Streets and lots of adjacent developed or platted properties; and
- I. The zoning classification of the tract of land and adjacent properties.

6.2.5 REVIEW PROCEDURE

- A. The Subdivision Administrator shall review the sketch plan for general compliance with the requirements of this chapter and shall advise the subdivider or his agent of the regulations of the proposed minor subdivision and the procedures to be followed in the preparation and submission of the final plat.
- B. Upon approval of the sketch plan, the subdivider shall be advised that the final plat may be prepared as long as it conforms to the sketch plan. The approval of the sketch plan shall in no way be construed as constituting official approval of the final plat.
- C. A copy of the sketch plan shall be retained as part of the files of the Subdivision Administrator, with the original drawing being returned to the subdivider or his authorized agent.

6.2.6 FINAL PLAT APPROVAL FOR MINOR SUBDIVISIONS

- A. The Subdivision Administrator shall review the final plat for complete compliance with the requirements outlined for final plat approval of these minor subdivision regulations. The final plat shall be complete and show all information required for final plats in Section 6.2.8(C) and all certifications and notarizations required in Section 6.2.7 Certifications to Be Depicted on Plat for final plat approval of a minor subdivision.
- B. The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the state by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements outlined in N.C.G.S. § 47-30, as amended, and the Manual of Practice for Land Surveying in North Carolina. In the event of a conflict between the provisions for plats, subdivision, and mapping requirements outlined in N.C.G.S. § 47-30 as amended and the Manual of Practice for Land Surveying in North Carolina, the provisions as outlined in N.C.G.S. § 47-50, as amended, shall control.
- C. Three copies of the final plat shall be submitted to the Subdivision Administrator. One of these shall be on reproducible material; two shall be black or blue line paper prints. Material and drawing medium for the original shall be following the Manual of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Burke County Register of Deeds. In the event of a conflict between material and drawing medium for the original as outlined in the Manual of Practice for Land Surveying in North Carolina and the requirements of the Burke County Register of Deeds, the requirements of the Burke County Register of Deeds shall control.

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

6.2.7 CERTIFICATIONS TO BE DEPICTED ON PLAT

The final plat shall meet the specifications in Section 6.2.10. The following certificates shall appear on all three copies of the final plat:

- A. Certificate of ownership and dedication:

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

Owner

Date

- B. Certificate of survey and accuracy:

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

State of North Carolina

Burke County

I, _____ certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book __, Page __, Book __, Page __, etc.) (Other); the ratio of precision as calculated by latitudes and departures is 1: __

(that the boundaries not surveyed are shown as broken lines plotted from information found in Book ___, Page ___); that this map was prepared following G.S. 47-30 as amended.

Witness my hand and seal this ___ day of _____ 20__.

Registered Land Surveyor

Official Seal

Registration Number

C. Under N.C.G.S. § 47-30, the following certificate must be included on the final plat:

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

D. During his review of the final plat, the Subdivision Administrator may appoint an engineer or surveyor to confirm the accuracy of the final plat. If substantial errors are found, the

cost shall be charged to the subdivider, and the plat shall not be recommended for approval until such errors have been corrected.

- E. If the Subdivision Administrator finds that the minor subdivision final plat is in full compliance with the requirements of this article, the administrator may then sign the following certification:

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

Subdivision Administrator

Date

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

6.2.8 MAJOR SUBDIVISION APPROVAL PROCESS

Applicants for major subdivisions shall comply with the following requirements.

- A. **Sketch Plan for Major Subdivisions:** Prior to the preliminary plat submission, the subdivider shall submit to the Subdivision Administrator a sketch plan of the proposed subdivision for review and comment containing the following information:
1. A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
 2. The boundaries of the tract and the portion of the tract to be subdivided;
 3. The total acreage to be subdivided;

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

B. Preliminary Plat – Submission Review

1. For every subdivision within the territorial jurisdiction established by Section 1.2.1 of this UDO which does not qualify for the abbreviated minor subdivision procedure, the subdivider shall submit a preliminary plat which shall be reviewed and approved by the Planning Board before any construction or installation of improvements may begin.
2. Eight copies of the preliminary plat (as well as any additional copies which the Subdivision Administrator determines are needed to be sent to other agencies) shall be submitted to the Subdivision Administrator at least 20 days before the Planning Board meeting at which the subdivider desires the Planning Board to review the preliminary plat. The Subdivision Administrator shall review the preliminary plat for general compliance with the requirements of this UDO and any other applicable Chapters and shall advise the subdivider or his authorized agent of the procedures to be followed in the preparation and submission of the preliminary and final plats. This review shall in no way be construed as constituting an official action of approval for the recording of the subdivision by the Planning Board or the Town Council as required by this UDO.
3. Submission of the preliminary plat shall be accompanied by the fee as outlined in the Town's Fee Schedule.
4. Preliminary plats shall be of a suitable size for recording with the Burke County Register of Deeds and shall be at a scale of no less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines. (Reference to Section 6.2.10(C) and 6.2.2)
5. Preliminary plats shall meet the specifications in Section 6.2.10(F). For the purposes of this ordinance, no application shall be considered to have been submitted until it is complete.

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6. After having received the preliminary plat from the subdivider, the Subdivision Administrator shall submit copies of the preliminary plat and any other accompanying material to other officials or agencies concerned with new development including, but not limited to:
 - (a) The district highway engineer as to proposed streets, highways, and drainage systems;
 - (b) The County Environmental Health Director or Town of Valdese Public Works Director as to proposed water or sanitary sewer systems; and
 - (c) Any other agency or official designated by the Planning Board or other Town official.
 7. The Planning Board shall review the preliminary plat at or before its next regularly scheduled meeting, which follows at least 20 days after the Subdivision Administrator receives the preliminary plat and the comments from the appropriate agencies.
 8. The Planning Board shall, in writing, recommend approval, special approval with recommended changes to bring the plat into compliance, or disapproval with reasons within 20 days of its first consideration of the plat.
 9. If the Planning Board recommends approval of the preliminary plat, it shall retain one copy of the plat for its minutes and transmit two copies of the plat to the Town Council with its recommendation.
 10. If the Planning Board recommends special approval of the preliminary plat, it shall keep one copy of the plat for its minutes, transmit two copies of the plat and its recommendation to the Town Council, and return the remaining copies of the plat and its recommendation to the subdivider.
 11. If the Planning Board recommends disapproval of the preliminary plat, it shall retain one copy of the plat for its minutes, transmit two copies of the plat and its recommendation to the Town Council, and return the remaining copies of the plat and its recommendation to the subdivider.
 12. If the Planning Board does not make a written recommendation within 30 days after its first consideration of the plat, the subdivider may apply to the Town Council for approval or disapproval.
 13. If the Planning Board recommends disapproval of the preliminary plat, the subdivider may request the preliminary plat be presented to the Town Council at its next regularly scheduled meeting for consideration.

14. If the Town Council approves the preliminary plat, such approval shall be noted on two plats. One plat shall be retained by the Town Council, and one copy shall be returned to the subdivider. If the Town Council approves the preliminary plat with conditions, approval shall be noted on two plats along with a reference to the conditions. One plat along with the conditions shall be retained by the Town Council, and one preliminary plat along with the conditions shall be returned to the subdivider. If the Town Council disapproves of the preliminary plat, the reasons for such disapproval shall be specified in writing. One plat and the reasons shall be retained by the Town Council, and one plat shall be returned to the subdivider.

C. Information to Be Contained or Depicted on the Preliminary and Final Plats

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

INFORMATION	Preliminary	Final
Title Block Containing <ul style="list-style-type: none"> ▪ Property designation ▪ Name of Owner ▪ Location (including township, county, and state) ▪ Date or dates survey was conducted and plat prepared ▪ A scale of drawing in feet per inch listed in words or figures ▪ A bar graph. ▪ Name, address, registration number of the registered land surveyor 	X	X
Name of the subdivider	X	X
A sketch vicinity map showing the relationship between the proposed subdivision and the surrounding area.	X	X
Corporate limits, township boundaries, county lines if on the subdivision tract	X	X
Names, addresses, and telephone numbers of all owners, registered land surveyors, land planners, architects, landscape architects, and professional engineers responsible for the subdivision	X	X
Registration numbers and seals of professional engineers	X	X

The boundaries of the tract, or portion thereof, to be subdivided, distinctly, and accurately represented with all bearings and distances shown.	X	X
North arrow and orientation	X	X
The names of owners of adjacent properties	X	X
The exact boundary lines of the tract to be subdivided fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands.	X	X
The names of any adjoining subdivisions of record or proposed and under review.	X	X
The zoning classifications of the tract to be subdivided and adjoining properties.	X	X
Existing property lines of the tract to be subdivided and adjoining properties.	X	X
Existing buildings or other structures watercourses, railroads, bridges, culverts, storm drains on the land to be subdivided and land immediately adjoining.	X	X
Proposed lot lines, lot and block numbers, and approximate dimensions	X	X
Lots numbered consecutively throughout the subdivision.		X
Wooded areas, marshes, swamps, rock outcrops, ponds, lakes, streams, streambeds, and any other natural features affecting the site.	X	X
<ul style="list-style-type: none"> ▪ The exact location of the flood hazard, floodway, and floodway fringe from the community's FEMA maps ▪ Base flood elevation data for subdivisions that contain at least five (5) lots or fifty acres, whichever is less 	X	X

STREET INFORMATION	Preliminary	Final
Proposed streets	X	X
Existing and platted streets on adjoining properties and in the proposed subdivision	X	X
Rights-of-way locations and dimensions	X	X
Pavement widths	X	X
Design engineering data for all corners and curves	X	X
Typical street cross-sections	X	X
Street names	X	X
Street maintenance agreement following Section 6.4.5 and 6.4.6 of thisUDO.		X

Type of street dedication; all streets must be designated “public” or “private.” <i>Where public streets are involved which will be dedicated to the Town, the subdivider must submit all street plans to the Subdivision Administrator for approval before preliminary plat approval.</i> <i>Where public streets are involved which will not be dedicated to the Town, the subdivider shall supply the Subdivision Administrator with all the appropriate documentation for NCDOT District Highway Office review and approval.</i>	X	X
Where streets are to be dedicated to the public but have not been accepted into the Town or the state system before lots are sold, a statement explaining the status of the streets is following Section 6.4.6 of this UDO.		X
If any street is proposed to intersect with a state-maintained road, the subdivider shall apply for driveway approval as required by the NCDOT, Division of Highways’ Manual on Driveway Regulations.		X
Evidence that the subdivider has obtained such approval	X	X

OPEN/COMMON/PUBLIC SPACE	Preliminary	Final
Location of all easements	X	X
Trails	X	X
Natural buffers	X	X
Pedestrian or bicycle paths	X	X
Parks and recreation areas with specific type indicated	X	X
School sites	X	X
Areas to be dedicated to or reserved for public use	X	X
Areas to be used for purposes other than residential with the purposes of each stated	X	X

The future ownership of recreation and open space lands.	X	X
<i>Dedication or reservation for public use to the governmental body, for owners to duly constituted homeowners' association, or for tenants remaining in subdivider's ownership.</i>		

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

Plans for individual water supply and sewerage disposal systems, if any	X	X
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SITE CALCULATIONS	Preliminary	Final
Acreage in the total tract to be subdivided	X	X
Acreage in parks and recreation areas, and other non-residential uses	X	X
Total number of parcels created	X	X
The acreage of each lot in the subdivision	X	X
Linear feet in streets	X	
The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the US Department of Interior's National Register of Historic Places	X	X
Sufficient data to determine readily and reproduce on the ground the location, bearing, and length of every street line, lot line, boundary line (with errors of closure), block line, and building line, whether curved or straight and including true north point. This should include the radius, central angle, point of tangency, tangent distance and arcs, and chords of all curved streets and curved property lines. All dimensions should be to the nearest one-tenth (1/10) of a foot and angles to the nearest minute.		X
The accurate location and description of all monuments, markers, and control points		X
A copy of any proposed deed restrictions or similar covenants. Such restrictions are mandatory when private recreation areas are established	X	X

A copy of the erosion control plan is submitted to the appropriate authority if such a plan is required.	X	X
A topographic map with contour intervals of no greater than 20 ft. at a scale of no less than 1:24,000.	X	
All certifications required in Section 6.2.7		X
Any other information considered by either the subdivider, Planning Board or Town Council to be pertinent to the review of the plat.	X	X

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

6.2.9 IMPROVEMENTS AND PERFORMANCE GUARANTEES

A. Improvements Installation

1. Upon the approval of the preliminary plat by the Planning Board and Town Council, the subdivider may proceed with the preparation of the final plat and install the required improvements or arrange for the installation of the required improvements following the approved preliminary plat and the requirements of this UDO.
2. Before approval of a final plat, the subdivider shall have completed the installation of the improvements or provided guarantees of such installation, as specified in this UDO.

B. Town Participation and Costs

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

C. Performance Guarantees

1. Following approval of the preliminary plat by the Town Council, the subdivider, may proceed with the preparation of the final plat and the installation of or arrangement for required improvements following the approved preliminary plat and the requirements

of this UDO. Before approval of a final plat, the subdivider shall have installed the improvements specified in this UDO or guaranteed their installation as provided herein.

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

2. Instead of requiring the completion, installation, and dedication of all improvements before final plat approval, the Town may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. Once the said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Town Council if all other requirements of this UDO are met. To secure this agreement, the subdivider shall provide, subject to the approval of Town Council, either one or a combination of the following “performance Guarantees” in N.C.G.S. § 160D-804.1:
 - (a) Surety performance bond(s). The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina.
 - (b) Letter of Credit. An irrevocable letter of credit or other instruments readily convertible into cash at face value, either with the Town or in escrow with a financial institution designated as an official depository of the Town.
 - (c) Equivalent Security. The subdivider shall provide a form of guarantee that provides equivalent security to a surety bond or letter of credit
3. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with Town Council an agreement between the financial institution and himself guaranteeing the following:
 - (a) That the escrow account shall be held in trust until released by the Town Council and may not be used or pledged by the subdivider in any other matter during the term of escrow; and
 - (b) That in case of a failure on the part of the subdivider to complete said improvements, the financial institution shall, upon notification by the Town Council, and submission by Town Council to the financial institution of an engineer’s estimate of the amount needed to complete the improvements, immediately either pay to

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

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

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

6. Extension - If the current performance guarantee is likely to expire before completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued if the developer has demonstrated reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee. Such extension shall only be for duration necessary to complete the required improvements. Any extension or new guarantee required hereunder shall be provided to the planning director no later than 120 days prior to the expiration of the then-effective performance guarantee. If a new performance guarantee is issued, the amount shall not exceed 125% of the total cost of all incomplete improvements.

7. Inspection – The Town shall conduct an inspection of the improvements subject to a performance guarantee within 30 days of a request received from a developer and advise the developer whether the improvements are completed to the required specifications. In the event the Town and developer disagree whether a required improvement is completed to the specifications of the Town, a developer may obtain a certification under seal from a licensed professional engineer that the required improvements have been completed to the specifications of the Town.

8. Release - The performance guarantee shall be returned or released, as appropriate, within 30 days upon the acknowledgement by the Town that the improvements for which the performance guarantee is being required are complete. complete or upon receipt of a certification under seal from a professional engineer that the required improvements have been completed to the specification of the Town. The Town shall return letters of credit or

escrowed funds within 30 days upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to Town acceptance. When required improvements that are secured by a bond are completed to the specifications of the Town, or are accepted by the Town, if subject to its acceptance, upon request by the developer, the Town shall timely provide written acknowledgement that the required improvements have been completed.

9. Timing. – The Town, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation.

10. Coverage. – The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion. No performance guarantee may be required for maintenance of any improvement once the improvement is completed to the specification of the Town or upon receipt of a certification under seal from a professional engineer that the required improvements have been completed to the specification of the Town.

11. Legal responsibilities. – No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:

a. The local government to whom the performance guarantee is provided.

b. The developer at whose request or for whose benefit the performance guarantee is given.

c. The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the developer.

12. Multiple guarantees. – The developer shall have the option to post one type of a performance guarantee as provided for in subdivision (1) of this section, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.

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

D. Defects Guarantee

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

E. Final Plat Review

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

6.2.10 FINAL PLAT APPROVAL PROCESS

A. Final Plat Approval

1. The final plat may be approved for only that portion of the preliminary plat, which the subdivider proposes to record and develop; however, all properties on the final plat shall conform to all requirements of this UDO.
2. No final plat shall be approved unless and until the subdivider shall have installed, in that area represented on the final plat, all improvements required by this UDO (or shall have guaranteed their installation as provided for in Section 6.2.9 of this UDO and all permanent reference points described in Article D of this chapter).

B. Plats Submitted

1. The subdivider shall submit five (5) copies of the final plat, so marked, to the Subdivision Administrator not less than twenty (20) days before the Planning Board meeting at which the approval of the plat is to be considered. One additional copy shall be prepared under N.C.G.S. § 47-30 and shall bear all the required certifications outlined in Section 6.2.7 of this UDO, at which time it will be considered for approval.

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

C. Size of Plat and Scale

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

D. Plats Prepared

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

E. Certifications Required

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

1. CERTIFICATION OF OWNERSHIP AND DEDICATION

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

(Notary Statement)

2. CERTIFICATE OF SURVEY AND ACCURACY

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

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

Registered Land Surveyor	Official Seal

License or Registration Number	

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

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

Valdese Town Manager

Date

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

CERTIFICATION OF APPROVAL BY THE PLANNING BOARD

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

Chairman, Town of Valdese Planning Board

Date

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

CERTIFICATION OF APPROVAL BY THE TOWN COUNCIL

Certificate of Approval for Recording

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

Town Clerk, Town of Valdese

Date

6. CERTIFICATE OF PRIVATE STREET DESIGNATION

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

Subdivider or Agent

7. CERTIFICATE OF REVIEW OFFICER APPROVAL

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

F. Contents Required

The final plat shall depict or contain the information listed in Section 6.2.8(C). Plats not illustrating or containing the data listed in Section 6.2.8(C) shall be returned by the Subdivision Administrator to the subdivider or his authorized agent for completion and resubmission.

