

# Town of Archer Lodge

14094 Buffalo Road  
Clayton, NC 27527  
Main: 919-359-9727 Fax: 919-359-3333  
Website: <https://www.archerlodgenc.gov>



# Application for Appointment

**(Please Print when completing the application)**

Email: [kim.batten@archerlodgenc.gov](mailto:kim.batten@archerlodgenc.gov)  
[joyce.lawhorn@archerlodgenc.gov](mailto:joyce.lawhorn@archerlodgenc.gov)

**NOTE: Applicants shall reside in the Archer Lodge Town Limits.**

Please indicate below which board you are interested in serving on:

Planning Board & Board of Adjustments

Other \_\_\_\_\_

\_\_\_\_\_ **1<sup>st</sup> Time Appointment**

\_\_\_\_\_ **Reappointment**

Full Name \_\_\_\_\_

Address \_\_\_\_\_

Mobile Phone# \_\_\_\_\_ Landline Phone# \_\_\_\_\_

Email Address \_\_\_\_\_ Work Phone# \_\_\_\_\_

Education Background \_\_\_\_\_

Employer \_\_\_\_\_ Occupation \_\_\_\_\_

Do you live in the Archer Lodge Corporate Limits? \_\_\_\_\_ How long? \_\_\_\_\_

Are you a citizen of the United States? \_\_\_\_\_ How Long? \_\_\_\_\_

Have you ever served on the Board listed above? \_\_\_\_\_ If yes, when \_\_\_\_\_

What do you feel are your qualifications for serving on the board and why do you think you would be an asset to this board?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**I acknowledge receiving, reading & agree to the Archer Lodge Code of Ordinances attached to this application.**

**Any comments can be written on the back of this page if you need additional space.**

Appointed to \_\_\_\_\_ on \_\_\_\_\_

**Sec. 8.1. - Conflicts of Interest.**

No person, or member of the person's immediate family, who is employed by or is an official, appointed or elected, of the Town of Archer Lodge, shall do business with the Town unless such activity is approved by the Town Council. All officials of the Town shall inform the Town Council of any conflicts of interest, and the failure to so inform shall constitute grounds for immediate dismissal or removal for cause. No official of the Town may accept any gratuity from any businessperson or other official if the gratuity is related to that official's official duties.

## DIVISION 2. - BOARD OF ADJUSTMENT

### Sec. 2-40. - Appointment and terms.

- (a) The town has five members that serve on the planning board. Until the ordinance from which this division is amended, the planning board shall also serve as the board of adjustment. Two appointed members of the town council shall serve on the board of adjustment as alternate members. Said alternate members shall have all the powers as regular members and may fill in for regular members as needed in meetings.
- (b) Members of the board of adjustment shall be appointed for three-year terms.
- (c) Members may be appointed to successive terms without limitation.
- (d) The board shall consist of five regular members and two alternate members, each to be appointed for three years. In appointing the original members of such board, or in the filling of vacancies caused by the expiration of the terms of existing members, the council may appoint certain members for less than three years to the end that thereafter the terms of all members shall not expire at the same time. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving on behalf of any regular member, shall have and may exercise all the powers and duties of a regular member. All regular members and alternate members shall be citizens and residents of the Town of Archer Lodge.

(Ord. of 3-14-2011, § 100-1; Ord. No. AL2017-10-2, 10-2-2017)

### Sec. 2-41. - Meetings.

- (a) The board of adjustment shall meet frequently enough so that it can take action as expeditiously as possible consistent with the need of to follow regularly established procedures and obtain the necessary information to make sound decisions.

- (b) All meetings of the board of adjustment shall be open to the public, and whenever feasible the agenda for each board of adjustment meeting shall be made available in advance of the meeting. A notice of the meeting shall be published in a local newspaper and be posted at town hall at least one week before the hearing.

(Ord. of 3-14-2011, § 100-2)

Sec. 2-42. - Quorum.

- (a) A quorum for the board of adjustment shall consist of the number of members equal to four-fifths of the regular board membership (excluding vacant seats). A quorum is necessary for the board of adjustment to take official action.
- (b) A member who has withdrawn from the meeting without being excused, as provided in section 2-43, shall be counted as present for purposes of determining whether a quorum is present.

