



Town of Archer Lodge

AGENDA

Work Session Meeting

Tuesday, January 17, 2017 @ 6:30 PM

Jeffrey D. Barnes Council Chambers

Page

1. WELCOME/CALL TO ORDER:

2. ORDER OF BUSINESS:

2.a. Teresa Bruton, newly appointed Council Member, will be sworn in by Johnston County Clerk of Superior Court, Michelle Ball

2.b. FY16 Audit Presentation ~ Dale Place of May & Place, PA

2 - 13

2.c. Public Hearing on Adopting an Ordinance for Abandoned, Junked and Nuisance Vehicles and Defined Public Nuisances ~ Bob Clark
[DRAFT-Archer Lodge Junk Vehicle and Nuisance Abatement Ordinance# AL2017-01-1](#)

3. GENERAL UPDATES:

14 - 24

3.a. Discussion on Zoning Ordinance Text Amendments & Subdivision Ordinance Text Amendments in preparation for Public Hearing scheduled for February 6, 2017 ~ Don Belk
[Text Amendments Summary Sheet](#)
[Section 14-6 Definitions](#)
[Section 18-224](#)
[Section 18-226](#)
[Section 18-229](#)

3.b. Planning Board Vacant Seat

4. ADJOURNMENT:

**THE TOWN OF ARCHER LODGE
ABANDONED, JUNKED AND NUISANCE VEHICLES AND DEFINED
PUBLIC NUISANCES**

BE IT ORDAINED by the Town Council of the Town of Archer Lodge, North Carolina:

PART 1. That the Abandoned, Junked and Nuisance Vehicle and Defined Public Nuisances Ordinance for the Town of Archer Lodge is hereby established and written to read as follows:

Chapter 1. ABANDONED, JUNKED AND NUISANCE VEHICLES

Section 1.1 Administration.

The authority responsible for public safety and the Code Administrator of the Town shall be responsible for the administration and enforcement of this Chapter. The public safety authority shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the Town. The Code Administrator shall be responsible for administering the removal and disposal of "abandoned", "nuisance" and "junked" motor vehicles located on private property and on property owned by the Town. The Town may, on an annual or other basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles, and junked motor vehicles in compliance with this Chapter and applicable State laws. Nothing in this Chapter shall be construed to limit the legal authority or powers of officers of the public safety authority and the Fire Department in enforcing other laws or in otherwise carrying out their duties.

State law reference—City authority for removal and disposal of junked and abandoned motor vehicles, G.S. 160A-303. City authority for regulation of abandonment of junked motor vehicles, G.S. 160A-303.2.

Section 1.2 Definitions.

For the purpose of this chapter certain words and terms are defined as herein indicated:

(a) Abandoned vehicle: As authorized and defined in G.S. 160A-303, an abandoned vehicle is one that:

- (1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking; or
- (2) Is left upon a public street or highway for longer than seven (7) days; or

(3) Is left upon property owned or operated by the Town for longer than twenty- four (24) hours; or

(4) Is left upon private property without the consent of the owner, occupant, or lessee thereof for longer than two (2) hours.

(b) Authorized Official: The supervisory employee of the public safety authority or the Town Code Administrator, respectively, designated to order the removal of vehicles under the provisions of this Ordinance.

(c) Motor vehicle or vehicle: All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

(d) Junked motor vehicle: As authorized and defined in G.S. 160A-303.2, the term junked motor vehicle means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or move in the manner in which it originally was intended to move; or

(3) Is more than five (5) years old and appears to be worth less than five hundred dollars (\$500.00).

(e) Nuisance vehicle: A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

(1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or

(2) A point of heavy growth of weeds or other noxious vegetation which exceeds twelve (12) inches in height; or

(3) In a condition allowing the collection of pools or ponds of water; or

(4) A concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor; or

(5) An area of confinement which cannot be operated from the inside, such as, but not limited to, trunks or hoods; or

(6) So situated or located that there is a danger of it falling or turning over; or

(7) A collection of garbage, food waste, animal waste, or any other rotten or

putrescent matter of any kind; or

(8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass;

(9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Town Council.