6.2.11 FINAL PLAT REVIEW PROCEDURE

Final plats shall be reviewed according to the following procedure:

A. Planning Board Review

1. The Planning Board shall approve or disapprove the final plat within thirty (30) days of its first consideration. During its review of the final plat, the Planning Board may appoint an engineer or surveyor to confirm the accuracy of the final plat. If substantial errors are found, the costs shall be charged to the subdivider, and the plat shall not be approved until such errors have been corrected.
2. If the Planning Board disapproves of the final plat, the Subdivision Administrator shall state in writing its reasons for such action, specifying the provisions of this UDO with which the plat does not comply. One copy of this statement shall be transmitted to the subdivider within fifteen (15) days of disapproval, and one copy shall be retained by the Planning Board as part of its proceedings. If the final plat is disapproved, the subdivider

may make such changes as will bring the plat into compliance with the provisions of this UDO and resubmit same for reconsideration by the Planning Board.

B. Town Council Review

1. Upon approval of the final plat by the Planning Board, the Town Council shall review and approve or disapprove the plat at its next regularly scheduled meeting, which takes place at least fifteen (15) days after the Planning Board submits its recommendation. This applies only if the Planning Board recommendation is submitted at least fifteen (15) days before the Town Councils' regularly scheduled meeting.
2. If the final plat is disapproved by the Town Council, the reasons for such disapproval shall be stated in writing, specifying the provision(s) of this UDO with which the final plat does not comply. One (1) copy of such reasons shall be retained by the Town Council as a part of its proceedings, one (1) copy shall be transmitted to the Subdivision Administrator, and one (1) copy shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance with this UDO and resubmit same for consideration by the Planning Board as identified in Section 6.2.11(A).

C. Disposition of Copies

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

D. Recording the Final Plat

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

E. Re-subdivision Procedures

For any re-platting or re-subdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision. Lot sizes may, however, be varied on an approved plan after recording, provided that:

-
1. No lot or tract of land shall be created or sold that is smaller than the size shown on the approved plan;
 2. Drainage, easements, or rights-of-way shall not be changed;
 3. Street alignment and block sizes shall not be changed;
 4. The property line between the back of the lots shall not be changed;
 5. The rear portion of lots shall not be subdivided from the front parts; and
 6. The character of the area shall be maintained.

F. Recombination of Land

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

6.2.12 APPEALS OF PLAT DECISIONS MADE BY TOWN COUNCIL

Appeals of preliminary and final plat decisions made by the Town Council must be filed with Superior Court in the manner described in NCGS 160D-1403.

6.3 INSTALLATION OF PERMANENT REFERENCE POINTS AND IMPROVEMENTS

6.3.1 PERMANENT REFERENCE POINTS

A. Location of Permanent Reference Points

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

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

6.3.2 PUBLIC SITES AND OPEN SPACES

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

6.3.3 ACCESS TO PARKS, SCHOOLS, ETC.

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

6.3.4 RESTRICTIONS ON LAND SUBJECT TO FLOODING

- A. Lots that are subject to flooding shall not be established in subdivisions to create residential building sites except as herein provided. Where the developer proposes to provide a levee or raise the floor elevations above the flood level, an engineering report shall accompany the subdivision application.
- B. If there is any watercourse of any type running through or within one hundred and fifty (150) feet of the property proposed for subdividing, the prospective subdivider shall furnish reasonable evidence to the Planning Board that residential lots within the subdivision will not be flooded.
- C. No proposed residential building lot shown that is wholly subject to flooding shall be approved.
- D. The Town of Valdese will utilize the most current Flood Insurance Rate Map (FIRM).

6.3.5 DESIGN STANDARDS AND REQUIRED IMPROVEMENTS

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

6.4 REQUIRED IMPROVEMENTS, DEDICATION, AND RESERVATION

6.4.1 GENERAL REQUIREMENTS

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

6.4.2 CONFORMITY TO EXISTING MAPS OR PLANS

The location and width of all proposed streets shall conform to the official plans, the adopted thoroughfare plan, maps of the Town of Valdese, and existing or amended plans of the Planning

Board. Property owners must reserve the required right-of-way for proposed road improvements identified in the adopted thoroughfare plan when developing the property.

6.4.3 CONTINUATION OF EXISTING ROADS

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

6.4.4 ACCESS TO ADJACENT PROPERTIES

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

6.4.5 PRIVATE STREETS

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

6.4.6 SUBDIVISION STREET DISCLOSURE STATEMENT

- A. All streets shown on the final plat shall be designated following G.S. 136-102.6 as either public or private. The designation of the streets as public shall be conclusively presumed as an offer of dedication to the public.
- B. Where streets are dedicated to the public but not accepted into the Town's municipal system, before lots are sold, a statement explaining the status of the street shall be included in the final plat.
- C. For all private streets, a disclosure statement naming the responsible party for street maintenance shall be included on the final plat per Section 6.2.10(E)(6).

6.4.7 LARGE TRACTS AND PARCELS

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

6.4.8 LOTS

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

6.4.9 FLAG LOTS

The Planning Board may approve flag lots in exceptional cases where it is impractical to serve an isolated lot by a public street.

- A. The frontage of the flag lot shall have a minimum width of thirty-five (35) feet providing an access strip between two (2) regular lots to the isolated building site.
- B. The area of such strip shall be excluded in computing the lot area and width, and the length of said strip shall not exceed one hundred (100) feet.
- C. The lot must be able to meet all dimensional and size requirements of the designated zoning district.

6.4.10 CONTOUR MAPS

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

6.4.11 STREET NAMES

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

6.5 DESIGN STANDARDS

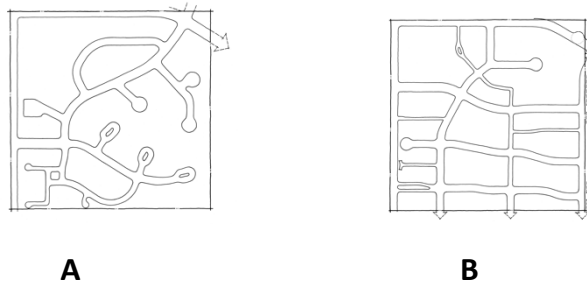
6.5.1 GENERAL STANDARDS

- A. The following design standards shall be considered minimum requirements unless the subdivision qualifies as a Hillside Subdivision (See Section 6.5.8) or the Cluster Design Open Space option is used (See Section 6.5.7).
- B. Streets or roads of types not listed in the following standards, such as arterials, shall meet the requirements of the Thoroughfare Plan, the NCDOT, and the Planning Board.

6.5.2 PUBLIC STREETS

A. Interconnected Street Pattern.

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



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

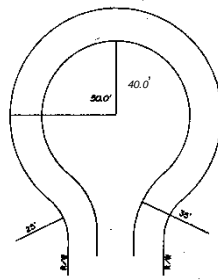
B. Right of Way Widths.

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

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

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

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



C. Pavement Widths.

Width for local roads and streets shall be as follows:

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

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

D. Grades.

Street grades shall be as follows:

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

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

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

E. Horizontal Curves.

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

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

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

1. Vertical Curves.

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

2. Intersections.

Streets shall be laid out as follows:

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

3. Cul-de-sacs.

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

4. Marginal Access Streets.

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

5. Nonresidential Streets.

- (a) The subdivider of a nonresidential subdivision shall provide streets following the NCDOT Division of Highways' Subdivision Roads Minimum Construction Standards, July 1, 1985, as amended, and the standard of this UDO, whichever are stricter regarding each particular item.

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- (b) Cross-access between adjacent commercial subdivisions, existing and new, is strongly encouraged wherever possible.

6. Access Points.

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

6.5.3 BLOCKS

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

A. Length.

Block lengths shall not exceed twelve hundred (1200) feet nor be less than four hundred (400) feet. Where deemed necessary by the Planning Board, a pedestrian path easement of at least ten (10) feet in width may be required.

B. Widths.

Blocks shall be wide enough to allow two tiers of lots of minimum depth, except where fronting on major streets or prevented by topographic conditions or adjoining a water area, in which case a single tier of lots may be approved.

C. Block Numbers.

Block numbers shall conform to the Town street numbering system, if applicable.

6.5.4 LOT DESIGNS

A. General

1. All lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located.

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2. Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of the zoning district. It is not sufficient merely for the average lot to meet zoning requirements.

B. Lots

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

C. Arrangement

1. All lots shall front upon a public or private street.
2. Every lot must front for at least thirty-five (35) feet on a public or private street.
3. Insofar as practical, side lot lines shall be at right angles to straight lines or radial to curved street lines.
4. Double frontage lots shall be avoided wherever possible except where marginal access streets will be provided as per Section 6.5.2(E)(4).

D. Lake Frontage Lots

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

E. Area

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

F. Width

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

G. Depth

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

H. Orientation of Lot Lines

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

I. Building Setback Lines

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

J. Easements

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

K. Stormwater Drainage

1. The subdivision must meet the latest adopted requirements specified by the state sediment and erosion control program, Town of Valdese watershed protection ordinance, Phase II Storm Water Ordinance, national flood insurance program, US Army Corp of Engineers regulations (Section 404 of the Clean Water Act), and any other jurisdictional requirements under local, State, and Federal rules or laws. Terms used in

this section are as defined in the North Carolina Erosion and Sediment Control Planning and Design Manual.

2. Where curbs and gutters are constructed, they shall be under the standards of the North Carolina Department of Transportation's "Guidelines for Curb Cuts and Ramps for Handicapped Persons."
3. No surface water shall be channeled or directed into a sanitary sewer.
4. Where feasible, the subdivider shall connect the stormwater drainage system to an existing storm drainage system.
5. Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.
6. Surface drainage courses shall have side slopes of at least three (3) feet or horizontal distance for each one (1) foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each one hundred (100) feet of horizontal distance.
7. Where a subdivision is or will be traversed by a watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and an additional width of twelve and one-half (12.5) feet of the said lines of the watercourse for the construction and maintenance.
8. Where storm sewers, drains, and structures are installed, they shall be of a size and type and location as required by this UDO, Town of Valdese standards, and good engineering practices.
 - (a) The minimum size of storm drains shall be fifteen (15) inches in diameter.
 - (b) The design flow for storm sewer collectors shall be at least a ten (10) year storm frequency and the design flow shall be at a twenty-five (25) year storm frequency for culverts and storm sewers crossing streets.
 - (c) Storm drains carrying water from the street right-of-way shall be placed along lot lines where feasible and shall extend for a distance of thirty-five (35) feet minimum back of the building line.

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- (d) All off-street storm drains or extensions shall be installed initially by the subdivider, and the responsibilities thereafter shall be transferred to the purchaser(s) (or property owners association if applicable).
 - (e) Such extensions shall have permanent easements centered with the pipe.
 - (f) The utility easement shall be of width determined necessary for maintenance purposes by the Town of Valdese Public Works Department based upon enclosure depth, topography, and location of existing and proposed improvements, but no less than 20 feet.
 - (g) The Town shall have a right to enter for maintenance purposes where it determines that the public health, safety, or general welfare constitutes a public necessity for such maintenance. However, the Town does not otherwise maintain off-street storm drains.
 - (h) Where easements are required, they shall be noted on the Final Plat.
9. All pipes in street rights-of-way shall be constructed of N.C. Department of Transportation approved plastic, reinforced concrete, corrugated aluminum, or aluminized steel.
10. Culverts shall be provided to accommodate all-natural water flow and shall be sufficient length to permit a full-width roadway and the required slopes.
- (a) Cross drains shall be built on straight line, and grade shall be laid on a firm base but not on rock.
 - (b) Pipes shall be laid with the spigot pointing in the direction of the flow and with the end filled and matched to provide tight joints and a smooth, uniform invert.
 - (c) They shall be placed at a sufficient depth below the roadbed to avoid dangerous pressure of impact, and in no case shall the top of the pipe be less than one foot (1') below the roadbed.
11. Where off-site runoff is to be conveyed through the subdivision, the design of pipes and/or channels shall be based on the full build-out of the off-site drainage area(s) based on current zoning.
12. Where stormwater is released from a storm drainage system, whether onto the developed tract or to an off-site tract, the water shall be released in a non-erosive manner such that downstream properties are not damaged. Such protection shall be designed based on the design storm applicable to the storm drainage system.

6.5.5 WATER AND SEWER UTILITIES

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

6.5.6 PEDESTRIAN WALKWAYS

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

6.5.7 CLUSTER DEVELOPMENT AND PLANNED UNIT DEVELOPMENT

- A. Purpose:
 - 1. The purpose of providing for the clustering of development and the resultant open space is to offer recreation at or near each home, to improve the appearance of the area through the preservation of green space, to counter the undesirable effects of urban congestion and monotony, and to encourage group participation in community activities by all ages on a local block or neighborhood basis. This assists in building community and personal stability and security. Local parks, recreation areas, and other spaces in a planned neighborhood pattern are intended to conserve areas of natural beauty, encourage cooperative relationships between neighbors, and help promote public health, safety, and general welfare.
 - 2. The purpose of this Section is to provide an alternative subdivision procedure for single-family use; or governed by the minimum lot size requirements of this Subdivision Ordinance (see Section 6.5.4).
 - (a) This is to be accomplished by permitting the density of dwelling units contemplated by the minimum lot size requirements to be maintained on an overall basis when

applied to specific tracts of land and thereby provide for desirable and proper open space.

- (b) Cluster subdivisions shall follow requirements for planned unit developments in Subsections A, C, D, E, G, H, I, J, and K of Section 4.3.19.

6.5.8 HILLSIDE SUBDIVISIONS

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

1. **Widths:** The public or private street shall have a right-of-way of not less than fifty (50) feet, except that a right-of-way of forty (40) feet will be permitted if a reduced width is essentially unavoidable and is approved by the Planning Board.
2. **Cul-de-sacs:**
 - (a) Permanent dead-end streets are strongly discouraged except when required by extreme topography, water, or other natural features.
 - (b) The required turnaround on a dead-end private street in a hillside subdivision shall have a roadway diameter of not less than fifty (50) feet and a right-of-way diameter of not less than sixty (60) feet.
 - (c) If the street length does not exceed three hundred (300) feet and if construction difficulties will not permit a turnaround, the use of a “Y” or a “T” or other turning space of a design such as will allow a vehicle with a wheelbase of at least twenty (20) feet to complete a turning movement with a maximum of one backing movement, may be permitted if approved by the Planning Board.
3. **Grading**
 - (a) Grading will not be required for the full right-of-way in hillside subdivisions if the Planning Board determines that full grading will prevent convenient access to adjoining property or will destroy the natural beauty of the site by excessive cut and fill.
 - (b) However, where the slope extends beyond the right-of-way, slope easements shall be added where needed. The easement shall extend ten (10) feet beyond the top of the cut where cut exceeds fifteen (15) feet vertically.

4. Street Grades

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

5. Street Improvements for Hillside Subdivisions

Hillside Subdivisions shall comply with the following standards for Pavement:

- (a) Pavement widths shall not be less than specified in Section 6.5.2 and 6.4.5 except where the average cross slope is sixteen percent (16%) or greater, pavement widths may be reduced with Planning Board approval as follows:
 - (1) Where the average cross slope is between sixteen percent (16%) and thirty-three percent (33%), minimum pavement width may be reduced to eighteen (18) feet.
 - (2) Where the average cross slope is greater than thirty-three percent (33%), no street shall be constructed.
 - (3) Where pavement width is reduced, on-street parking shall not be permitted.

6. Hillside Lots

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



Town of Valdese, NC Unified Development Ordinance

CHAPTER 7: FLOOD DAMAGE PREVENTION

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CHAPTER 7: FLOOD DAMAGE PREVENTION

7.1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, OBJECTIVE, AND SEVERABILITY

7.1.1 STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Town Council of Valdese, North Carolina, does ordain as follows:

7.1.2 FINDINGS OF FACT

- A. The flood prone areas within the jurisdiction of the town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

7.1.3 SEVERABILITY

If any section, clause, sentence, or phrase of this Chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Chapter.

7.1.4 STATEMENT OF PURPOSE

It is the purpose of this chapter to promote public health, safety, and general welfare and to public and private losses due to flood conditions within flood prone areas by provisions designed to:

- A. Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;



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- B. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
 - C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
 - D. Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
 - E. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands. (Ord. of 8/6/07)

7.1.5 OBJECTIVES

The objectives of this chapter are to:

- A. Protect human life, safety, and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business losses and interruptions;
- E. Minimize damage to private and public property due to flooding;
- F. Make flood insurance available to the community through the National Flood Insurance Program;
- G. Maintain the natural and beneficial functions of floodplains;
- H. Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- I. Ensure that potential buyers are aware that property is in a special flood hazard area.

7.1.6 SEVERABILITY

If any section, clause, sentence, or phrase of this chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this chapter.



7.2 GENERAL PROVISIONS

7.2.1 LANDS TO WHICH CHAPTER APPLIES

This chapter shall apply to all special flood hazard areas within the jurisdiction of the town.

7.2.2 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its flood insurance study (FIS) for Burke County dated September 5, 2007, and the most recent associated digital flood insurance rate map (DFIRM) panels, including any digital data developed as part of the FIS, and all revisions thereto.

7.2.3 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of Section 7.2.2 of this chapter.

7.2.4 COMPLIANCE

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this chapter and other applicable regulations.

7.2.5 ABROGATION AND GREATER RESTRICTIONS

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

7.2.6 INTERPRETATION

In the interpretation and application of this chapter all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.