(Ord. of 3-14-2011, § 100-3)

Sec. 2-43. - Voting.

- (a) The concurring vote of four-fifths of the regular board of adjustment membership (excluding vacant seats) shall be necessary to reverse any order, requirement, decision, or determination of the town or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance or to grant any variance. All other actions of the board of adjustment shall be taken by majority vote.
- (b) Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection (c) of this section or has been allowed to withdraw from the meeting in accordance with subsection (d) of this section.
- (c) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:
  - (1) If the member has a direct financial interest in the outcome of the matter at issue;
  - (2) If the matter at issue involves the member's own official conduct;
  - (3) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or

- (4) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.
- (d) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.
- (e) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
- (f) A member of the board or any other body exercising the functions of a board of adjustment 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. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to 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 a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.
- (g) All hearings of the board shall be open to the public. The board shall designate a clerk to keep minutes of its proceedings, showing the vote of each member upon each question, and the absence or failure of any member to vote, and a copy of the minutes shall be maintained on file for public record in the office of the town clerk. The concurring vote of four-fifths of the members of the board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of an ordinance adopted pursuant to this chapter, or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance, or to grant a variance from the provisions of the ordinance. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.

(Ord. of 3-14-2011, § 100-4)

Sec. 2-44. - Board officers.

- (a) At its first regular meeting of each calendar year, the board of adjustment shall, by majority vote of its membership (excluding vacant seats), elect one of its members to serve as chairperson and preside over the board's meetings and one member to serve as vice-chairperson. A secretary shall be elected from the members of the board of adjustment or be appointed by the town board of council. Any elected person shall serve in these capacities for terms of one year. Any appointed secretary shall serve at the pleasure of the town board. Vacancies among the elected officials may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats).
- (b) The chairperson or any member temporarily acting as chairperson may administer oaths to witnesses coming before the board.
- (c) The chairperson and vice-chairperson may take part in all deliberations and vote on all issues.
- (d) The board of adjustment shall draw up and adopt rules of procedure under which it will operate.

(Ord. of 3-14-2011, § 100-5)

Sec. 2-45. - Powers and duties of board.

- (a) The board of adjustment shall hear and decide:
  - (1) Appeals from any order, decision, requirement, or interpretation made by the town, inclusive of the flood prevention ordinance;
  - (2) Applications for variances;
  - (3) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines;
  - (4) Applications for conditional use permits; and
  - (5) Any other matter the board is required to act upon by any other ordinance.
- (b) The board of adjustment may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this division.

(Ord. of 3-14-2011, § 100-6)

Sec. 2-46. - Appeals.

- (a) An appeal from any final order or decision of the town staff may be taken to the board of adjustment by any person aggrieved. An appeal is taken by filing with the town clerk and the board of adjustment a written notice of appeal specifying the grounds. A notice of appeal shall be considered filed with the town and the board of adjustment when delivered to the town clerk. A fee shall be paid to the Town of Archer Lodge for each appeal to cover advertising and administrative costs.
- (b) An appeal must be taken within 30 days after the date of the decision or order is made.
- (c) Whenever an appeal is filed, the clerk shall transmit to the board of adjustment all the materials of the case.
- (d) An appeal stays all actions by the town enforcing the requirements of this division.
- (e) After receipt of notice of an appeal, the board of adjustment chairperson shall schedule the time for a hearing which shall be at a regular or special meeting within 36 days from the filing of such notice of appeal.
- (f) At least one week prior to the date of the hearing, the Town of Archer Lodge shall furnish all adjoining property owners with written notice of the hearing.
- (g) The board of adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision or determination that, in its opinion, ought to be made in the case before it. To this end, the board of adjustment shall have all the powers of the officer from whom the appeal is taken.

(Ord. of 3-14-2011, § 100-7)

Sec. 2-47. - Variances.