Section 1.3. Abandoned vehicle unlawful, removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined herein.

(b) Upon investigation, the authorized officials of the Town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

Section 1.4. Nuisance vehicle unlawful, removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

(b) Upon investigation, the Code Administrator may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.

Section 1.5. Junked motor vehicle regulated, removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed. It shall be unlawful to have more than one junked motor vehicle, as defined herein, on the premises of private property. A single, permitted permitted junked motor vehicle must strictly comply with the location and concealment requirements of this section.

(b) It shall be unlawful for the owner, person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to fail to comply with the location requirements or the concealment requirements of this Chapter.

(c) Subject to the provisions of subsection (e), the Town Code Administrator or public safety authority may order the removal of a junked motor vehicle found in violation of this Chapter to a storage garage or area. No such vehicle shall be removed from private property without the written request

of the owner, lessee, or occupant of the premises unless the Town Code Administrator finds in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood, or area appearance. The following, among other relevant factors, may be considered:

- (1) Protection of property values;
- (2) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community; and
- (5) Promotion of the comfort, happiness and emotional stability of the area residents.

(d) Permitted concealment or enclosure of junked motor vehicles:

- (1) One junked motor vehicle, in its entirety, may be located in the rear yard, as defined in the Town Zoning Ordinance, provided the junked motor vehicle is entirely concealed from public view from a public street and/or abutting premises by an acceptable covering for not more than sixty (60) calendar days. Junked motor vehicles kept on the premises more than sixty (60) calendar days shall be kept inside a completely enclosed building. The Town Code Administrator has the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision. The covering must remain in good repair and must not be allowed to deteriorate.
- (2) Any one or more junked motor vehicles kept on the premises more than sixty (60) calendar days shall be kept inside a completely enclosed building.

Section 1.6. Removal of abandoned, nuisance, or junked motor vehicles; pre-towing notice requirements.

Except as set forth in Section 1.7 below, an abandoned, nuisance, or junked motor vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class and certified mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address(s) to whom and to which mailed, and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the Town on a specified date (no sooner than seven

(7) days after the notice is affixed). The notice shall state that the vehicle will be removed by the Town on a specified date, no sooner than seven days after the notice is mailed or affixed, unless the vehicle is moved by the owner or legal possessor prior to that time.

With respect to abandoned vehicles on private property, nuisance vehicles and junked vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, such appeal shall be made to the Board of Adjustment in writing, heard at the next regularly scheduled meeting of the Board of Adjustment, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

Section 1.7. Exceptions to prior notice requirement.

The requirement that notice be given prior to the removal of an abandoned, nuisance, or junked motor vehicle may, as determined by the authorized official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorized official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include:

(a) Vehicles abandoned on the streets or street right-of-way. For vehicles left on public streets and public street right-of-way, the Town Council hereby determines that the immediate removal of such vehicles may be warranted when they are:

- (1) Parked in violation of an ordinance prohibiting or restricting parking.
- (2) Obstructing traffic and/or obstructing a driver's visibility of on coming traffic.
- (3) Parked in a no-stopping or standing zone.
- (4) Parked in loading zones.
- (5) Parked in bus zones, or
- (6) Parked in violation of temporary parking restrictions.

(b) Other abandoned or nuisance vehicles. With respect to abandoned or nuisance vehicle left on town-owned property other than the streets or highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorized official finds a special need for prompt action to protect and maintain the public health, safety, and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such location or manner as to pose a traffic hazard, and vehicles causing

damage to public or private property.

Section 1.8. Removal of vehicles; post-towing notice requirements.

(a) Any abandoned, nuisance, or junked motor vehicle which has been ordered removed may, as directed by the Town, be removed to a storage garage or area by a tow truck operator or towing business contracted to perform such services for the Town. Whenever such a vehicle is removed, the authorized Town official shall immediately notify the last known registered owner of the vehicle with such notice to include the following:

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to redeem the vehicle; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

(b) The Town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, indicating the information set forth in subsections (1) through (5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his agent.

(c) If the vehicle is registered in North Carolina, notice shall be given within twenty-four (24) hours. If the vehicle is not registered in the State, notice shall be given to the registered owner within seventy-two (72) hours from the removal of the vehicle.