7.2.7 WARNING AND DISCLAIMER OF LIABILITY

- A. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes.
- B. This chapter does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages.
- C. This chapter shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

7.2.8 PENALTIES FOR VIOLATION

- A. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished for each offense by a fine not exceeding two hundred dollars (\$200.00) or imprisonment not to exceed thirty (30) days, or both.
- B. In addition to the misdemeanor penalty, a violation of this chapter shall also be a civil offense and shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) each day such violation continues. Each day's continuing violation shall be considered a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.

7.3 ADMINISTRATION

7.3.1 DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Town Planning Director or his designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this chapter.

7.3.2 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS

- A. Application requirements. Application for a floodplain development permit shall be made to the Floodplain Administrator prior to any development activities located within special



flood hazard areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

1. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - (b) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in Section 7.2.2 of this chapter, or a statement that the entire lot is within the special flood hazard area;
 - (c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 7.2.2 of this chapter;
 - (d) The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 7.2.2 of this chapter;
 - (e) The base flood elevation (BFE) where provided as set forth in Section 7.2.2, Section 7.3.3, or Section 7.4.3 of this chapter;
 - (f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - (g) The certification of the plot plan by a registered land surveyor or professional engineer.
2. Proposed elevation, and method thereof, of all development within a special flood hazard area including but not limited to:
 - (a) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (b) Elevation in relation to NAVD 1988 to which any nonresidential structure in zone AE, A or AO will be flood-proofed; and
 - (c) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed;
3. If floodproofing, a floodproofing certificate using the current form from the Federal Emergency Management Agency (FEMA) with supporting data and an operational plan



that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

4. A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this chapter are met. These details include but are not limited to:
 - (a) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
 - (b) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 7.4.2(D)(3) when solid foundation perimeter walls are used in zones A, AO, AE, and A1-30;
 5. Usage details of any enclosed areas below the lowest floor.
 6. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
 7. Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received.
 8. Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of Section 7.4.2(F) and (G) of this chapter are met.
 9. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- B. Permit requirements. The floodplain development permit shall include, but not be limited to:
1. A description of the development to be permitted under the floodplain development permit.
 2. The special flood hazard area determination for the proposed development in accordance with available data specified in Section 7.2.2.

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3. The regulatory flood protection elevation required for the reference level and all attendant utilities.
 4. The regulatory flood protection elevation required for the protection of all public utilities.
 5. All certification submittal requirements with timelines.
 6. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Section 7.4.5 have been met.
 7. The flood openings requirements.
 8. Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).
 9. A statement, that all materials below BFE/RFPE must be flood resistant materials.

C. Certification requirements.

1. Elevation certificates.
 - (a) An elevation certificate using the current form from the Federal Emergency Management Agency (FEMA) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
 - (b) A final as-built elevation certificate using the current form from the Federal Emergency Management Agency (FEMA) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built



construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.

2. Floodproofing certificate.

(a) If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate using the current form from the Federal Emergency Management Agency (FEMA), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Flood proofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

3. If a manufactured home is placed within zone A, AO, AE, or A1-30 and the elevation of the chassis is more than thirty-six (36) inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 7.4.2(C)(2).

4. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

5. Certification exemptions. The following structures, if located within zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

(a) Recreational vehicles meeting requirements of Section 7.4.2(F)(1);

(b) Temporary structures meeting requirements of Section 7.4.2(G); and

(1) Accessory structures less than one hundred fifty (150) square feet meeting requirements of Section 7.4.2(H).

D. Determinations for existing buildings and structures.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

7.3.3 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- A. Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this chapter have been satisfied.
- B. Advise permittee that additional federal or state permits (wetlands, endangered species, erosion and sedimentation control, riparian buffers, mining, etc.) may be required.



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- C. Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
 - D. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
 - E. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 7.4.5 are met.
 - F. Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with Section 7.3.2(A)(11).
 - G. Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 7.3.2(A)(11).
 - H. Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Section 7.3.2(A)(11).
 - I. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Section 7.3.2(A)(11) and Section 7.4.2(B).
 - J. Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.
 - K. When base flood elevation (BFE) data has not been provided in accordance with Section 7.2.2, obtain, review, and reasonably utilize any base flood elevation (BFE) data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Section 7.4.3 and 7.4.4, in order to administer the provisions of this chapter.
 - L. When base flood elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with Section 7.2.2, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this chapter.
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- M. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the base flood elevation, advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. Maintain a copy of the letter of map amendment (LOMA) issued by FEMA in the floodplain development permit file.
- N. Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- O. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- P. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- Q. Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.
- R. Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.



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- S. Follow through with corrective procedures of Section 7.3.4.
 - T. Review, provide input, and make recommendations for variance requests.
 - U. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with Section 7.2.2 of this chapter, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.
 - V. Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-F) and letters of map revision (LOMR).

7.3.4 CORRECTIVE PROCEDURES

- A. Violations to be corrected. When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- B. Actions in event of failure to take corrective action. If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - 1. That the building or property is in violation of the floodplain management regulations;
 - 2. That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - 3. That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- C. Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the flood damage prevention ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than 180 (one hundred eighty) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.



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- D. Appeal. Any owner who has received an order to take corrective action may appeal the order to the Board of Adjustment by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
 - E. Failure to comply with order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

7.3.5 VARIANCE PROCEDURES

- A. The Board of Adjustment as established by the Town, hereinafter referred to as the “appeal board,” shall hear and decide requests for variances from the requirements of this chapter.
- B. Any person aggrieved by the decision of the appeal board may appeal such decision to superior court, as provided in N.C. General Statutes Chapter 160D-406(k).
 - 1. Public notice for the Board of Adjustment public hearing to decide the case shall be provided consistent with the public notice requirements for quasi-judicial cases specified in Section 2.3.5(A)(1)(a).
- C. Variances may be issued for:
 - 1. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
 - 2. Functionally dependent facilities if determined to meet the definition as stated in Section 7.5 of the UDO, provided provisions of Sections 7.3.5(I)(2), (I)(3), and (I)(5) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
 - 3. Any other type of development, provided it meets the requirements of this section.
- D. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter and:
 - 1. The danger that materials may be swept onto other lands to the injury of others;



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2. The danger to life and property due to flooding or erosion damage;
 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 4. The importance of the services provided by the proposed facility to the community;
 5. The necessity to the facility of a waterfront location as defined in Section 7.5 of the UDO as a functionally dependent facility, where applicable;
 6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 7. The compatibility of the proposed use with existing and anticipated development;
 8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- E. A written report addressing each of the above factors shall be submitted with the application for a variance.
- F. Upon consideration of the factors listed above and the purposes of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this chapter.
- G. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the base flood elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to twenty-five dollars (\$25.00) per one hundred dollars (\$100.00) of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.



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- H. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- I. Conditions for variances.
1. Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 2. Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 4. Variances shall only be issued prior to development permit approval.
 5. Variances shall only be issued upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 6. A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met.
 - (a) The use serves a critical need in the community.
 - (b) No feasible location exists for the use outside the special flood hazard area.
 - (c) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
 - (d) The use complies with all other applicable federal, state and local laws.



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- (e) The town has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

7.4 PROVISIONS FOR FLOOD HAZARD REDUCTION

7.4.1 GENERAL STANDARDS

In all special flood hazard areas the following provisions are required:

- A. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- B. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- C. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- D. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
- E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- G. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- H. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this chapter, shall meet the requirements of “new construction” as contained in this chapter.
- I. Nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially



within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter.

- J. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 7.3.5(l)(6). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of Section 7.3.2(A)(11).
- K. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- L. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- M. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- N. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- O. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.
- P. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

7.4.2 SPECIFIC STANDARDS

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in Section 7.2.2, Section 7.4.3, the following provisions, in addition to the provisions of Section 7.4.1, are required:



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- A. Residential construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 7.5 of this UDO.
- B. Non-residential construction.
1. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 7.5 of this UDO.
 2. Structures located in A, AE, AH, AO, and A99 zones may be floodproofed to the Regulatory Flood Protection Elevation (RFPE) in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
 3. For AO zones, the floodproofing elevation shall be in accordance with Section 7.4.6(C)(2).
 4. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 7.3.2(C) along with the operational plan and the inspection and maintenance plan.
- C. Manufactured homes.
1. New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Section 7.5 of this UDO.
 2. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to N.C.G.S. § 143-143.15.
 3. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by



reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

4. All enclosures or skirting below the lowest floor shall meet the requirements of Section 7.4.2(D).
 5. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local emergency management coordinator.
- D. Elevated buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
1. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 2. Shall not be temperature-controlled or conditioned;
 3. Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation;
 4. Shall include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - (a) A minimum of two (2) flood openings on different sides of each enclosed area subject to flooding;
 - (b) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (c) If a building has more than one (1) enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;



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- (d) The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
 - (e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - (f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

E. Additions/improvements.

1. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - (b) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
2. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
3. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 - (b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

4. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

- (a) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions;
- (b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

F. Recreational vehicles. Recreational vehicles shall either:

- 1. Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
- 2. Meet all the requirements for new construction.

G. Temporary non-residential structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- 1. A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
- 2. The name, address, and phone number of the individual responsible for the removal of the temporary structure;



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3. The time frame prior to the event at which a structure will be removed (i.e., minimum of seventy-two (72) hours before landfall of a hurricane or immediately upon flood warning notification);
 4. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 5. Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

H. Accessory structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

1. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
2. Accessory structures shall not be temperature-controlled;
3. Accessory structures shall be designed to have low flood damage potential;
4. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
5. Accessory structures shall be firmly anchored in accordance with the provisions of Section 7.4.1(A);
6. All service facilities such as electrical shall be installed in accordance with the provisions of Section 7.4.1(D); and
7. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of Section 7.4.2(D)(3).

An accessory structure with a footprint less than one hundred fifty (150) square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 7.3.2(A)(11).

I. Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

1. Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and



hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

2. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
3. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 7.4.2(B) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
4. Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (a) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
5. Other Development.
 - (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 7.4.5 of this ordinance.
 - (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 7.4.5 of this ordinance.
 - (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to



the other side, that encroach into regulated floodways shall meet the limitations of Section 7.4.5 of this ordinance.

- (d) Commercial storage facilities are not considered “limited storage” as noted in this ordinance, and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

7.4.3 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS

- A. Within the special flood hazard areas designated as approximate zone A and established in Section 7.2.2, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 7.4.1 shall apply:
1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five (5) times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 2. The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:
 - (a) When base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this chapter and shall be elevated or floodproofed in accordance with standards in Sections 7.4.1 and 7.4.2.
 - (b) When floodway data is available from a federal, state, or other source, all new construction and substantial improvements within floodway areas shall also comply with the requirements of Sections 7.4.2 and 7.4.5.
 - (c) All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference in accordance with Section 7.2.2, and utilized in implementing this chapter. However, this requirement may be waived if the development ensures all building envelopes exclude any special flood hazard areas.



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- (d) When base flood elevation (BFE) data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in Section 9-3202. All other applicable provisions of Section 9-3205.2 shall also apply.

7.4.4 STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- A. The standards of Sections 7.4.1 and 7.4.2; and
- B. Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

7.4.5 FLOODWAYS AND NON-ENCROACHMENT AREAS

- A. Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in 7.2.2.
- B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles.
- C. The following provisions, in addition to standards outlined in 7.4.1 and 7.4.2, shall apply to all development within such areas:
 - 1. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice



according to FEMA guidelines and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or

(b) A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must also be obtained upon completion of the proposed encroachment.

2. If Section 7.4.5(C)(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.
3. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
 - (a) The anchoring and the elevation standards of Section 7.4.2(C); and
 - (b) The no encroachment standard of Section 7.4.5(C)(1).

7.4.6 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO)

- A. Located within the special flood hazard areas established in Section 7.2.2, are areas designated as shallow flooding areas.
- B. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate.
- C. In addition to Section 7.4.1 and Section 7.4.2, all new construction and substantial improvements shall meet the following requirements:
 1. The reference level shall be elevated at least as high as the depth number specified on the flood insurance rate map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth number is specified.
 2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 7.4.6(C)(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Section 7.3.2(A)(11) and Section 7.4.2(B).



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- Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

7.5 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

“Accessory Structure (Appurtenant Structure)” means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

“Addition (to an existing building)” means an extension or increase in the floor area or height of a building or structure.

“Alteration of a watercourse” means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

“Appeal” means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

“Area of Shallow Flooding” means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.

“Area of Future-Conditions Flood Hazard” means the land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.

“Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

“Base Flood Elevation (BFE)” means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area”, it may be obtained from engineering studies available from a

Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Building”: See “Structure”.

“Chemical Storage Facility” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“Design Flood” See “Regulatory Flood Protection Elevation.”

“Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

“Development Activity” means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

“Digital Flood Insurance Rate Map (DFIRM)” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Disposal” means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“Elevated Building” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before the effective date of the floodplain management regulations adopted by a community.

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters; and/or
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”.

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

“Floodplain Management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“Floodplain Management Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

“Flood-resistant material” means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

“Floodway” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Floodway encroachment analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The



evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirements of the National Flood Insurance Program.

“Freeboard” means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, precipitation exceeding the base flood, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

“Hazardous Waste Management Facility” means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- (d) Certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program.”

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.



“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community’s floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

“Light Duty Truck” means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

“Lowest Adjacent Grade (LAG)” means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

“Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

“Manufactured Home” means a structure, 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. The term “manufactured home” does not include a “recreational vehicle”.

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Map Repository” means the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products have the same authority as hard copy products. Therefore, the NCEM’s Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

“Market Value” means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

“New Construction” means structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

“Non-Conversion Agreement” means a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of this chapter and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk’s or recorder’s stamps and/or notations that the filing has been completed.

“Non-Encroachment Area (NEA)” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be

reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

“Post-FIRM” means construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map.

“Pre-FIRM” means construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate Map.

“Principally Above Ground” means that at least 51% of the actual cash value of the structure is above ground.

“Public Safety” and/or “Nuisance” means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

“Recreational Vehicle (RV)” means a vehicle, which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- (e) Is fully licensed and ready for highway use.

(For the purpose of this chapter, “Tiny Homes/Houses” and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.)

“Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In “Special Flood



Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

“Remedy a Violation” means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Salvage Yard” means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

“Solid Waste Disposal Site” means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Section 7.2.2 of this ordinance.

“Start of Construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

“Substantial Damage” means damage of any origin sustained by a structure during any five-year period whereby the cost of restoring the structure to it’s before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”.

“Substantial damage” also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

“Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any five-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Section 7.3.5 of this ordinance.

“Technical Bulletin and Technical Fact Sheet” means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in



question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

“Temperature Controlled” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

“Variance” is a grant of relief from the requirements of this chapter.

“Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sections 7.3 and 7.4 of this chapter is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation (WSE)” means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

7.6 LEGAL STATUS PROVISIONS

7.5.1 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE

This chapter in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted May 4, 1987 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced.

The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the Town of Valdese enacted on May 4, 1987, as amended, which are not reenacted herein are repealed.

7.5.2 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development

permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this chapter; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this chapter.

7.5.3 EFFECTIVE DATE

This chapter shall become effective [INSERT APPLICABLE DATE].

ADOPTION CERTIFICATION

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Town Council of Valdese, North Carolina, on the [INSERT APPLICABLE DATE].

WITNESS my hand and the official seal of [INSERT NAME, TITLE], this the [INSERT DAY] day of [INSERT MONTH, YEAR].

(signature)





Town of Valdese, NC Unified Development Ordinance

CHAPTER 8: WATERSHED PROTECTION

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CHAPTER 8: WATERSHED PROTECTION

8.1 AUTHORITY AND APPLICABILITY

8.1.1 AUTHORITY AND ENACTMENT

- A. The Town of Valdese is authorized to exercise the powers conferred by Chapter 160A, Article 8, Section 174 and Chapter 143, Article 21 of the North Carolina General Statutes to adopt and enforce regulations designed to promote the public health, safety, and general welfare of its citizenry. In addition, N.C.G.S. §§ 160D-926 and 143-214.5 specifically authorize local governments to enact and enforce water supply watershed management regulations. The Town Council of Valdese, North Carolina hereby ordains and enacts into law the following articles as the Water Supply Watershed Protection Ordinance of Valdese, included as a chapter in the Town of Valdese Unified Development Ordinance.

8.1.2 JURISDICTIONS

- A. The provisions of this Chapter shall apply within the overlay zones designated as a Public Water Supply Watershed as defined and established on the Official Zoning Map of the Town of Valdese, North Carolina" (the "Zoning Map"), such overlay zones being adopted simultaneously herewith.
- B. The Zoning Map and all explanatory matter contained thereon accompany and are hereby made a part of this Chapter.

8.1.3 EXCEPTIONS TO APPLICABILITY

- A. Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace.
- B. Nor shall any provision of this Chapter amend, modify, or restrict any other provisions of the UDO; however, the adoption of this Chapter shall and does amend any and all ordinances, resolutions, and regulations in effect in the Town of Valdese at the time of the adoption of this Chapter that may be construed to impair or reduce the effectiveness of this Chapter or to conflict with any of its provisions.
- C. It is not intended that these regulations interfere with any easement, covenants, or other agreements between parties. However, if the provisions of these regulations impose



greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

- D. Development activities that do not require a Sedimentation/Erosion Control Plan are exempt from the requirements of this Chapter. Existing Development, as defined in this Chapter, may be continued and maintained subject to the provisions provided herein.
1. All existing development, whether or not it meets the statewide minimum standards, is exempt from the provisions of this ordinance.
 2. Expansions to structures classified as Existing Development must meet the requirements of this Chapter, except single-family residential development, or unless expansion is part of common plan of development.
 3. In an expansion, the built-upon area of the existing development is not required to be included in the density calculations.
 - (a) Where there is a net increase of built upon area, only the area of net increase is subject to this ordinance.
 - (b) Where existing development is being replaced with new built upon area, and there is net increase of built upon area, only areas of net increase shall be subject to this ordinance.
- E. Reconstruction of Buildings or Built-Upon Areas. Any existing building or built-upon area not in conformance with the restrictions of this Chapter 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 the build-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.
- F. If a Non-conforming Existing Lot 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 Chapter if it is developed for single-family purposes (and zoned for this use). The Town may require the combination of contiguous nonconforming lots of record owned by same party to establish a lot or lots that meet requirements in Section 8.3.