- (a) An application for a variance shall be submitted to the board of adjustment by filing a copy of the application with the clerk.
- (b) A variance may be granted by the board of adjustment if it concludes that strict enforcement of this chapter would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it finds that:

- (1) If the applicant complies strictly with the provisions of the ordinance, he can make no reasonable use of his property;
  - (2) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public;
  - (3) The hardship relates to the applicant's land, rather than personal circumstances;
  - (4) The hardship is unique, or nearly so, rather than one shared by many surrounding properties;
  - (5) The hardship is not the result of the applicant's own actions; and
  - (6) The variance will neither result in the extension of a nonconforming situation in violation this chapter nor authorize the initiation of a nonconforming use of land.
- (c) A variance may be issued for an indefinite duration or for a specified duration only.
- (d) When practical difficulties or unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board shall have the power to vary or modify any of the regulations or provisions of the zoning ordinance so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. No change in permitted uses may be authorized by variance.
- (e) A fee shall be paid to the Town of Archer Lodge for a variance to cover advertising and administrative costs.

(Ord. of 3-14-2011, § 100-8)

#### Sec. 2-48. - Interpretations.

- (a) The board of adjustment is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the town, they shall be handled as provided in section 2-46.
- (b) An application for a map interpretation shall be submitted to the board of adjustment by filing a copy of the application with the clerk. The application shall contain sufficient information to enable the board to make the necessary interpretation.
- (c) Where uncertainty exists as to the boundaries as shown on the Town of Archer



Lodge official zoning map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines;
- (2) Boundaries indicated as approximately following lot lines, town limits, shall be construed as following such lines, limits or boundaries;
- (3) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such shorelines; and
- (4) Where a district boundary divides a lot or where distances are not specifically indicated, the boundary shall be determined by measurements from the official Town of Archer Lodge zoning map.

(Ord. of 3-14-2011, § 100-9)

Sec. 2-49. - Burden of proof in appeals and variances.

- (a) When an appeal is taken to the board of adjustment in accordance with section 2-46, the designated town staff shall have the initial burden of presenting to the board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.
- (b) The burden of presenting evidence sufficient to allow the board of adjustment to reach the conclusions on those issues remains with the applicant seeking the variance.

(Ord. of 3-14-2011, § 100-10)

Sec. 2-50. - Board action on appeals and variances.

- (a) With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the four-fifths vote necessary for adoption, then a motion to uphold the decision appealed

from shall be in order. This motion is adopted as the board's decision if it receives the four-fifths vote of the board of adjustment's membership (excluding vacant seats).

- (b) Before granting a variance, the board of adjustment must take a separate vote and vote affirmatively (by a four-fifths majority) on each of the required findings stated. Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in section 2-47(b) shall include a statement of the specific reasons or findings of fact supporting such motion.

(Ord. of 3-14-2011, § 100-11)

Sec. 2-51. - Hearing required on appeals and applications.

- (a) Before making a decision on an appeal or an application for a variance, the board of adjustment shall hold a hearing on the appeal, on a conditional-use permit, or petition from the town to revoke a conditional-use permit.
- (b) The hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
- (c) The board of adjustment may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the matter at issue may be heard and decided without undue delay.
- (d) The hearing board may continue the hearing until a subsequent meeting to take additional information. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.

(Ord. of 3-14-2011, § 100-12)

Sec. 2-52. - Notice of hearing on appeals and applications.

- (a) Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such persons a written notice not later than ten days before the hearing.
- (b) Notice shall be given to abutting property owners by mailing a written notice not later than ten days before the hearing to those persons who have listed for taxation real property.
- (c)

A notice shall be published in a newspaper circulated in the area stating the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

(Ord. of 3-14-2011, § 100-13)

Sec. 2-53. - Evidence.

- (a) The provisions of this section apply to all hearings for which a notice is required by section 2-51.
- (b) All persons who intend to present evidence to the permit-issuing board, rather than arguments only, shall be sworn.
- (c) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available.

(Ord. of 3-14-2011, § 100-14)

Sec. 2-54. - Modification of application at hearing.

- (a) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the board of adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.
- (b) Unless such modifications are so substantial or extensive that the board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the clerk.

(Ord. of 3-14-2011, § 100-15)

Sec. 2-55. - Record.

- (a) A recording should be made of all hearings required by section 2-51 and such recordings shall be kept for at least 30 days. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.

- (b) Whenever practical, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept for at least two years.

(Ord. of 3-14-2011, § 100-16)

Sec. 2-56. - Written decision.