(d) Whenever an abandoned, nuisance, or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorized Town official shall make reasonable efforts, including checking the vehicle identification number to determine the last known registered owner of the vehicle and to notify him of the information set forth in subsections (1) through (5) above.

Section 1.9. Right to probable cause hearing before sale or final disposition of vehicle.

After the removal of an abandoned vehicle, nuisance vehicle, or junked motor vehicle, the owner or any person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated by the chief district court judge to receive such hearing requests. The Magistrate will set the hearing within seventy-two (72) hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. 20-219.11, as amended.

Section 1.10. Redemption of vehicle during proceedings.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fees, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this Chapter.

Section 1.11. Sale and disposition of unclaimed vehicle.

Any abandoned, nuisance, or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the Town and in accordance with Article 1 of Chapter 44A of the North Carolina General Statutes.

Section 1.12. Conditions on removal of vehicles from private property.

As a general policy, the Town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable State law procedures. In no case, will a vehicle be removed by the Town from private property without a written request of the owner, occupant or lessee, except in those cases where the vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the Town Code Administrator. The Town may require any person requesting the removal of an abandoned, nuisance, or junked motor vehicle from private property to indemnify the Town against any loss, expense or liability incurred because of the removal, storage, or sale thereof.

Section 1.13. Protection against criminal or civil liability.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance, or junked motor vehicle, for disposing of such vehicle as provided in this Ordinance.

Section 1.14. Exceptions.

Nothing in this Chapter shall apply to any vehicle: (1) which is located in a bona fide "automobile graveyard" or "junkyard" as defined in N.C.G.S. 136-143, in accordance with the "Junkyard Control Act", N.C.G.S. 136-141, et seq., (2) which is in an enclosed building, (3) which is on the premises of a business enterprise being operated in a lawful place and manner, (4) which is located on a bona fide farm, or (5) which is in an appropriate storage place or depository maintained in a lawful place and manner by the Town.

Section 1.15. Unlawful removal of impounded vehicle.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the Town, any vehicle which has been impounded pursuant to the provision of this Chapter unless and until all towing and impoundment fees which are due, or bond in lieu of such

fees, have been paid.

Section 1.16. Alternative Remedies.

Nothing in this Chapter nor any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violation of the terms of this Chapter shall subject the violator to the penalties and remedies, either criminal or civil or both, as set forth in this Chapter or the General Penalties Ordinance of the Town of Archer Lodge.

Chapter 2. PUBLIC NUISANCE CONDITIONS, PRIVATE PROPERTY

Section 2.1. Administration.

For the purpose of this Chapter, the term "nuisance" shall mean or refer to any condition or any use of property or any act or omission affecting the condition or use of property which threatens or is likely to threaten the safety of the public; adversely affects the general health, happiness, security or welfare of others; or, is detrimental to the rights of others to the full use of their own property and their own comfort, happiness and emotional stability because of decreased property values and the unsightliness and decreased livability of neighborhoods.

State law reference—City authority for abatement of public health nuisances G.S. 160A-193.

Section 2.2 Declaration of Public Nuisance

The following enumerated and described conditions, or any combination thereof, are hereby found, deemed, and declared to constitute a detriment, danger and hazard to the health, safety, morals and general welfare of the inhabitants of the Town and are found, deemed and declared to be public nuisances wherever the conditions may exist and the creation, maintenance or failure to abate any nuisances is hereby declared unlawful:

1. Any weeds or other vegetation having an overall height of more than twelve (12) inches above the surrounding ground provided that the following shall not be considered to be a part of this condition: trees and ornamental shrubs; cultured plants; natural vegetation on undeveloped property that is not a threat to the character of surrounding properties; and flowers and growing and producing vegetable plants.
2. Any accumulation of trash, garbage, food waste and other trash which is the result of the absence of, or overflowing of, or improperly closed trash or garbage containers, that attracts or is likely to attract mice and rats, flies and mosquitoes or other pests.
3. An open or unsecured storage or collection place for chemicals, acids, oils, gasoline, flammable or combustible materials or flammable or combustible

liquids, poisonous materials or other similar harmful or dangerous substances, gasses or vapors.