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- G. Any lot or parcel created as part of a Family Subdivision after the effective date of these rules shall be exempt from these rules if it is developed for one single-family detached residence and if it is exempt from local subdivision regulation.
 - H. Any lot or parcel created as part of any other type of subdivision that is exempt from a local subdivision ordinance shall be subject to the land use requirements (including impervious surface requirements) of these rules, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable.
 - I. An applicant may exceed the density limits in Section 8.5 if all of the following circumstances apply:
 - 1. The property was developed prior to the effective date of the local water supply watershed program.
 - 2. The property has not been combined with additional lots after January 1, 2021.
 - 3. The property has not been a participant in a density averaging transaction under G.S. 143-214.5(d2).
 - 4. The current use of the property is nonresidential.
 - 5. In the sole discretion, and at the voluntary election, of the property owner, the stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable local government, state, and federal laws and regulations.
 - 6. The remaining vegetated buffers on the property are preserved in accordance with the requirements of this Chapter.

8.1.4 APPLICATION OF REGULATIONS

- A. No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.
- B. No area required for the purpose of complying with the provisions of this ordinance shall be included in the area required for another building.
- C. Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in Section 8.2.2(C).



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- D. If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

8.1.5 SEVERABILITY

Should any section or provision of this Chapter be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this Chapter as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

8.2 ADMINISTRATION

8.2.1 WATERSHED ADMINISTRATOR AND DUTIES THEREOF

The Watershed Administrator shall be the same as the Zoning Enforcement Officer as described in this UDO. 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 Chapter. 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. All administrative determinations made by the Watershed Administrator shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective.
- C. The Watershed Administrator shall serve as staff to the Watershed Review Board.
- D. The Watershed Administrator shall keep records of all amendments to the local Water Supply Watershed Protection Chapter and shall provide copies of all amendments upon adoption to the Stormwater Branch of the NC Department of Environmental Quality.
- E. The Watershed Administrator is granted the authority to administer and enforce the provisions of this Chapter, exercising in the fulfillment of his responsibility the full zoning and police power of the Town. 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 Chapter.
- F. The Watershed Administrator shall keep a record of all variances to the local Water Supply Watershed Protection Chapter that includes a description of each project receiving a



variance and the reasons for granting the variance. These records shall be provided to the NC Division of Water Quality upon request as part of a program audit.

- G. The Watershed Administrator is responsible for ensuring that Stormwater Control Measures (SCMs) are inspected at least once a year and shall keep a record of SCM inspections.

8.2.2 APPEAL FROM WATERSHED ADMINISTRATOR

- A. Any order, requirement, decision, or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board.
- B. An appeal from a decision of the Watershed Administrator must be submitted to the Watershed Review Board within thirty (30) days from the date the order, interpretation, decision, or determination is issued. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.”
1. All appeals must be made in writing stating the reasons for the appeal.
 2. Following submission of an appeal, the Watershed Administrator shall transmit to the Watershed Review 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 Watershed Review Board after the notice of appeal has been filed with him, that because 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 Watershed Review Board or by a court of competent jurisdiction on the application of notice of the officer from whom the appeal is taken and upon due cause shown.
- D. All appeals of decisions issued by the Watershed Administrator shall follow the procedures for appeals of administrative decisions provided in N.C.G.S. 160D-405.

8.2.3 ESTABLISHMENT OF A WATERSHED REVIEW BOARD

- A. There shall be and hereby is created the Watershed Review Board consisting of the Town of Valdese Board of Adjustment.
- B. Terms for members of the Watershed Review Board shall follow those for the Board of Adjustment.



8.2.4 POWERS AND DUTIES OF THE WATERSHED REVIEW BOARD

Appeals: The Watershed Review Board shall hear all appeals of the Watershed Administrator as specified in Section 8.2.2.

A. Watershed Variance Requests: The Watershed Review Board shall hear all requests for watershed variances.

1. For requests for minor watershed variances, the Watershed Review Board shall have the authority to decide such cases.
 2. For requests for major watershed variances, the Watershed Review Board shall review such cases and make a recommended decision to the North Carolina Environmental Management Commission.
3. The Town of Valdese shall notify each local government having jurisdiction in the designated watershed where the variance is being considered, and each entity using the water supply for consumption, at least 30 days in advance of the public hearing for the case.
 - a. Such notice shall include a description of the variance being requested.
 - b. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. If such comments are received by the Watershed Administrator at least 14 days in advance of the public hearing, such comments will be included as part of the record of proceedings of the Watershed Review Board.
4. For all variance cases, the Watershed Review Board shall follow the quasi-judicial procedures specified in Section 2.3.5.
5. The Watershed Review Board shall use the following standards in order to decide minor watershed variance requests, and provide a recommended decision to the N.C. Environmental Management Commission (EMC) on major watershed variance requests:
 - a. There are difficulties or hardships that prevent compliance with the ordinance;
 - b. The variance is in accordance with the general purpose and intent of the local watershed protection ordinance; and
 - c. Granting the variance, the project will ensure equal or better protection of waters of the State than the requirements in Chapter 8 of the UDO and that the stormwater controls will function in perpetuity.



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6. The Watershed Review Board may attach conditions to the minor watershed variance approval or major watershed variance recommendation that support the purpose of the watershed protection standards in this Chapter.
 7. For major watershed variances, if the Watershed Review Board (WRB) recommends in favor of granting the major variance, then it shall prepare a preliminary record of the hearing and submit it to the N.C. Environmental Management Commission (EMC) for review.
 - a. If the EMC approves the major watershed variance or approves the variance with conditions or stipulations added, then the EMC shall prepare a decision that authorizes the Watershed Review Board to issue a final decision that includes any conditions or stipulations added by the EMC.
 - b. If the EMC denies the major watershed variance, then the EMC shall prepare a decision to be sent to the Watershed Review Board. The Watershed Review Board shall prepare a final decision denying the major watershed variance.

8.2.5 APPEALS FROM THE WATERSHED REVIEW BOARD

- A. Appeals of decisions made by the Watershed Review Board (Watershed Review Board) must be filed with the Superior Court within 30 days from the date of the Watershed Review Board's written decision.
- B. The decisions by the Superior Court will be in the manner of certiorari.

8.2.6 RULES OF CONDUCT FOR THE WATERSHED REVIEW BOARD

The members of the Watershed Review Board shall be subject to the same rules of conduct and conflict of interest provisions as specified for the Board of Adjustment in Section 2.3.4.

8.3 SUBDIVISION REGULATIONS

8.3.1 SUBDIVISION APPLICATION AND REVIEW PROCEDURES

- A. All proposed subdivisions are subject to the regulations in Chapter 6 of this UDO except where they conflict with regulations in this Chapter, in which case the more stringent regulations shall apply.
- B. In addition to the applicable submittal requirements in Chapter 6, all applications shall include:



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1. A description of the proposed method of providing storm water drainage, and
 2. Supporting documentation deemed necessary by the Watershed Administrator or the Watershed Review Board.
- C. The Watershed Administrator or the Watershed Review Board may provide public agencies an opportunity to review and make recommendations. These agencies may include:
1. The NCDOT district highway engineer with regard to proposed streets and highways; and
 2. Any other agency or official designated by the Watershed Administrator or Watershed Review Board.
- D. The Watershed Administrator shall review the completed application and shall either approve, approve conditionally, or disapprove each application depending on whether it complies with the applicable standards in the UDO.

8.3.2 SUBDIVISION STANDARDS

- A. All lots shall provide adequate building space in accordance with the development standards contained in Section 8.5.
1. Lots smaller than the minimum required for residential lots may be developed using built-upon area criteria in accordance with Section 8.5.
- B. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.
- C. Storm Water Drainage Facilities: The application shall be accompanied by a description of the proposed method of providing storm water drainage. The subdivider shall provide a drainage system that diverts stormwater runoff away from surface waters, incorporates Stormwater Control Measures to minimize water quality impacts, and meets any local requirements.
- D. Erosion and Sedimentation Control: The application shall, where required, be accompanied by the Sedimentation and Erosion Control Plan approval by the NC Division of Energy, Mineral and Land Resources in the NC Department of Environmental Quality.
- E. Roads constructed in critical areas and watershed vegetated conveyance areas: Where possible, roads should be located outside of critical areas and watershed vegetated conveyance areas. Roads constructed within these areas shall be designed and constructed to minimize their impact on water quality.



8.3.3 PENALTIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS

See Section 8.8 and Section 8.8.3(B) for penalties for the illegal subdivision, transfer, or sale of land in violation of this Chapter.

8.4 GENERAL STANDARDS

8.4.1 CLUSTER OR PLANNED DEVELOPMENT

- A. Cluster or Planned Unit Development is allowed in all Watershed Areas under the following conditions:
1. Development activities shall comply with all applicable requirements of this UDO.
 2. Minimum lot sizes are not applicable to single-family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single-family detached developments in Section 8.4 of this Chapter.
 - a. Density or built-upon area for the project shall not exceed that allowed for the critical area, balance of watershed or protected area, whichever applies.
 3. All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize the concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
 4. Areas of concentrated density development shall be located in upland area and as far as practicable from surface waters and drainageways.
 5. 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 homeowner's association for management; to the Town of Valdese for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement.
 - a. Where a property association is not incorporated, a maintenance agreement shall be filed with the deeds.
 6. Cluster developments that meet the applicable low-density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.



8.4.2 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 minutes) scale topographic maps or as determined by local studies.
 - 1. Where USGS topographic maps do not distinguish between perennial and intermittent streams, an on-site stream determination may be performed by an individual qualified to perform such stream determinations.
- B. Desirable artificial streambank or shoreline stabilization is permitted.
- C. No new development is allowed in the buffer except for water-dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area, 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. Any such development must obtain the necessary permit from the Town as specified in this ordinance.

8.5 SPECIFIC STANDARDS

8.5.1 ESTABLISHMENT OF WATERSHED AREAS

For purposes of this ordinance the Town of Valdese is hereby divided into the following area[s]:

- A. WS-IV-CA (Critical Area); and
- B. WS-IV-PA (Protected Area).



8.5.2 WATERSHED PERMITTED USES

The following uses are allowed (“Yes”) and not allowed (“No”) in the Watershed IV Critical Area (“WS-IV-CA”) and Protected Area (“WS-IV-PA”) as specified in Table 8.5.2:

Table 8.5.2: Watershed Table of Allowable Uses

ACTIVITY/USE	WS- IV CA	WS- IV PA
New landfills	No	Yes
New permitted residual land application	No	Yes
New permitted petroleum contaminated soils sites	No	Yes
NPDES General or Individual Stormwater discharges	Yes	Yes
NPDES General Permit Wastewater Discharges pursuant to 15A NCAC 02H .0127	Yes	Yes
NPDES Individual Permit trout farm discharges	Yes	Yes
New NPDES Individual Permit domestic treated wastewater discharge	Yes	Yes
New NPDES Individual Permit industrial treated wastewater discharge	Yes	Yes
Non-process industrial waste	Yes	Yes
New industrial connections and expansions to existing municipal discharge with pretreatment program pursuant to 15A NCAC 02H .0904	Yes	Yes
Sewage	No ^a	No ^a
Industrial Waste	No ^a	No ^a
Other wastes	No ^a	No ^a
Groundwater remediation project discharges ^b	Yes	Yes
Agriculture ^c	Yes	Yes
Silviculture ^d	Yes	Yes
Residential Development ^e	Yes	Yes
Non-residential Development ^{ef}	Yes	Yes
Nonpoint Source Pollution ^g	Yes	Yes
Animal Operations ^h	Yes	Yes

Notes:

a: Only allowed if specified in 15A NCAC 02B .0104.

b: Where no other practical alternative exists.

c: In WS-I watersheds and Critical Areas of WS-II, WS-III, and WS-IV watersheds, agricultural activities conducted after 1/1/1993 shall maintain a minimum 10- foot vegetated setback or equivalent control as determined by Soil and Water Conservation Commission along all perennial waters indicated on most recent version of USGS 1:24000 scale (7.5 minute) topographic maps or as determined by local government studies.

d: Subject to Forest Practice Guidelines Related to Water Quality (02 NCAC 60C .0100 to .0209) Effective 4/1/2018.

e: See density requirements in 15A NCAC 02B .0624.

f: See different uses that are allowed and not allowed in this table.

g: Non Point Source pollution shall not have an adverse impact, as defined in 15A NCAC 02H .1002, on use as water supply or any other designated use.

h: Deemed permitted, as defined in 15A NCAC 02T .0103 and permitted under 15A NCAC 2H .0217.



8.5.3 WATERSHED DENSITY AND BUILT-UPON LIMITS

A. **Project Density.** The following maximum allowable project densities and minimum lot sizes shall apply to a project according to the classification of the water supply watershed where it is located, its relative location in the watershed, its project density, and the type of development as specified in Table 8.5.3:

Table 8.5.3: Watershed Table of Allowable Uses

WATER SUPPLY CLASSIFICATION	LOCATION IN THE WATERSHED	MAXIMUM ALLOWABLE PROJECT DENSITY OR MINIMUM LOT SIZE		
		Low Density Development		High Density Development
		Single-family detached residential	Non-residential and all other residential	All types
WS-IV	Critical Area	1 dwelling unit (d.u.) per one-half acre or 1 d.u. per 20,000 square foot lot excluding roadway right-of-way or 24% built-upon area	24% built-upon area	24 to 50% built-upon area
	Protected Area	1 d.u. per one-half acre or 1 d.u. per 20,000 square foot lot excluding roadway right-of-way or 24% built-upon; or 3 d.u.s per acre or 36% built-upon area without curb and gutter street system	24% built-upon area; or 36% built-upon area without curb and gutter street system	24 to 70% built-upon area

B. **Calculation of Project Density.** The following requirements shall apply to the calculation of project density:

1. Project density shall be calculated as the total built-upon area divided by the total project area;
2. A project with "Existing Development," as defined in this chapter, may use the calculation method in Section 8.5.3(B)(1) or may calculate project density as the difference of total built-upon area minus existing built-upon area divided by the difference of total project area minus existing built-upon area.
3. Expansions to Existing Development shall be subject to 15A NCAC 02B .0624 except as excluded in Rule 15A NCAC 02B .0622 (1)(d).



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4. Where there is a net increase of built-upon area, only the area of net increase shall be subject to density and built upon area limits.
 5. Where Existing Development is being replaced with new built-upon area, and there is a net increase of built-upon area, only the area of net increase shall be subject to density and built upon area limits.
 6. Total project area shall exclude the following:
 - a. Areas below the Normal High Water Line (NHWL); and
 - b. Areas defined as "coastal wetlands" pursuant to 15A NCAC 07H .0205, herein incorporated by reference, including subsequent amendments and editions, and available at no cost at <http://reports.oah.state.nc.us/ncac.asp>, as measured landward from the NHWL; and
 7. Projects under a common plan of development shall be considered as a single project for purposes of density calculation except that on a case-by-case basis, local governments may allow projects to be considered to have both high and low density areas based on one or more of the following criteria:
 - a. Natural drainage area boundaries;
 - b. Variations in land use throughout the project; or
 - c. Construction phasing.
- C. **Low Density Projects.** In addition to complying with the project density requirements of Section 8.5.3(A), low density projects shall comply with the following:
1. **Vegetated Conveyances.** Stormwater runoff from the project shall be released to vegetated areas as dispersed flow or transported by vegetated conveyances to the maximum extent practicable.
 - a. In determining whether these criteria have been met, the local government shall take into account site-specific factors such as topography and site layout as well as protection of water quality.
 - b. Vegetated conveyances shall be maintained in perpetuity to ensure that they function as designed.
 - c. Vegetated conveyances that meet the following criteria shall be deemed to satisfy the requirements of this Sub-Item:

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1. Side slopes shall be no steeper than 3:1 (horizontal to vertical) unless it is demonstrated to the local government that the soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and
 2. The conveyance shall be designed so that it does not erode during the peak flow from the 10-year storm event as demonstrated by engineering calculations.
2. Curb Outlet Systems. In lieu of vegetated conveyances, low density projects shall have the option to use curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas. Requirements for these curb outlet systems shall be as follows:
 - a. The curb outlets shall be located such that the swale or vegetated area can carry the peak flow from the 10-year storm and at a non-erosive velocity;
 - b. The longitudinal slope of the swale or vegetated area shall not exceed five percent except where not practical due to physical constraints. In these cases, devices to slow the rate of runoff and encourage infiltration to reduce pollutant delivery shall be provided;
 - c. The swale's cross section shall be trapezoidal with a minimum bottom width of two feet;
 - d. The side slopes of the swale or vegetated area shall be no steeper than 3:1 (horizontal to vertical);
 - e. The minimum length of the swale or vegetated area shall be 100 feet; and
 - f. Low density projects may use treatment swales designed in accordance with 15A NCAC 02H .1061 in lieu of the requirements specified in Section 8.5.3(C)(2)(a) through (e).