- (a) Any decision made by the board of adjustment regarding an appeal or variance or regarding issuance or revocation of a conditional-use permit shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.
- (b) In addition to a statement of the board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the board's findings and conclusions, as well as supporting reasons or facts, whenever this division requires the same as a prerequisite to taking action.

(Ord. of 3-14-2011, § 100-17)

Secs. 2-57—2-85. - Reserved.

### DIVISION 3. - PLANNING BOARD

#### Sec. 2-86. - Creation.

There is hereby created a planning board, as authorized by and with all the powers and duties granted by G.S. § 160A-361 and all other applicable North Carolina General Statutes.

(Ord. No. AL2017-10-1, 10-2-2017)

#### Sec. 2-87. - Members, terms, and vacancies.

- (a) The planning board shall consist of five members, all of whom must reside within the town's corporate limits. The members shall be appointed by the town council.
- (b) All members shall be appointed for three year terms. As these terms expire, new appointments shall be made for three year terms. Vacancies occurring for reasons other than expiration of terms shall be filled for the unexpired term only, by the town council.
- (c) Faithful attendance by the members is mandatory for retaining membership on the planning board. Failure to attend three consecutive meetings shall be deemed adequate reason for termination of membership on the planning board by the town council. If a member has a legitimate excuse for not attending a regular or special meeting of the planning board, he or she shall notify the secretary of the planning board at least 24 hours before the scheduled meeting time.
- (d) All members of the planning board shall have equal voting power on all matters of business. Pursuant to G.S. § 160A-381(d), members of appointed boards providing advice to the town council shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

(Ord. No. AL2017-10-1, 10-2-2017)

#### Sec. 2-88. - Officers, rules, and records.

- (a)

Within 30 days after appointment, the planning board shall meet and elect a chairperson and create and fill those offices as it may determine. The term of the chairperson and other officers shall be one year, with eligibility for reelection.

- (b) The planning board shall adopt rules for transaction of business and shall keep a record of its members' attendance, and its resolutions, discussions, findings and recommendations, which record shall be a public record.

(Ord. No. AL2017-10-1, 10-2-2017)

Sec. 2-89. - Meetings; quorum.

- (a) The planning board shall establish a regular meeting schedule and shall meet frequently enough so that it can act, in an expeditious manner, on requests/matters for its consideration and all meetings shall be open to the public.
- (b) A quorum shall consist of a simple majority of the total membership of the planning board.

(Ord. No. AL2017-10-1, 10-2-2017)

Sec. 2-90. - Powers and duties.

- (a) The planning board may make careful studies of present conditions and the probable future development of the town and its environs. These studies may include, but shall not be limited to, land use surveys; population studies; economic studies; school, park and recreation studies; traffic and parking studies; urban renewal studies, housing and market analysis and annexation studies.
- (b) The planning board may, if directed by the town council, formulate and maintain a comprehensive plan of the town and its environs for the purpose of achieving a coordinated, adjusted and harmonious development of the town which would promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity and general welfare of its citizens; efficiency and economy in the process of development; convenience of traffic; safety from fire and other dangers; adequate light and air; healthful and convenient distribution of population; provision of adequate open spaces; good civic design and arrangement; wise and efficient expenditures of public funds; and adequate provision for public utilities and other matters pertaining to the public requirements. The comprehensive plan shall consist of a number of parts which

may include, but shall not be limited to, the following: a land use plan, a major thoroughfare plan, a utilities plan, a plan for economic development, a recreation plan, a school plan, a community facilities plan, a zoning plan and plans for housing improvement.

- (c) The planning board shall prepare or shall review and comment upon a proposed zoning ordinance, including both the full text of such ordinance and maps showing proposed district boundaries. Upon completion, the planning board shall make a written recommendation regarding adoption of the ordinance to the town council. After initial adoption of a zoning ordinance, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the town council may proceed in its consideration of the amendment without the planning board report. The town council is not bound by the recommendations, if any, of the planning board. The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. Pursuant to G.S. § 160A-383 and G.S. § 160A-387, and any amendment made thereto, the planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.
- (d) The planning board may conduct those public hearings as may be required to gather information necessary for the drafting, establishment and maintenance of the comprehensive plan.

(Ord. No. AL2017-10-1, 10-2-2017)

Secs. 2-91—2-108. - Reserved.