4. An open place, collection, storage place or concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags, or any other combustible materials collection.
5. An open storage place for old worn out, broken or discarded machinery, car parts, junk, tire rims, furniture, stoves, refrigerators, appliances, cans and containers, household goods, plumbing or electrical fixtures, old rusty metal, fencing materials or other similar materials.
6. Any accumulation of garbage, rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, mosquitoes, or vermin prejudicial to the public health.
7. Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health.
8. The open storage of any discarded ice box, furniture, refrigerator, stove, glass, building materials, building rubbish or similar items. The use of carports, open porches, decks, open garages and other outdoor areas that are visible from the street as a storage or collection place for boxes, appliances, furniture (not typical outdoor or yard furniture), tools, equipment, junk, garbage, old worn out broken or discarded machinery and equipment, cans, containers, household goods or other similar condition that increase the likelihood of a fire; may conceal dangerous conditions; may be a breeding place or habitat for mice, rats or other pests; or, create an unattractive condition or visually blighted property
9. A collection place for lumber, bricks, blocks, nails, building hardware, roofing materials, scaffolding, masonry materials, electrical supplies or materials, plumbing supplies or materials, heating and air conditioning supplies or materials or any other type of old or unusable building supplies (especially those with nails, staples or sharp objects and edges) unless such conditions are temporary in nature and caused by a current construction project in progress pursuant to a lawfully issued building permit.
10. Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that the Code Administrator or his designee can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises.
11. The placement, storage or use of upholstered sofas, couches, chairs or other indoor type furniture, appliances, seats removed from motor vehicles or other

furniture not intended for outdoor use by the manufacturer, use on any open porch, carport, stoop, deck, veranda, terrace, patio or other outdoor area that is visible from nearby streets and sidewalks.

12. A collection place, pool or pond of stagnant or foul water or persistent dampness caused by overflowing septic tanks, manmade dams, open ditches, overflowing pipes, foundation trenches or other impoundments of any kind.
13. Barns or farm animal pens, pastures or enclosures for farm animals which are not kept sanitary and clean or otherwise become a collection place for animal waste and which because of the conditions associated therewith attract rats, mice, flies or other pests or emit foul odors that can be detected or noticed on adjacent properties or are otherwise not kept in a sanitary condition.
14. Dog lots, pens, pet enclosures of all kinds, outdoor areas where dogs or other pets are chained or kept or areas where dogs and cats are permitted to roam which become a collection place for dog, cat or pet waste and excrement and which attract flies or other pests, emit foul odors which can be detected or noticed on adjacent property or are not kept in a sanitary condition.
15. A collection place for sewage and sewage drainage or the seepage from septic tanks, broken or malfunctioning plumbing and sewer pipes or any other seepage of dangerous, hazardous or poisonous liquids.
16. A collection place for tree limbs, dried brush, dead vegetation, stumps or other decayed wood and materials or other similar rubbish.
17. Any discharge into or polluting of any stream, creek, river or other body of water or the discharge of any dangerous substance or any other material likely to harm the water or any vegetation, fish or wildlife in or along the water or the storage of such harmful materials and substances in a manner so that it is likely that such streams, creeks, rivers or other bodies of water will become polluted or adversely affected in any manner.
18. Any condition which blocks, hinders, or obstructs in any way the natural flow of branches, streams, creeks, surface waters, ditches, or drains, to the extent that the premises is not free from standing water.
19. Any conditions or use of property, which results in the emission of pollutants and particles into the atmosphere or causes noxious odors, vapors and stenches to be discharged into the air.
20. Any condition detrimental to the public health which violates the rules and regulations of the County Environmental Health Department.