8.5.4 HIGH-DENSITY PROJECTS

- A. In addition to complying with the project density requirements of Section 8.5.3(A), high density projects shall comply with the following:
 1. Stormwater Control Measures (SCMs) shall be designed, constructed, and maintained so that the project achieves either "runoff treatment" or "runoff volume match" as those terms are defined in 15A NCAC 02B .0621;



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2. For high density projects designed to achieve runoff treatment, the required storm depth shall be one inch. Applicants shall have the option to design projects to achieve runoff volume match in lieu of runoff treatment;
 3. Stormwater runoff from off-site areas and Existing Development, shall not be required to be treated in the SCM. Runoff from off-site areas or existing development that is not bypassed shall be included in sizing of on-site SCMs;
 4. SCMs shall meet the relevant Minimum Design Criteria set forth in 15A NCAC 02H.1050 through .1062; and
 5. Stormwater outlets shall be designed so that they do not cause erosion downslope of the discharge point during the peak flow from the 10-year storm event as shown by engineering calculations.

8.5.5 OPTIONS FOR IMPLEMENTING PROJECT DENSITY

- A. The Town of Valdese shall have the following options in place of or in addition to the requirements of Section 8.5.3(A), as appropriate:
 1. The Town may allow only low-density development in its water supply watershed areas in accordance with this Chapter.
 2. The Town may regulate low density single-family detached residential development using the minimum lot size requirements, dwelling unit per acre requirements, built-upon area percentages, or some combination of these.

8.5.6 DENSITY AVERAGING

- A. An applicant may average development density on up to two noncontiguous properties for purposes of achieving compliance with the water supply watershed development standards if all of the following circumstances exist:
 1. The properties are within the same water supply watershed. However, if one of the properties is located in the critical area of the watershed, the critical area property shall not be developed beyond the applicable density requirements for its classification.
 2. Overall project density meets applicable density or stormwater control requirements under 15A NCAC 2B .0200.
 3. Vegetated setbacks on both properties meet the minimum statewide water supply watershed protection requirements.



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4. Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
 5. Areas of concentrated density development are located in upland areas and, to the maximum extent practicable, away from surface waters and drainageways.
 6. The property or portions of the properties that are not being developed will remain in a vegetated or natural state and will be managed by a homeowners association as common area, conveyed to a local government as a park or greenway, or placed under a permanent conservation or farmland preservation easement unless it can be demonstrated that the Town of Valdese can ensure long-term compliance through deed restrictions and an electronic permitting mechanism.
 - a. A metes and bounds description of the areas to remain vegetated and limits on use shall be recorded on the subdivision plat, in homeowners covenants, and on individual deeds.
 - b. Any such limitations or restrictions on use shall be irrevocable.
 7. Development permitted under density averaging and meeting applicable low-density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.
 8. The applicant shall obtain a certificate from the local Watershed Review Board to ensure that both properties considered together meet the standards of the watershed ordinance and that potential owners have record of how the watershed regulations were applied to the properties.

8.5.7 HIGH-DENSITY DEVELOPMENT PERMIT APPLICATION

- A. A High-Density Development Permit shall be required for new development exceeding the low-density development requirements specified in Section 8.5 of this Chapter.
- B. Application for a High-Density Development Permit shall be addressed and submitted to the Watershed Review Board through the Watershed Administrator. Application for a High-Density Development Permit shall be made on the current application 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 another agent will be accepted on the application only if accompanied by a letter of authorization;

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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 8.5.8;
 4. When required by law, written verification that soil erosion and sedimentation control plan has been approved by the appropriate State or local agency;
 5. Permit Application Fees consistent with the latest fee schedule adopted by the Town;
- C. Before taking final action on any application, the Watershed Review 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 Watershed Review Board shall hold a public hearing using the quasi-judicial process described in Section 2.3.5. In addition to the notification requirements specified in Section 2.3.5, notice of the hearing shall also be published in a newspaper of general circulation at least 10 days, but not more than 25 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.
- E. The Watershed Review Board 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 outlined in the Watershed Protection Chapter and the following conditions are met:
1. The use will not endanger the public health or safety if located were proposed and developed according to the plan as submitted and approved;
 2. The use minimizes impacts to water quality through the use of Stormwater Control Measures, 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.
5. The use meets all applicable requirements of the Unified Development Ordinance.



If the Watershed Review Board 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 Chapter, 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 Chapter.
 - 1. All additional conditions shall be entered in the minutes of the meeting, at which the permit is granted, on all plans, and the permit certificate.
 - 2. The approval shall not be valid until the applicant signs a form agreeing in writing to all of the conditions.
- G. 3. 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. The Board shall issue a written ruling and make copies available at the office of the Watershed Administrator and the Town Clerk.
 - 1. 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 structures).
 - 2. A High-Density Development Permit shall be issued after the applicant posts a performance bond or other acceptable security as required in Section 8.5.9 and executes an Operation and Maintenance Agreement as required in Section 8.6.2.
 - 3. A copy of the permit and one copy of each set of plans shall be kept on file at the Watershed Administrator's office.
 - 4. 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.

8.5.8 STORMWATER CONTROL MEASURES

- A. All stormwater control measures (SCMs) shall be designed by a professional designer qualified to do this work in the state of North Carolina, as listed in the most current version of the N.C. Division of Environmental Quality (NCDEQ) Stormwater Design Manual. The design shall meet or exceed the minimum requirements specified in the most current version of the NCDEQ Stormwater Design Manual.
 - 1. All stormwater control structures that pose a risk of injury or drowning shall be enclosed by a fence with a minimum height of six (6) feet.



8.5.9 PERFORMANCE GUARANTEES FOR CONSTRUCTION OF STORMWATER CONTROL MEASURES

- A. All new stormwater control structures shall meet the performance guarantee provisions for improvements specified in Section 6.2.9.

8.5.10 INSPECTION AND RELEASE OF THE PERFORMANCE BOND FOR CONSTRUCTION OF STORMWATER CONTROL MEASURES

- 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 Town of Valdese Town Council at its next regularly scheduled meeting.
 - 1. If the Town Council approves the inspection report and accepts the certification and deed of easement, the Town shall file the easement with the Burke County Register of Deeds, release up to seventy-five percent (75%) of the value of the performance bond or other security and direct the Burke County Buildings Inspections Department to issue a Certificate of Occupancy for the stormwater control structure.
 - 2. If deficiencies are found, the Town shall direct that improvements and inspections are made and documents corrected and submitted to the Town.
- C. No sooner than one year after the 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.



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1. If the Town Council approves the report and accepts the petition, the developer shall deposit with the Town a cash amount equal to that described in Section 8.7.1, 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 8.5.10(B).
- E. All stormwater control structures shall be inspected at least on an annual basis by an engineer licensed in the State of North Carolina 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 the 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 if they meet the specified requirements.
- G.

8.6 MAINTENANCE OF STORMWATER CONTROL MEASURES

8.6.1 ESTABLISHMENT OF DEDICATED STORMWATER CONTROL MAINTENANCE FUND

- A. All new stormwater control structures shall be conditioned on the collection and establishment of monies dedicated for maintenance, reconstruction, replacement, and/or repairs necessary for the adequate performance of the stormwater control measures consistent with their approved design. These monies shall be:
1. Collected and retained by the owner of the stormwater control system.



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2. Stored in a segregated account used solely for the purposes of maintaining, repairing, replacing, and reconstructing the owner's stormwater control project. This requirement shall be met within five years from the time the stormwater control project was accepted by the Town as constructed per the Town's regulations.
 3. Collected, maintained, and replenished to total 10% of the stormwater control project's original cost of construction once the segregated account is established and from that point forward as long as the operation and maintenance plan for the stormwater control structure described in Section 8.6.2 is in place; and
 4. Documented and attested to the Watershed Administrator in writing by the owner at the establishment of the segregated account and on an annual basis henceforth to demonstrate compliance with these requirements.
- A. Consistent with Section 8.6.2, the permit applicant shall enter into a binding Operation and Maintenance Agreement between the Town and all interests in the development.
1. Said Agreement shall require the owning entity to maintain, repair, and, if necessary, reconstruct the stormwater control structure following the operation and management plan or manual provided by the developer.
 2. The Operation and Maintenance Agreement shall be filed with the County Register of Deeds by the Watershed Administrator.

8.6.2 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 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 before 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 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:

1. Be prepared by a North Carolina professional designer qualified to do this work in the state of North Carolina, as listed in the most current version of the N.C. Division of Environmental Quality (NCDEQ) Stormwater Design Manual;
2. Meet or exceed the minimum requirements specified in the most current version of NCDEQ Stormwater Design Manual;
3. Be submitted to and reviewed by the Watershed Administrator before consideration by the Watershed Review Board;
4. If the Watershed Review Board approves 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;
5. If the Watershed Review Board disapproves of the changes, the proposal may be revised and resubmitted to the Watershed Review Board 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 Watershed Review 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.

8.6.3 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. Applications shall be returned if not accompanied by the required fee.
- B. A permit and inspection fee schedule, as approved by the Town, shall be posted in the Office of the Watershed Administrator.



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- 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 8.6.2, except in the case when a similar fee has been paid within the last sixty (60) days.

8.7 REMEDIES, SANCTIONS, AND PENALTIES

8.7.1 REMEDIES

- A. If any subdivision, development, and/or land use is found to violate this Article, the Town may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the nature of debt of \$100, institute actions or proceedings to restrain, correct, or abate the violations; to prevent the occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, N.C. Environmental Management Commission may assess civil penalties under G.S. 143 - 215.6A. Each day the violation continues shall constitute a separate offense.
- B. If the Watershed Administrator finds that any of the provisions of this Chapter 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 additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this Chapter 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.

8.7.2 SANCTIONS

In addition to the remedies described in Section 8.7.1 of this Chapter, and consistent with Chapter 160D, Article 4 of the North Carolina General Statutes, the Town of Valdese Town Council may seek enforcement of this Chapter by assessing a civil penalty to be recovered by the Town in a civil action like debt if the offender does not pay the penalty in a prescribed period after being cited for violation of the Chapter.

- A. Such violation may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- B. 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.



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- C. 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.
 - D. 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.
 - 1. The Town shall have a lien on the property for the cost of executing an order of abatements like a mechanic's and material man's lien.
 - 2. The defendant may secure the cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order.
 - 3. 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.
 - 4. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.
 - E. Enforcement of this Chapter may be by any one, all, or a combination of the remedies authorized in this Chapter.
 - F. Each day's continuing violation shall be a separate and distinct offense.

8.7.3 CRIMINAL PENALTIES

- A. Violations of This Chapter. Any person violating any provisions of this Chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished under G.S. 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.
- B. Illegal Subdivision, Transfer, or Sale of Land. Any person who, being the owner or agent of the owner of any land located within the jurisdiction of the Town of Valdese, thereafter subdivides his land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Chapter and recorded in the office of the register of deeds, shall be guilty of a misdemeanor.



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1. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty.
 2. The Town of Valdese may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this ordinance.

8.8 INTERPRETATION AND DEFINITIONS

8.8.1 WORD INTERPRETATION

For the purpose of this chapter, certain words shall be interpreted as follows:

- A. Words in the present tense include the future tense.
- B. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
- C. The word "person" includes a firm, association, corporation, trust, and company as well as an individual.
- D. The word "structure" shall include the word "building."
- E. The word "lot" shall include the words, "plot," "parcel," or "tract."
- F. The words "shall" and "will" are always mandatory.

8.9.2 DEFINITIONS

Agricultural Use. The use of waters for stock watering, irrigation, and other farm purposes.

Balance of Watershed (BW). The area adjoining and upstream of the critical area in a WS-II and WS-III water supply watershed. The "balance of watershed" is comprised of the entire land area contributing surface drainage to the stream, river, or reservoir where a water supply intake is located.

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.



Buffer. 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 structures and from the bank of each side of streams or rivers.

Building. Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals, or property. 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.

Built-upon area. Built-upon area means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle (except as exempted by State law); or artificial turf, manufactured to allow water to drain through the backing of the turf, and installed according to the manufacturer's specifications over a pervious surface.

Cluster Development. Cluster development means the grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as single-family residential and multi-family developments. For the purpose of this ordinance, planned unit developments and mixed-use development are considered as cluster development.

Common Plan of Development. Site with multiple lots where there is a single development plan for all of the lots, usually represented by a master plan or a set of declarations of restrict covenants.

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 extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-



half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

Customary Home Occupations. Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Provided further that no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over twenty-five percent (25%) of the total floor space of any structure is used for the occupation. No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair truck, delivery truck, etc.

Development. Any land disturbing activity which adds to or changes the amount or nature of impervious or partially impervious cover on a land area, or which otherwise decreases the infiltration of precipitation into the soil.

Dwelling Unit. A building, or portion thereof, providing complete and permanent living facilities for one or more persons.

Existing Development. Those projects that are built or that have established a vested right under North Carolina zoning law as of the effective date of this ordinance.

Existing Lot. A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

Family. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a family or families.

Family Subdivision. Family subdivision means a division of a tract of land: (a) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives as a gift or for nominal consideration, but only if no more than one parcel is conveyed by the grantor from the tract to any one relative; or (b) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will.



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 or commodity.

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.

Lot. A parcel of land that can be transferred separate from other parcels of land.

Major Variance. A variance that is not a Minor Variance as defined in this ordinance.

Minor Variance. A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to five (5) percent of any buffer, density or built-upon area requirement under the high-density option; or that results in a relaxation, by a factor of up to ten (10) percent, of any management requirement under the low-density option. For variances to a vegetated setback requirement, the percent variation shall be calculated using the footprint of built-upon area proposed to encroach with the vegetated setback divided by the total area of vegetated setback within the project.

Nonconforming Existing Lot. A lot described by a plat or a deed that was recorded prior to the effective date of local watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.

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

Perennial Waterbody: A natural or man-made basin, including lakes, ponds, and reservoirs, that stores surface water permanently at depths sufficient to preclude the growth of non-hydrophilic rooted plants.

Plat. A map or plan of a parcel of land which is to be, or has been, subdivided.

Protected Area. The area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.



Qualified Individual. A person certified to perform stream determinations by completing and passing the Surface Water Identification Training and Certification (SWITC) course offered by the N.C. Div. of Water Resources at N.C. State University.

Residential Development. Buildings constructed for human habitation 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. and customary home occupations.

Residuals. Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant or air pollution control facility permitted under the authority of the Environmental Management Commission.

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.

Stormwater Control Measure (SCM). A permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapotranspiration, post-filtration discharge, reuse of stormwater, or a combination thereof.

Street (Road). A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Structure. Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.

Subdivider. Any person, firm, corporation, or official who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; except those exempt from subdivision regulation by GS 160D-802(a)(1) through (a)(5).

Surface Waters: All waters of the State as defined in NCGS 143-212 except underground waters.

Toxic Substance. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth), or physical deformities in such organisms or their off spring or other adverse health effects.

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

Vested Right. The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan or an approved phased development plan. Refer to the North Carolina General Statutes Section 160D-108 for more information.

Water Dependent Structure. Any structure for which the use requires access to or proximity to or siting 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) or alternatively, the geographic region within which water drains to a particular river, stream or body of water.

Watershed Administrator. An official or designated person of [county][town] responsible for administration and enforcement of this ordinance.





Town of Valdese, NC Unified Development Ordinance

CHAPTER 9: NONCONFORMITIES

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CHAPTER 9: NONCONFORMITIES

9.1 ESTABLISHMENT OF NONCONFORMITIES

9.1.1 ESTABLISHMENT OF NONCONFORMING USES, LOTS, STRUCTURES, SITE FEATURES, AND SIGNS

- A. After the effective date of the standards in this UDO, existing uses of land, lots, structures, site features, or signs which would be prohibited under the regulations for the district in which they are located (if they existed on the adoption date of this Chapter), shall be considered as nonconforming.
- B. Nonconforming uses, lots, structures, site features, and signs (as defined in Chapter 11) may be continued provided they conform to the provisions specified in this chapter.
- C. When necessary, it shall be the responsibility of the property owner to demonstrate that a nonconformity was legally established, with assistance as reasonable and appropriate from Town staff to access Town records.

9.2 NONCONFORMING USES

9.2.1 EXTENSION OF USE

The enlargement, extension, or movement of nonconforming uses of land and structures to occupy a different or greater area of land or structures is prohibited.

9.2.2. CHANGE OF USE

Any nonconforming uses of land or structures may be changed to a conforming use by:

- A. Meeting the requirements of the UDO, or
- B. With the approval of the Town Council of a Change of Nonconforming Use application or a Special Use Permit, as applicable, to a use more in character with the uses permitted in the district in question as follows:
 - 1. The order of classification of uses from highest to lowest for the purpose of this section shall be as follows: residential district uses, business district uses, industrial district uses, as permitted by this UDO.



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2. A nonconforming use may be changed to a use of higher classification but not to a use of lower classification.
 3. 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.
 4. A nonconforming commercial or industrial use may not be extended, but the extension of use to any portion of a building, which portion is at the time of the adoption of this Chapter primarily designed for such nonconforming use, shall not be deemed to be an extension of a nonconforming use.
 5. A Special Use Permit (SUP) has been issued by the Town Council for the proposed change or alteration using the applicable procedures for granting an SUP detailed in Section 2.9.
- C. **Cessation of Use.** When a nonconforming use of land or structures is discontinued for a consecutive period of one hundred eighty (180) days, the property involved may thereafter be used only for conforming uses.

9.3 NONCONFORMING LOTS

9.3.1 USE OF NONCONFORMING LOTS

- A. Except as otherwise provided in subsection B below, a nonconforming lot may be used for any use or structure subject to compliance with applicable use regulations and dimensional standards of this UDO.
- B. A nonconforming vacant lot shall not be developed if it can be combined with an adjoining lot (whether conforming or nonconforming) under the same ownership on or after the effective date of this UDO to create a single lot.
 1. If the combination results in the creation of a single lot that is more than one and one-half (1½) times the minimum lot width or area required in the zoning district, the single lot may be divided into two lots of equal width and area without being further classified as nonconforming.



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2. For the purposes of this section, "adjoining" shall be deemed to mean the sharing of one or more common lot lines and access to both lots can be provided by the same street without crossing that street.
 3. Any combination or division of lots required or allowed by this subsection shall occur in accordance with Chapter 6.

9.3.2 LOTS MADE NONCONFORMING THROUGH GOVERNMENT ACTION

- A. Any lot reduced in size to become a nonconforming lot by municipal, city or state condemnation or purchase of land, or by land dedication of the property owner that is accepted by the City or State, shall be deemed a conforming lot on receipt of a Site Plan or Building Permit demonstrating that the development existing or proposed on the lot:
 1. Complies with Table 4.1-1 Permitted Uses;
 2. Complies with the dimensional standards of this UDO to the maximum extent practicable;
 3. Complies with the off-street parking and landscaping standards of this UDO to the maximum extent practicable; and
 4. Complies with all other applicable standards and requirements of this UDO.

9.4 NONCONFORMING STRUCTURES

9.4.1 EXTENSION OR ENLARGEMENT OF STRUCTURES

- A. Nonconforming structures may not be enlarged. Additionally, no nonconforming structure may be enlarged or altered in any way which increases its dimensional deficiencies.
- B. Nonconforming structures may be structurally altered if they follow the procedures and requirements of Section 9.2.2.

9.4.2 REPAIRS, MAINTENANCE, DAMAGE, OR DESTRUCTION OF STRUCTURES

- B. A. Minor repairs to and routine maintenance of property where non-conforming situations exist is permitted and encouraged. A major renovation, defined as works to cost more than 25 percent of the appraised valuation of the structure to be renovated, may be done only following the regulations of the district in which it was located.



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1. The 25 percent cost limit stated above shall include all work within any 18-month period.
- C. Nothing in this section shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, following an official order of a public official.
1. 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% renovation cost noted in Subsection A above.
- D. If a structure located on a lot where a nonconforming 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 per the regulations of the district in which it is located.
- E. Any repairs or replacement of a nonconforming situation, including residential structures, must be started by obtaining a building permit within 180 days after the initial damage.

9.4.3 MANUFACTURED HOMES

For regulations regarding potential nonconformities of manufactured homes, refer to Sections 4.3.11 and 4.3.12.

9.5 NONCONFORMING SITE FEATURES

9.5.1 CONTINUATION OF NONCONFORMING FEATURES

- A. Nonconforming site features as defined in Chapter 11 may be continued subject to the following limitations:
1. For development existing (or for which a vested right had been established) before the effective date of this UDO, nonconforming site features created by a change in regulations may continue to exist, and structures comprising such nonconforming site features may be reconstructed if demolished or destroyed.
 2. No action shall be taken that increases the degree or extent of the nonconforming site feature, and no nonconforming site feature shall be extended, expanded, enlarged, or otherwise altered, unless the site feature thereafter conforms to all current requirements of this UDO.



9.5.2 UPGRADING OF NONCONFORMING SITE FEATURES WITH SUBSTANTIAL REMODELING OF STRUCTURES

- A. If an application is filed for a Building Permit for the remodeling of one or more structures on a site containing nonconforming site features, and the cumulative costs of any such remodeling over the past five-year period (as shown on Building Permit applications) exceed 50 percent of the current assessed value of the structures, the nonconforming site features shall be upgraded in conjunction with the remodeling to conform to all current standards of this UDO.

9.5.3 UPGRADING OF NONCONFORMING SITE FEATURES WITH SUBSTANTIAL EXPANSION OF STRUCTURES

- A. If an application is filed for a Building Permit for the expansion of one or more structures on a site containing nonconforming site features, and the cumulative increase in such structures' floor area over the past five-year period (as shown on Building Permit applications) exceeds 50 percent of the floor area of the structures at the start of the five-year period, the nonconforming site features shall be upgraded in conjunction with the expansion to conform to the current standards of this UDO.

9.5.4 UPGRADING OF NONCONFORMING SITE FEATURES WITH SUBSTANTIAL EXPANSION OF OUTDOOR OPERATIONS, STORAGE, AND DISPLAY AREAS

- A. If outdoor operations, storage, and display areas are being expanded on a site containing nonconforming perimeter or streetyard buffers or screening of such outdoor areas, and the increase in the gross square footage of all such outdoor areas exceeds 50 percent of the current area used for outdoor operations, storage, and displays, the nonconforming buffers and screening shall be upgraded in conjunction with the expansion to conform to the current standards of this UDO.

9.5.5. COMPLIANCE TO MAXIMUM EXTENT PRACTICABLE

- A. Where full compliance with the requirements of this section is precluded by a lack of sufficient developable area due to the size of the lot, the layout of existing development, or the presence of significant wetlands, floodplains, watercourses, or other significant environmental constraints on development, the applicant shall comply with the requirements of this section to the maximum extent practicable, as determined by the Planning Director.



9.6 NONCONFORMING SIGNS

9.6.1 CONTINUATION OF 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:

- A. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign.
 - a. 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.
 - b. Nor may illumination be added to any nonconforming sign.

9.6.2 MOVEMENT OR REPLACEMENT

A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with the UDO.

9.6.3 DESTRUCTION BY NATURAL CAUSES

- A. 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 UDO, and the remnants of the former sign structure shall be cleared from the land within 30 days of destruction.
 - 1. 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.

9.6.4 CHANGING SIGN MESSAGE

The message of a nonconforming sign may be changed so long as this does not create any new nonconformity (for example, by creating an off-premise sign under circumstances where such a sign would not be allowed).

9.6.5 DISCONTINUED PRODUCT OR ACTIVITY

If a nonconforming sign other than a billboard advertises a use, product, 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.

9.6.6 NONCONFORMING BILLBOARD

A. If a nonconforming billboard that is not regulated by the State of North Carolina 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.

1. For purposes of this section, a sign is "blank" if:

- a. It advertises a use, product, 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.





Town of Valdese, NC Unified Development Ordinance

CHAPTER 10: ENFORCEMENT

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CHAPTER 10: ENFORCEMENT

10.1 VIOLATIONS

10.1.1 ISSUANCE OF A NOTICE OF VIOLATION

- A. When the Zoning Enforcement Officer determines work or any activity has been undertaken in violation of the Zoning Ordinance, Subdivision Ordinance, or other local development regulations, a Notice of Violation (NOV) may be issued.
- B. Such NOV shall be delivered to the landowner, the person undertaking the work or activity, or occupant of the property by personal delivery, electronic delivery, or first class mail. The Notice of Violation may also be posted on the property.
- C. The Zoning Enforcement Officer shall certify that the notice was provided, and retain a copy of this certificate on file.
- D. A Notice of Violation may be appealed to the Board of Adjustment.

10.2 PENALTIES AND REMEDIES

10.2.1 LEVYING OF PENALTIES

Violations of this UDO are subject to the following penalties:

- A. A violation of this Chapter shall be a civil offense and shall subject the offender to a civil penalty in the nature of debt of one hundred dollars (\$100) per day that the violation continues, or such amount as established in the fee schedule included as part of the annual budget.
 - 1. Any person violating this Chapter shall be issued a written citation.
 - 2. Each day's continuing violation shall be a separate and distinct offense.
 - 3. The penalty shall be paid to the Town within seventy-two hours from the time of issuance of the written citation.

10.2.2 ADDITIONAL REMEDIES

In addition to the penalties required in Subsection 10.2.1, the Town may use any of the following additional remedies, including several of them or all of them, to enforce compliance with this UDO.



A. Stop Work Order

1. If any work or activity subject to regulation by the Unified Development Ordinance or any other development regulation of the Town of Valdese, or any State law delegated to the Town of Valdese for enforcement purposes in lieu of the State, is undertaken in substantial violation of any State or local law, the Zoning Enforcement Officer or staff may order the work or activity that is in violation stopped.
2. If the any work or activity subject to regulation by the Unified Development Ordinance or any other development regulation of the Town of Valdese, or any State law delegated to the Town of Valdese for enforcement purposes in lieu of the State, is undertaken in a manner that endangers life or property, the Zoning Enforcement Officer or staff shall order the work or activity that is in violation stopped immediately.
3. The stop order shall be issued in writing directed to the person doing the work or activity, specifying the work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed.
4. A copy of the Stop Order shall also be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail.
5. The person or persons delivering the stop work order shall certify to the local government that the order was delivered.
6. Except as provided by NCGS 160D-1112 and NCGS 160D-1208, a stop work order may be appealed pursuant to NCGS 160D-405.
7. No further work or activity shall take place in violation of a stop-work order pending a ruling on an appeal.
8. Violation of a stop work order shall constitute a Class 1 misdemeanor.

B. Revocation of Permit or Approval

1. The Zoning Enforcement Officer or staff may revoke any development permit or approval granted under this UDO, by written notice to the permit or approval holder, when false statements or misrepresentations were made in securing the permit or approval, work is being or has been done in substantial departure from the approved application or plan, there has been a failure to comply with the requirements of this UDO, or a permit or approval has been mistakenly granted in violation of this UDO.



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2. If a public hearing was required to approve the development permit, then the permit can only be revoked by following the same development review and approval process required for issuance of the development approval, including any required notice or hearing on the revocation of that approval.

C. Denial or Withholding of Related Permits

1. The Town may deny or withhold a Certificate of Compliance/Occupancy in accordance with the Building Code—or deny or withhold any permit, approval, or other authorization under this UDO to use or develop any land, structure, or improvements—until an alleged violation related to such land, use, or development is corrected and any associated civil penalty is paid.

D. Equitable Remedies Issued by a Court

1. In addition to the penalties imposed under Section 10.2.1 and Section 10.2.2 above, the provisions of this UDO may also be enforced through equitable remedies issued by a court of competent jurisdiction including injunction and order of abatement.

10.3 APPEALS

Appeals of administrative decisions made under the provisions in this chapter may be appealed to the Board of Adjustment following the provisions in NCGS 160D-405.





Town of Valdese, NC Unified Development Ordinance

CHAPTER 11: INTERPRETATION AND DEFINITIONS

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CHAPTER 11: INTERPRETATION, MEASUREMENT, AND DEFINITIONS

11.1 INTERPRETATION

11.1.1 MEANING AND INTENT OF ORDINANCE LANGUAGE

All provisions, terms, phrases, and expressions contained in this Ordinance shall be interpreted in accordance with the general purposes set forth in Section 1.1.3, and the specific purpose and intent statements set forth throughout this UDO. When a specific section of these regulations provides a different meaning than the general definition provided in Section 11.3, Definitions, the specific section's meaning and application of the term shall control.

11.1.2 REFERENCES TO OTHER REGULATIONS AND PUBLICATIONS

Whenever reference is made to a resolution, ordinance, code, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, manual, resolution, ordinance, code, statute, regulation, or document, unless otherwise specifically stated.

11.1.3 RULES OF INTERPRETATION FOR ORDINANCE TEXT

To interpret this Chapter, 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 an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, a public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.
- D. The word "lot" includes the word "structure".
- E. The word "building" includes the word "structure".
- F. The word "shall" is mandatory, establishing an obligation to comply with the particular provision.



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- G. The words “may” and “should” are permissive in nature, constituting a suggestion or recommendation to meet the particular standard.
 - H. 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".
 - I. The word Zoning Enforcement Officer includes the word Watershed Administrator.
 - J. Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:
 - 1. “And” indicates that all connected items, conditions, provisions or events apply or are required;
 - 2. “Or” indicates that only one of the connected items, conditions, provisions, or events applies or is required.

11.1.4 TERMS NOT DEFINED

If a term used in this UDO is not defined in the UDO, the Planning Director shall have the authority to provide a definition based on the definitions used in accepted sources—including, but not limited to, the following documents published by the American Planning Association: *A Planners Dictionary*, *A Glossary of Zoning, Development, and Planning Terms*, and/or *A Survey of Zoning Definitions*; and/or the latest edition of *The American Heritage Dictionary*.

11.2 DEFINITIONS

11.2.1 TERMS DEFINED

Access Corridors: A strip of land lying between the side lot boundary lines of a lake or riverfront lots offering access to lots at least one lot depth away from the water’s edge.

Access Street: See “Street, Access”.

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.

Administrative Decision: Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards outlined in Chapter 160D or Town of Valdese development regulations. (Also referred to as “ministerial decisions” or “administrative determinations”)

Administrative Hearing: A proceeding to gather facts needed to make an administrative decision.

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

Alternative Tower Structure: 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.

Amortization: A provision requiring nonconforming signs to either become conforming or be removed within a set period, otherwise known as the amortization period.

Animal Hospital: See Veterinary Hospital or Clinic.

Antenna: Communications equipment that transmits and/or receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Apartment: See Dwelling, Multi-family.

Approval Authority: Governing Board, or other board or official designated by this UDO as being authorized to grant the specific zoning or land use permit approval that constitutes a site-specific development.

Arterial: A street or highway that carries large volumes of traffic at moderate speeds through and within Town of Valdese. These thoroughfares provide access to major commercial, industrial, and public traffic generators.

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

Automotive Repair, Major: An establishment where the following services may be rendered on a motor vehicle: body repair or replacement, straightening of automotive body parts, alignment, engine repair and reconditioning, painting, upholstering, welding, vehicle steam cleaning and undercoating, and storage of automobiles not in operating condition. This use also includes all activities included in “Automobile Repair, Minor”.

Automotive Repair, Minor: The sale and dispensing of fuel, lubricants, tires, batteries, accessories, and supplies, as well as minor repairs, incidental replacement of parts, and maintenance and servicing of passenger automobiles and trucks not exceeding one and one-half ton capacity, and any repairs to motorcycles. This use includes limited temporary storage of these vehicles.

Automobile Sales, Rental, and/or Lease, Major: Storage and display for sale, rental, and/or lease of more than ten cars, trucks, motorcycles, motor scooters, and/or other similar motorized vehicles at the same time.

Automobile Sales, Rental, and/or Lease, Minor: Storage and display for sale, rental, and/or lease of ten or fewer cars, trucks, motorcycles, motor scooters, and/or other similar motorized vehicles at the same time.

Automotive Service Station: See “Convenience Store”.

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.

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.

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

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.

Bar: A commercial enterprise devoted primarily to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages. Bars include

taverns, pubs, nightclubs, and similar drinking establishments serving alcoholic beverages but do not include taprooms/tasting rooms in microbreweries and brewpubs.

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

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

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

Best Management Practices (BMP): A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters to achieve water quality protection goals. Also known as a "stormwater control measure" or "SCM."

Bird: See "Fowl".

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

Bona Fide Farm Purposes: Agricultural Activities as outlined in G.S.160D- 903.

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

Brewery, Small: An establishment for the manufacture of beer with an annual beer production of up to 15,000 barrels, and may include a taproom/tasting room.

Brewery, Large: An establishment for the manufacture of beer with an annual beer production of over 15,000 barrels, and may contain a taproom/tasting room.

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

Buffer: A strip of land that may include trees, shrubs, a fence, and/or a berm designed to separate, protect, and/or screen one land use from neighboring land uses.

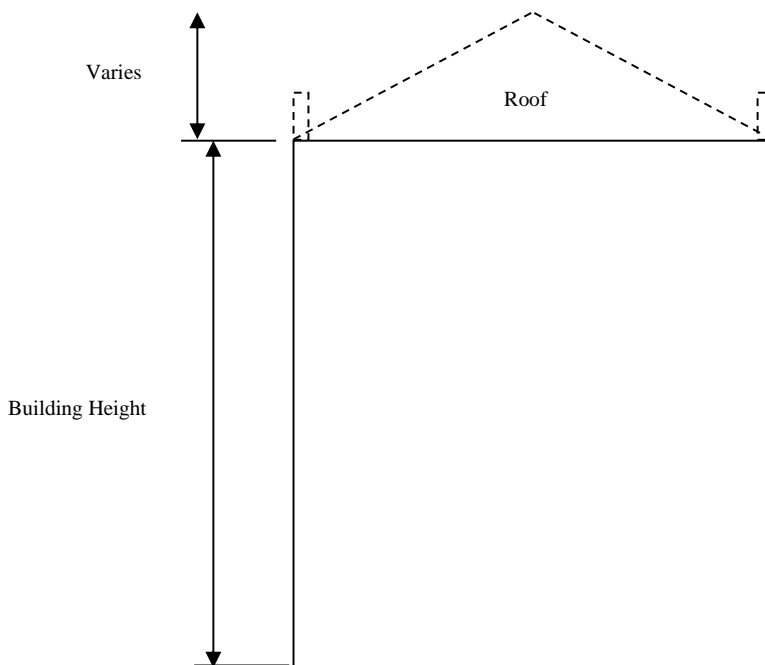
Buffer (Watershed): See definition in Section 8.9.2.

Building (or Buildings): Any structure used or intended for supporting or sheltering any use or occupancy. The connection of two buildings utilizing an open porch, breezeway, passageway, carport, or other such open structure, with or without a roof, shall not be deemed to make them one building.

Building, Accessory: A building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building, and located on the same lot therewith.

Building, Coverage: See Lot Coverage.

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



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

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

Building Wall: The entire surface area, including windows and doors, of an exterior wall of a building. For this UDO, 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.

Built-Upon Area: See definition in Section 8.9.2.

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

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 but not limited to accounting, administrative, architectural, clerical, drafting, executive, financial, graphic design, engineering, insurance, legal, planning, real estate, software, stenographic, and/or writing occupations, and including offices of a charitable, philanthropic, religious, or educational nature.

Campaign Sign: See “Sign, Campaign”.

Canopy: A permanent structure, not enclosed and not retractable, attached or unattached to a building, to provide shelter to patrons or motor vehicles, or as a decorative feature on a building wall.

Canopy Sign: See “Sign, Canopy”.

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

Car Wash, Detail Shop: An area of land and/or a structure with machine- or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles; a building or area that provides facilities for washing and cleaning motor vehicles, which may use

production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor.