Section 2.3. Exceptions

Notwithstanding the above, the following uses and the conditions associated with such uses shall not be considered as a nuisance unless there are other circumstances which cause the

use and/or the condition to become a nuisance:

1. **Businesses:** The outside storage of raw materials, products and goods, equipment or machinery that are used by a lawful business, including agricultural uses or a commercial entity that is lawfully operated in full compliance with all required licenses and permits and in compliance with all environmental laws, zoning laws and other local ordinances shall not be unlawful so long as the use of the raw materials, products, machinery, equipment and goods are necessary to the operation of the business, industry or commercial entity and are in accordance with normal or customary practice. This exception shall not apply to the storage of inherently dangerous materials and/or goods and supplies in an unsecured location nor shall it apply to the unnecessary storage or collection of materials that are no longer needed for the purpose of the business nor expected to be used in the business in the foreseeable future.
2. **Overgrown Areas:** This chapter is not intended to regulate bona fide farms, tracts of land not otherwise subject to the town subdivision regulations, undeveloped sections of approved subdivision, areas reserved from development due to environmental sensitivity or habitat preservation, woods, or landscaped natural areas utilizing a combination of live and ornamental materials created for aesthetic effect. Such areas shall not be a violation unless there are other conditions associated therewith that cause the area to be a nuisance.

Section 2.4. Complaint; Investigation of Public Nuisance

When any condition in violation of this Chapter is found to exist, the Code Administrator or such persons as may be designated by the Town Council shall give notice to the owner of the premises to abate or remove such conditions within ten (10) days. Such notice shall be in writing, shall include a description of the premises sufficient for identification and shall set forth the violation and state that, if the violation is not corrected within ten (10) days, the town may proceed to correct the same as authorized by this section. Service of such notice shall be by any one of the following methods.

1. By delivery to any owner personally or by leaving the notice at the usual place of abode of the owner with a person who is over the age of sixteen (16) years and a member of the family of the owner.
2. By depositing the notice in the United States Post Office addressed to the owner at his last known address with regular mail postage prepaid thereon.
3. By posting and keeping posted, for ten (10) days, a copy of the notice, in placard form, in a conspicuous place on the premises on which the violation exists, when notice cannot be served by method (1) and (2).

Section 2.4. Abatement Procedure.

If the owner of any property fails to comply with a notice given pursuant to this section, within ten (10) days after the service of such notice, he shall be subject to prosecution for

violation of this Chapter in accordance with law and each day that such failure continues shall be a separate offense. In addition, the Town may have the condition described in the notice abated, removed or otherwise corrected and all expenses incurred thereby shall be chargeable to and paid by the owner of the property and shall be collected as taxes and levies are collected. All such expenses shall constitute a lien against the property on which the work was done.

Section 2.5. Procedure is Alternative

The procedure set forth in this Chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this Ordinance shall not prevent the town from proceeding in a criminal action against any person, firm or corporation violating the provisions of this chapter as provided in N.C. G. S. 14-4.

In addition to the remedies provided for herein, any violation of the terms of this Ordinance shall subject the violator to the penalties and remedies, either criminal or civil or both.

Section 2.6. Penalty

Unless a different fine or penalty is set out in a particular section of this Chapter, a violation of any provision of this Ordinance shall subject the violator to the following schedule of civil penalties for Notices of Violation:

First Notice of Violation: \$25.00

Second and Subsequent Notices of Violation: \$75.00

If a higher fine or penalty is set out in this ordinance, the higher fine or penalty shall apply.

PART 3. This Ordinance shall become effective upon its adoption by the Town Council of the Town of Archer Lodge, North Carolina.

ADOPTED this the ____ day of ____, 2017.