Cellar: See Basement.

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

Certificate of Occupancy: Permit that is issued by the Town of Valdese 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 UDO.

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.

Charter: As defined in N.C.G.S. 160A-1(1)

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

Cigar Bar: An establishment with a permit to sell alcoholic beverages pursuant to subdivision (1), (3), (5), or (10) of G.S. 18B-1001 that satisfies all of the following:

- a. Generates sixty percent (60%) or more of its quarterly gross revenue from the sale of alcoholic beverages and twenty-five percent (25%) or more of its quarterly gross revenue from the sale of cigars;
- b. Has a humidor on the premises; and
- c. Does not allow individuals under the age of 21 to enter the premises.

Revenue generated from other tobacco sales, including cigarette vending machines, shall not be used to determine whether an establishment satisfies the defi

City: A municipal corporation organized under the laws of the State of North Carolina. The term "city" is interchangeable with the term "town" and is used throughout the UDO. "Town" shall reference the Town of Valdese.

Church: See "Religious Institution".

Clerk of Superior Court: Clerk of Superior Court of Burke County, North Carolina.

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.

Close Familial Relationship: See “familial relationship, close”.

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

Cluster Development: The grouping of buildings 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 this Chapter, planned unit development and mixed-use development are considered cluster developments.

Collocation: The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, city utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term does not include the installation of new utility poles, city utility poles, or wireless support structures.

Commercial Message: A message of a commercial nature including commercial activity, content, commodity, service, entertainment, product, transaction, use, or advertising for any business.

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.

Conditional Zoning: A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment. The Town uses this process to approve Planned Unit Developments.

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

Construction Sign: See “Sign, Construction”.

Convenience Store: A retail establishment where beverages, packaged food, tobacco products, or similar convenient goods for customers are sold, and where, also gasoline and/or diesel fuel may be supplied and dispensed. A “Car Wash, Detail Shop” is a separate use.

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

County: or “Burke County”

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

Crematory or Crematorium: A properly installed, certified apparatus intended for use in the act of Cremation.

Critical Area: See definition in Section 8.9.2.

Cul-de-sac: A short local street having but one end open to traffic and the other end is permanently terminated, and a vehicular turn around provided.

Day Care Home: A private residence where care, protection, and supervision are provided on a regular schedule, to no more than five (5) preschoolers and three (3) school-age children at one time, including children of the adult provider.

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

Decision-making board: The Town Council, Planning Board, or Board of Adjustment, assigned to make planning and land use decisions under Chapter 160D.

Dedication: A gift, by the owner, of his property to another party without any consideration being given for the transfer. Since a transfer of property is involved, the dedication is made by a written instrument and is completed with an acceptance.

Detached Sign: See “Sign, Detached”.

Determination: A written, final, and binding order, requirement, or determination regarding an administration decision.

Developer: A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

Development: Any of the following:

- A. The construction, erection, alteration, enlargement, renovation, substantial repair, a movement to another site, or demolition of any structure.
- B. The excavation, grading, filling, clearing, or alteration of land.
- C. The subdivision of land as defined in G.S. 160D-802.
- D. The initiation or substantial change in the use of land or the intensity of use of land.

(This definition does not alter the scope of regulatory authority granted by Chapter 160D.)

Development approval: An administrative, quasi-judicial, or legislative approval is required before starting any activity, project, or development. Development approvals include zoning permits, site plan approvals, special use permits, conditional zonings, variances, and certificates of appropriateness, as well as all other regulatory-approvals required by regulations adopted under Chapter 160D.

Development, Existing: See “Existing development”.

Development, New: See “New development”.

Development Regulation: A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted under Chapter 160D, or a local act or charter that regulates land use or development.

Directional or Instructional Sign: See “Sign, Directional or Instructional”.

Directory Sign: See “Sign, Directory”.

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.

Double Frontage Lot: A continuous (through) lot that is accessible from both streets upon which it fronts.



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.

Dwelling: A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

Dwelling, Accessory: A dwelling 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, the use of an accessory dwelling shall not increase the number of residents otherwise permitted in a single home.

Dwelling, Attached: See definition for “Townhome”.

Dwelling, Multi-Family: A dwelling(s) designed for occupancy by three (3) or more families living independently of each other.

Dwelling, Two-Family or Duplex: A dwelling designed exclusively for occupancy by two (2) families independent of each other.

Dwelling Unit: A single unit that provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating cooking and sanitation.

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.

Election Sign: See “Sign, campaign”.

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

Electronic Message Sign: See “Sign, Electronic Message”.

Eligible Facilities Request: A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

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:

- A. 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);
- B. 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 a telephone, electric, steam, and water facilities; raw water treatment facilities.
- C. Class 3 - Generation, production, or treatment facilities such as power plants and sewage treatment plants

Evidentiary hearing: A hearing to gather competent, material, and substantial evidence to make findings for a quasi-judicial decision required under Chapter 160D.

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

- A. Having expended substantial resources (time, labor, money) based on a good faith reliance upon having received valid Town of Valdese approval to proceed with the project, or
- B. Having an outstanding valid building permit as authorized by the General Statutes (G.S. 160D-108.1).

Expedited Review: A review process whereby the Town of Valdese may require only a final plat for the recordation for a division of a tract or parcel of land in single ownership if all of the criteria specified in N.C.G.S. 160D-802(c) are met.

Familial Relationship, Close: A spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships (see N.C.G.S. 160D-109(f)).

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

Family Care Home: A dwelling with support and supervisory personnel that provides room and board, personal care, and rehabilitation services in a family environment for not more than six resident disabled persons. A 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 self or others as defined in G.S. 122C-3(11)b.

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

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

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

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

Flag Lot: A lot so shaped and designed that the main building site area is set back from the street on which it fronts and has an access strip connecting the main building site with frontage street.

Flashing Sign: See "Sign, Flashing".

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.

Flood Damage Prevention Definitions: See definitions in Chapter 7, Section 7.5.

Floodplain: See definition in Section 7.5.

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, arcades, stairways, elevator shafts, enclosed porches, and balconies, and any below-grade floor areas used for access and storage. Not countable as floor areas are open terraces, open patios, open atriums, open balconies, open carport garages, and breezeways.

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

Fowl: Includes chickens, game hens, ducks, swans, geese, and other birds typically used as food. This definition for animal keeping does not include parrots, parakeets, and other non-food birds.

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

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

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

Governing Board: The Town of Valdese Town Council.

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.

Grade: An average level of the finished surface of the ground adjacent to the exterior walls of a building or structure. For signs, "grade" is defined as 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.

Government Sign: See "Sign, Government".

Ground Mounted Sign: See "Sign, Ground Mounted".

Group Living: The residential occupancy of a structure by a group of people, who do not meet the characteristics of "Dwelling, multi-family." The size of the group will be larger than the

average size of a household. Tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for shorter periods are generally not considered group living. Generally, Group Living structures have a common eating area for residents. The residents may or may not receive any combination of care, training or treatment, as long as they also reside at the site.

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 percent (16%) or greater. That is an average difference in elevation of at least sixteen (16) feet in a horizontal distance of one hundred (100) feet. The average shall be obtained from at least fifteen (15) measurements, each twenty (20) feet from the next.

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

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

Hospital: An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

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

Identification Sign: See “Sign, Identification”.

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 manufacturing, assembling, finishing, cleaning, or developing any product.

Incidental Sign: See “Sign, Incidental”.

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

Junk Yard: The use of more than four hundred (400) square feet of any lot for the outdoor storage and/or sale of waste paper, rags, scrap metal, glass, plastic, tires, or other junk, and/or including storage of inoperable motor vehicles and dismantling of such vehicles or machinery and/or the sorting and processing of such materials in preparation for reuse or the shipment to others for use in manufacturing new products.

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

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

Landowner or owner: The holder of the title in fee simple.

Land Use Plan: A plan adopted by the Town that designates future use or reuse of land through text and maps.

Large Brewery: See “Brewery, Large”.

Library: A building containing printed information, electronic information, pictorial material, musical recordings, and/or equipment such as computers for the public use, and not normally for sale.

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

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.

Local Government: A town, village, city, or county.

Local Street: See “Street, Local”.

Logo: A trademark or symbol for a business or other organization.

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 UDO, 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 adjoining on and at the intersection of two or more streets.

Lot Coverage: The percentage of a lot that 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 adjoining on a street.

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

Lot Front: A portion of the lot that is adjacent to the street. In the case of lots which adjoin a stream, lake, or pond, the lot front is considered to be the part of the lot which adjoins the water.

Lot, Frontage: The linear distance by which a lot adjoins an approved public street. **Lot, Interior:** A lot in which only one of its sides adjoins a street.

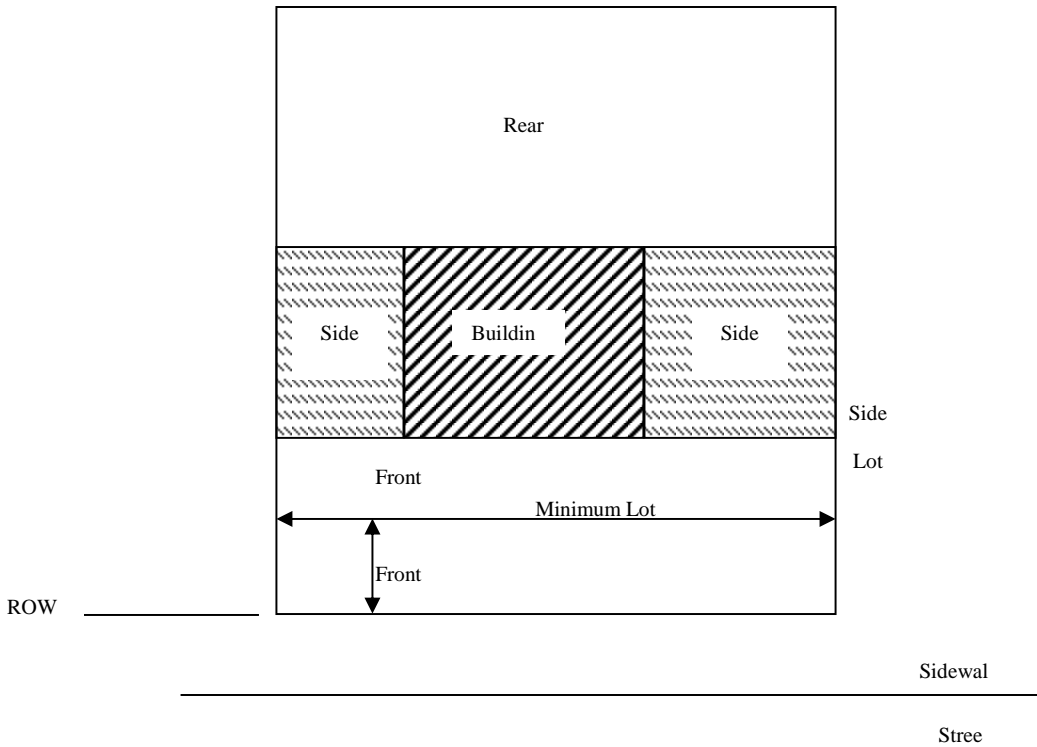
Lot, Landlocked: A lot that does not adjoin a public street or which otherwise does not meet the minimum street frontage requirements of the zoning district in which is located.

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

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 at the time it was established.

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: See definition in Section 8.9.2.

Manufactured Home, Class A: A structure that meets the Manufactured Home Construction and Safety Standards administered by the U.S. Department of Housing and Urban Development (HUD Code) and as defined in N.C.G.S. 143-145(7), being a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured Home, Class A" includes any structure that meets all of the requirements of this subsection except the size requirements and for which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401, et seq., federal regulations adopted under the Act, and any laws enacted by the United States Congress that supersede or supplement the Act.

For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its chassis and placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and

over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their chassis that connect on-site for placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width.

Manufactured Home, Class B: A portable manufactured housing unit designed for transportation on its chassis and placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width that does not meet the Manufactured Home Construction and Safety Standards administered by the U.S. Department of Housing and Urban Development (HUD Code). This definition includes a double-wide manufactured home that does not meet the HUD Code that is two or more portable manufactured housing units designed for transportation on their chassis that connect on-site for placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width.

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.

Manufacturing, Heavy: An establishment engaged in the processing, fabricating, and/or wholesaling of products primarily from extracted or raw materials or bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors, or vibration beyond the property line. This includes but is not limited to establishments engaged in producing the following products: animal feeds, building materials, storage of gasoline, oil, or fuel, pottery, porcelain, vitreous china, soap, detergent, and washing compounds. Heavy manufacturing is distinguished from light and medium manufacturing by its potential for off-site impacts, not necessarily being entirely within an enclosed building, not being limited in the extent of outdoor storage it involves, and/or producing products that are combustible or explosive.

Manufacturing, Light: An establishment engaged in the mechanical or chemical transformation of materials or substances into finished products or parts predominately from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, provided that all manufacturing activities are contained entirely within a building and noise, odor, smoke, heat, glare, and vibration resulting from the manufacturing activity are confined entirely within the building. Examples of light manufacturing include but are not limited to production or repair of small machines or small electronic parts and equipment, beverage products, cabinet and woodworking shops, jewelry and silverware (no plating), printing and publishing, sign making, electronic or optical instruments, sporting goods and toys, and welding shops. Products are

generally made for the wholesale market. Manufacturing of goods to be sold primarily on-site and to the general public are classified as Retail Sales and Service.

Manufacturing, Medium: An establishment engaged in processing, fabricating, assembly, treatment, and/or packaging of products from processed or unprocessed raw materials, where the finished product is noncombustible and nonexplosive, provided all manufacturing activities are contained entirely within a building. This includes the incidental storage, sales, and distribution of such products. This manufacturing may produce noise, odor, smoke, heat, glare, and vibration resulting from the manufacturing activities that is perceptible to adjacent land users, but is not offensive or obnoxious. Odors produced on-site shall not have a material negative effect on other businesses or properties in the area. This does not include uses constituting light industrial assembly. Examples of medium industry include but are not limited to the manufacturing, processing, fabricating, and/or wholesaling of the following products: bedding, carpets, pillows, clothing, including hosiery, electric and electronic products, foods and food products not including slaughterhouses, 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.

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 the 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.

Materials Recovery Facility (MRF): See “Recycling Plant”.

Memorial Sign: See “Sign, Memorial”.

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



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

Minor Watershed Variance: See definition in Chapter 8, Section 8.9.2.

Mixed-Use: Commercial, office-institutional, and/or residential uses within the same building.

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

Monument Sign: See “Sign, Monument”.

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, Multi-family”.

Multi-Phased Development: A multi-phased development, if approved, shall have a vested right of seven (7) years for the entire development with the zoning and subdivision regulations in place at the time of the original. A development with a minimum size of 25 acres that is both of the following:

- A. Submitted for development permit approval to occur in more than one phase.
- B. Subject to a master development plan with committed elements showing the type and intensity of use of each phase.

Museum: An establishment for preserving and exhibiting artistic, historical, scientific, natural, and/or human-made objects of interest. Such activity may include the sale of the objects collected and memorabilia, the sale of craft work and artwork, boutiques, and the holding of meetings and social events.

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.

New Development: Any development that does not meet the definition of "Existing development" as defined in this UDO.

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 before the adoption of this UDO, 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 Sign: See "Sign, Nonconforming".

Nonconforming Site Feature: Any obstruction within a required sight distance triangle or any off-street parking, landscaping, perimeter and streetyard buffer, screening, access and circulation features that were lawfully established before the effective date of this UDO, or a subsequent amendment thereto, but does not comply with the sight distance triangle standards or the off-street parking, landscaping perimeter and streetyard buffer, screening, or access and circulation features standards applied by this UDO or the subsequent amendment. The lack of required sight distance triangle, off-street parking, landscaping, perimeter or streetyard buffer, screening, or access and circulation features also shall constitute a nonconforming site feature. Nonconforming Use: A lawful use of land that does not comply with the use regulation for its zoning district as defined by this UDO.

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.

Official Maps or Plans: Any maps or plans endorsed by the Town Council as a guide to the development of Town of Valdese.

Off-Premises Sign: See “Sign, Off-Premises”.

On-Premises Sign: See “Sign, On-Premises”.

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

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.

Ordinance: The Unified Development Ordinance of the Town of Valdese, North Carolina.

Outdoor Advertising Sign: See “Sign, Outdoor Advertising”.

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

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.

Parcel: A lot or group of lots under common ownership.

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, Off-Street: Space located outside of any street right-of-way or easement and designed to accommodate the parking of motorized domestic and commercial vehicles.

Parking Space: A storage space for one automobile, plus the necessary access space. It shall always be located outside the designated street right-of-way.

Pedestrian Walkways: Any paved or unpaved public or private route intended for pedestrian use, including a pedestrian path or esplanade, regardless of use by other transportation modes.

Person: An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, a public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

Personal Service Establishment: An establishment that provides services involving the care of a person or their possessions. Typical uses include but are not limited to, beauty shops, barbershops, body modification establishments (e.g., tattoo, piercing, etc.), health and fitness studios, tanning salons, electronic repair shops, bicycle repair shops, nail salons, shoe repair, laundromats, dry cleaning, and tailors. This use does not include vape shops.

Pet: See “Domestic Pets”.

Planning Board: Any board or commission established according to G.S. 160D-301.

Planned Development: A tract of land under a single, corporation, partnership, or association ownership, planned and developed as an integral unit in a single development operation or a programmed series of development operations and according to an approved development plan (according to Article I).

Planned Development Sign: See “Sign, Planned Development”.

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

Planning Board: The Planning Board of the Town of Valdese, North Carolina.

Planning and Development Regulations Jurisdiction: The area within which the Town is authorized to plan and regulate development according to the authority granted in Chapter 160D of the North Carolina General Statutes.