ATTEST

SEAL

Mayor
Mike Gordon

Town Clerk
Kim P. Batten

SUMMARY TABLE OF AMENDMENTS

TOPIC	ACTION	COMMENTS
PAVEMENT DEPTH	Revise Section 18-226 A(b)(i)	Requires minimum of 2 inches Asphalt Concrete Surface Course on all new subdivision roads.
ACCESS REQUIREMENTS	Revise sub-Section A(e) (i) through (iv); add new sub-Sections A(e)(v) and (vi)	Specifics when additional full service access points are required.
SIDEWALKS (When Required)	Revise sub-Section A(g) (ii) and (iii)	Requires maximum 15' public access easement; requires sidewalks at the discretion of the Planning Board in certain situations.
CUL-DE-SACS	Add new sub-Section A(c)	Sets maximum length of cul-de-sac streets for subdivisions with lot sizes >20,000 SF at 1,000 ft; with lot sizes <20,000 SF at 700 ft.
BLOCK LENGTH	Add new Section 18-224 B	Blocks shall not exceed 1,500 ft in length; requires pedestrian connections in blocks and cul-de-sacs in certain cases.
FIRE DEFENSE	Revise Section 18-229 B and add new sub-Section B	Sets maximum distance between fire hydrants at 500' unless otherwise approved by Johnston County Fire Marshal.
STREETS (Defined)	Consider revising Archer Lodge street definitions (Section 14.6) to more precise definitions, such as: <i>Major/Minor Thoroughfare</i> <i>Commercial Street</i> <i>Collector Street</i> <i>Residential Collector Street</i> <i>Residential Street,</i> <i>Cul-de-Sac</i> <i>Alley</i> <i>Frontage Road</i> Currently, Archer Lodge Streets are defined as Arterial, Collector, Local, Private, Public.	(See Town of Clayton, Article 6, p. 5 of 19, § 155-602D – Street Types)

Sec. 14-6. Definitions.

A The following words, terms and phrases shall have the meanings ascribed to them in this section. For the purpose of this section, certain terms or words shall be interpreted as follows:

- a) The words "used" and "occupied" include the words "intended, designed, and arranged to be used as occupied."
- b) Terms not defined in this section shall have the meanings customarily assigned to them.
- c) Definitions specific to a specialized area, such as stormwater management, flood control and other technical and engineering definitions are contained within that specific article.

Accessory dwelling unit means a dwelling that exists either as part of a principal dwelling or as an accessory building that is secondary and incidental to the use of the property as single family residential.

Adjoining means when one property adjoins another, shares a common property line or is immediately adjacent to, or abutting it.

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Storage means the keeping of commodities or items for the purpose of future use or safekeeping for longer than three (3) days.

Streets. Streets are classified as follows:

~~Street, arterial means streets or roads that function primarily serving through traffic movement, limited land parcel access service may be accommodated, but traffic controls and street design are intended to provide efficient through traffic movement. Some U.S. and North Carolina numbered highways are examples of arterial streets.~~

- a) Alley: a public vehicular way providing service access along rear or side property lines of lots which are also served by one of the other listed street types.
- b) Clear Zone: the unobstructed, relatively flat area bordering the edge of payment that allows a driver to stop safely or regain control of a vehicle that leaves the roadway. The clear zone may consist of a shoulder, recoverable slope, or a clear run-out area. The desired minimum width of a clear zone is dependent upon traffic volumes and speeds and on the roadside geometry.
- c) Collector: streets whose principal function is to carry traffic between residential streets, cul-de-sacs and major and minor thoroughfares, but that may also provide direct access to abutting properties. It is designed to carry more than 3,500 but less than 6,000 trips per

day. Typically, a collector is able to serve, directly or indirectly, between 350 and 600 dwelling units. means streets or roads that function to penetrate areas, neighborhoods, public service areas, and districts. Such streets are intended to provide both through-traffic and some land parcel access services in relatively equal proportions, often linking the local street system to the arterial street system. Examples of a collector street include some North Carolina and S.R. numbered streets

- d) Cul-de-sac: short streets having one end open to traffic and the other permanently terminated by a vehicular turnaround.
- e) Frontage: a street that is parallel and adjacent to a major or minor thoroughfare, which provides access to abutting properties, protection from through traffic, and control of access to the major or minor thoroughfare.
- f) Local: a street whose principal function is provide access to adjacent properties. They are intended to accommodate land parcel ingress and egress. Through-traffic movement is difficult and discouraged by traffic controls and street design. Examples of local roads include streets internal to subdivisions and sparsely-developed rural areas.
- g) Street, Private: means a street or road that is not dedicated as a public right-of-way, which is privately maintained by a homeowners' association or a road maintenance agreement, and is not taken over for maintenance by NCDOT and requires a Subdivision Streets Disclosure Statement in accordance with G.S. 136-102.6.
- h) Street, Public: means a street or road that is dedicated as a public right-of-way, which is accepted and taken over for maintenance by NCDOT.
- i) Thoroughfare, Major: A street serving the principal network for high volumes of traffic or high speed traffic. This street type consists of at least two travel lanes in each direction. A major thoroughfare shall be designated where the anticipated average daily volume exceeds 10,000 vehicles. Residences shall not have access to a major thoroughfare.
- j) Thoroughfare, Minor: A street designed primarily to collect and distribute traffic between the local street network and major thoroughfares. This street type generally consists of more than one travel lane in each direction. A minor thoroughfare shall be designated where the anticipated average daily volume ranges exceeds 6,000 vehicles, but is less than 10,000 vehicles. Residences should not have access to a minor thoroughfare.