Plaque: See “Sign, memorial”.



Plat: A map or plan of a parcel of land which is to be or has been subdivided.

Plat, Final: A map of certain described land prepared to meet Town requirements as an instrument for recording with the Burke County Register of Deeds.

Portable or Movable Sign: See “Sign, Portable or Movable”.

Pre-existing Towers and Antennas: Any tower or antenna on which a permit has been properly issued before the effective date of this UDO.

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 under applicable zoning. Out parcels of shopping centers shall be considered on the premises of the shopping center for this UDO.

Private Street: See “Street, Private”.

Projecting Sign: See “Sign, Projecting”.

Property: All real estate property subject to land-use regulation by the Town of Valdese. The term includes any improvements or structures customarily regarded as a part of real property.

Public Interest Sign: See “Sign, Public Interest”.

Quasi-judicial decision: A decision involving the finding of facts regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, and appeals of administrative determinations.

Primary Sign: See “Sign, Primary”.

Protected Area (PA): See definition in Chapter 8, Section 8.9.2.

Real Estate Sign: See “Sign, Real Estate”.

Recreation Area or Park: An area of land or combination of land and water resources that are developed for active and/or passive recreation that may include manmade features that accommodate such activities.

Recycling Center: An establishment in which used materials are collected, separated, and/or processed before shipment to others who will use those materials to manufacture new products. This may include operating facilities for separating these materials from nonhazardous garbage, and/or where commingled recyclable materials such as paper, plastics,

used beverage cans, and metals are sorted into distinct categories. Also known as a “Materials Recovery Facility (MRF)”.

Recycling Collection Point: A drop-off point for the collection and 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 other public/quasi-public areas, such as churches and schools.

Recycling Plant: A facility that is not a junkyard 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 be used again, or serve as feedstocks in manufacturing new products.

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

Reservation: A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep the property free from development for a stated period.

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, and their associated outbuildings such as garages, storage buildings, and gazebos.

Restaurant: An establishment in which food or beverages are cooked or prepared and offered for sale for carry out or consumption on the premises whether or not entertainment is offered, and including establishments commonly referred to as cafes, grilles, clubs, private clubs, drive-ins, and fast-food establishments. An establishment that sells alcoholic beverages and food is classified as a “bar” if it derives more of its gross revenue from the sale of alcoholic beverages, or a “brewpub” if it manufactures beer on site for consumption and retail sale.

Retail Sales: Stores selling, leasing, or renting consumer, home and business goods including antiques, appliances, art, art supplies, bicycles, books, butchered meats, clothing, dry goods, electronic equipment, fabric, food sales, furniture, garden supplies, gifts, groceries, hardware, hobby supplies, home improvement products, household products, jewelry, music, pets, pet food, pharmaceuticals, plants, printed material, stationery, sales or leasing of consumer

vehicles including passenger vehicles, motorcycles, light, and medium trucks and other recreational vehicles, shoes, sporting goods, toy, variety, videos, and including similar sale establishments.

Roof Sign: See “Sign, Roof”.

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.

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.

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

Secondary Business Identification Sign: See “Sign, Secondary Business Identification”.

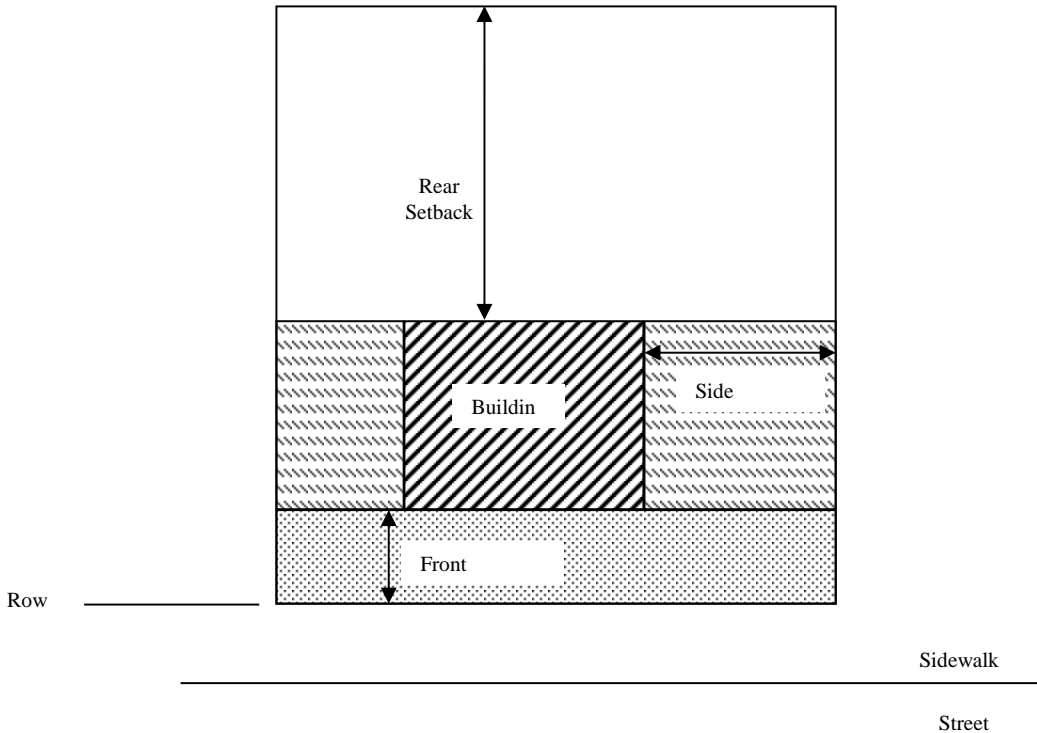
Secondary Sign: See “Sign, Secondary”.

Senior Housing: Multi-family housing designed for and occupied by persons 55 years of age or older.

Service Station: See “Automotive Service Station”.

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





Sight Distance Triangle: The triangular area at the intersection of two or more roads where the driver of a motorized vehicle can see potential intersecting traffic. See Section 5.3.6 for the Town’s standard for how to calculate a sight triangle.

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, Political: Any sign that advocates for political action. The term does not include a commercial sign.

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

Sign, Business: 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 about the preceding if such activity is only minor and incidental to the principal use of the premises.

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

Sign, Canopy or Awning: 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 based on the size of the building wall to which the canopy is attached. It will, for measuring purposes, be considered a wall sign.

Sign, Construction: 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.

Sign, Detached: Any sign that is not affixed or attached to a building and is securely and permanently mounted in the ground. Such a sign may be a ground-mounted sign or monument sign.

Sign, Directional or Instructional: 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, organization, or use to which the sign is giving direction may also be included on the sign.

Sign, Directory: A sign that 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.

Sign, Electronic Message: A sign capable of displaying words, symbols, figures, or images and that can be electronically or mechanically changed by remote or automatic means. Electronic Message signs may be part of wall-mounted signs, ground-mounted signs, or window signs.

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

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

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

Sign, Identification: A sign that 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.

Sign, Incidental: A sign used in conjunction with equipment or other functional elements of 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.

Sign, Memorial: 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.

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

Sign, Nonconforming: Any sign that was lawfully erected in compliance with applicable code provisions and maintained before the effective date of this UDO, and which fails to conform to all applicable standards and restrictions of this UDO.

Sign, Off-Premises: A sign that directs attention to a business, commodity, activity, organization, or service, conducted, sold, or offered at a location other than the premises on which the sign is erected.

Sign, On-Premises: A sign that directs attention to a business, commodity, activity, organization, or service, that is conducted, sold, or offered on the premises on which the sign is erected.

Sign, Outdoor Advertising: 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, typically for a business, commodity, activity, organization, or service not conducted on the site on which the sign is located. 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.

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

Sign, Portable or Movable: 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.

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

Sign, Projecting: A sign that is affixed to a building and supported only by the wall on which it is mounted; considered a wall sign for purposes of this UDO.

Sign, Public Interest: 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.

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

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

Sign, Secondary Business Identification: 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 subordinate to, and has separate ownership, management, and operation from, the principal business which occupies the building.

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

Sign, Temporary: A sign that is not permanently installed in the ground or affixed to any structure or building, and which is erected for some time as permitted in this UDO.

Sign, Temporary Planned Development: A sign that pertains to the development of a new commercial, residential, or mixed-use development while it is under construction.

Sign, Vehicular: 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 this UDO, vehicular signs shall not include business logos, identification, or advertising on vehicles primarily used for other business purposes.

Sign, Wall: 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.

Sign, Window: 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.

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.

Single-Tier Lot: A lot that backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.



Site Plan: A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height, and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, green space, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that apply to the project and the site plan review.

Site Plan, Major: A site plan for a building or use that includes one of the following use categories, as specified in Table 4.1-1:

- Recreation and Entertainment
- Medical Uses
- Transportation, Utility, and Telecommunications Uses
- Retail, Eating, Drinking, and Service Uses
- Office Uses
- Warehousing and Industrial Uses

Site Plan, Minor: A site plan for any building or use other than those buildings or uses required to prepare a major site plan.

Site-Specific Vesting Plan: A plan submitted to the Town of Valdese under Section 2.7 and subject to the provisions of G.S. 160D-108.1 describing with reasonable certainty the type and intensity of use for a specific parcel or parcels. The plan may be in the form of any of the following plans or approvals: 1. Special Use Permit as provided by this UDO; 2. Major Subdivision Preliminary Plat approval as provided in Chapter 6; and 3. Planned Unit Development as provided in this UDO. Notwithstanding the foregoing, neither a sketch plan, nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels shall constitute a site-specific vesting plan. A variance shall not be considered to be a site-specific vesting plan.

Small Wireless Facility: A wireless facility that meets the following qualifications:

- A. Each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than 6 cubic feet.
- B. All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For the purposes of this sub-subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based

enclosures, grounding equipment, power transfer switches, and cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

Special Use Permit: A permit, which authorizes development or land uses in a particular zoning district which upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards as well as compliance with specific standards, would promote the public health, safety, and general welfare.

Stormwater Control Measure (SCM): See “Best Management Practice”.

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 adjoining properties.

Street, Access: A platted street designed to giving access to adjacent property owners.

Street, Local: All streets not in one of the higher street classifications. A local street serves primarily to provide direct access to adjoining land and access to the higher-order street system.

Street, Major Collector: A thoroughfare that collects traffic from local streets and carries it to arterial streets. While also serving as connectors between arterials, these streets perform an additional function of providing access to adjoining properties. Smaller volumes of traffic are carried on these streets, and speeds are lower.

Street, Minor: See “Street, Local”.

Street, Private: Any right-of-way or area set aside to provide vehicular access that has not been accepted for maintenance or intended to be accepted for maintenance by the Town or the State of North Carolina, and which is not maintained by the Town or the State of North Carolina. An entity other than the Town, such as property owners, homeowners association, community group, property management company, or similar type of organizations, shall be responsible for upkeep and maintenance.

Structure: Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, including

buildings, sheds, carports, swimming pools, shelters, decks, patios, fences, business signs, and billboards and similar structures.

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

Subdivider: Any person, firm, organization, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision: The division of land for sale or development as specified in G.S. 160D-802.

Subdivision Administrator: The Planning Director for the Town of Valdese, North Carolina, or his designated agent.

Subdivision, Minor: A subdivision of land that meets the following criteria:

- A. Involving not more than five (5) lots fronting on an existing approved street; and
- B. Not involving any new street or prospectively requiring any new street for access to the interior property; and
- C. Not requiring an extension of public sewage or water lines or creation of new drainage easements through lots to serve property at the rear; and
- D. Not adversely affecting the development of the remainder of the parcel or adjoining property; and
- E. Creating no new or residual parcels not conforming to the requirements of these regulations; and
- F. All included land must be under the ownership of one sponsor.

Subdivision Regulation: A subdivision regulation authorized by Article 8 of Chapter 160D.

Substantial Modification (wireless telecommunications): The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. The burden is on the Town to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the following criteria:

- A. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.

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- B. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- C. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

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

Telecommunications Tower: Any structure that is designed and constructed primarily to support 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 residential, non-commercial individual use, such as television antennas, satellite dishes, or amateur radio antennas.

Temporary family health care structure: A transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b).

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

Temporary Sign: See "Sign, Temporary".

Temporary Planned Development Sign: See "Sign, Temporary Planned Development".

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

Ten-Acre Exempt Development: A division of land that meets the statutory exemption from subdivision regulations as outlined in G.S. 160D-802(a)(2), whereby all tracts are greater than 10 acres and where no street right-of-way dedication is involved. A Ten-Acre Development must adjoin a public street and shall not exceed five-building parcels.



Townhome: A dwelling unit within a building that includes two or more dwelling units separated only by a party wall. A single-family dwelling unit constructed in a group of three or more attached units separated by property lines in which each unit extends from the foundation to roof and with a yard or public way on at least two sides. A building containing two or more dwelling units that are attached horizontally through common walls. Each dwelling unit occupies space from the ground to the roof of the building, and is located on a separate lot.

Transfer Station, Municipal Solid Waste: A facility where municipal solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site.

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.

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

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

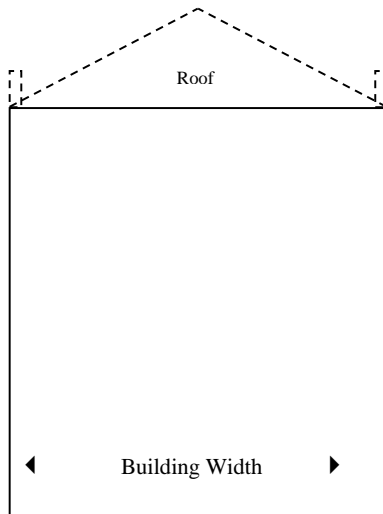
Vape Shop: An electronic Nicotine Delivery system (ENDS) establishment specializing in the selling of a variety of products, including ENDS devices, replacement pieces, hardware, E-liquid, and other ENDS-related products.

Vehicular Sign: See “Sign, Vehicular”.

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

Wall Sign Area: The Wall sign area is the total square footage of all wall signs associated with a business or structure.

Wall Face Area: Wall Face Area is the total square footage of a building front measured by the building height multiplied by the linear width of the building or store bay.



Wall Sign: See “Sign, Wall”.

Water Dependent Structure: Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purposes, 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 responsible for administration and enforcement of this Article. This term shall also include the term "Zoning Enforcement Officer".

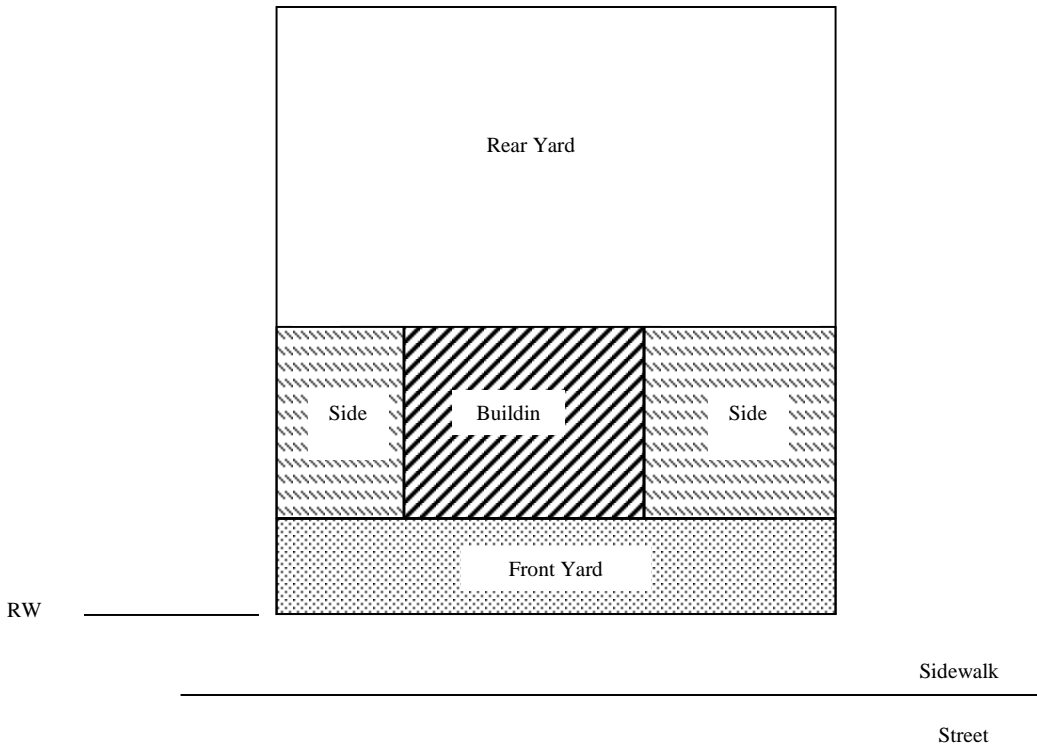
Watershed Variance: See definition for “Minor Watershed Variance” and “Major Watershed Variance” in Section 8.9.2.

Window Sign: See “Sign, Window”.

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

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

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



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

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

Zoning Map Amendment or Rezoning: An amendment to a zoning regulation to change the zoning district that is applied to specified property or properties. The term also includes (1) the initial application of zoning when land is added to the territorial jurisdiction of the Town of Valdese that has previously adopted zoning regulations and (2) the application of an overlay zoning district. The term does not include (1) the initial adoption of a zoning map by the Town of Valdese, (2) the repeal of a zoning map and re-adoption of a new zoning map for the entire planning and development regulation jurisdiction, or (3) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

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

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

Zoning regulation: A zoning regulation authorized by Article 7 of Chapter 160D

Zoning Vested Right: A right under G.S. 160D-108.1 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific vesting plan, provided that such development shall begin within two (2) years following issuance of the zoning vested right.