Structural alteration means any change, except for regular repair or replacement, in the supporting members of a structure, such as, but not limited to, bearing walls, columns, beams, or girders.

Structure means anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground, including, but not limited to, principal and accessory buildings, signs, fences, walls, monuments, bridges, flagpoles, antennas and towers.

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Sec. 18-224. Lot and Block arrangement.

- A* The arrangement of lots in a subdivision shall comply with the provisions of this division and the regulations of the Town of Archer Lodge, and shall provide vehicular access to buildings on the lot from an approved street.
- B* Blocks shall be arranged with special consideration given to the type of land use proposed within the block.
- a) Blocks shall not exceed 1,500 feet in length.
 - b) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic.
 - c) A pedestrian access easement not less than ten feet in width may be required near the center and entirely across any block greater than 900 feet in length to provide adequate access to schools, parks, churches, civic facilities, open space, trails, or greenways.
 - d) A pedestrian access easement not less than ten feet in width may be required from a cul-de-sac to help provide adequate access to schools, parks, churches, civic facilities, open space, trails, or greenways.

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Sec. 18-226. Access and circulation.

- A The type and arrangement of streets within a development under this chapter shall be in compliance with and coordinate with the Town of Archer Lodge's Thoroughfare Plan. Principal vehicular access points to the subdivision shall be designed to encourage smooth traffic flow and minimize hazard to vehicular traffic, pedestrian and bicycle traffic. Accommodation for controlled turning movements into and out of the subdivision and improvement of the approach street should be considered where existing or anticipated heavy traffic flows indicate need. Safe and convenient vehicular access shall be provided for emergency, service and school bus vehicles.
- a) *Roads.* The arrangement, character, extent, width, grade, and location of all roads should be designed in relation to existing and proposed transportation patterns, topographical and other natural features, public convenience and safety, and proposed uses of lands to be served by such roads and existing and potential land uses in adjoining areas. ~~Private roads not within a minor subdivision, shall:~~
- b) All roads shall:
- i) ~~Be limited to a non-through road; Meet the road construction standards as set forth in the latest edition of the NCDOT Subdivision Roads Minimum Construction Standards, with the additional requirement that pavement surface be a minimum of 2 inches Asphalt Concrete Surface Course, and;~~
- ii) ~~Be paved; Shall be dedicated for public use and meet the design and construction standards as required by the NCDOT for the functional classification and projected traffic volumes.~~
- iii) ~~Meet the road constructions standards as set forth in the latest edition of the NCDOT Subdivision Roads Minimum Construction Requirements. For all roads not maintained by NCDOT and/or not dedicated for public use, be ensured proper maintenance through the establishment of a homeowners' association or a road maintenance agreement.~~
- iv) ~~Meet the road constructions standards as set forth in the latest edition of the NCDOT Subdivision Roads Minimum Construction Requirements.~~
- v) ~~Dedications for Future Right of Way—All roads to be dedicated for public use shall meet the design and construction standards as required by NCDOT for the functional classification and projected traffic volumes.~~

iv) ~~vii)~~ Other Road Requirements

- (1) *Permits for Connecting to NCDOT Roads:* An approved permit is required to connect any subdivision street to an existing NCDOT road. This permit is required prior to constructing the road. The application is available at the office of the nearest district engineer of the Division of Highways.
 - (2) *Offsets to Utility Poles:* Overhead utility poles shall be break-away or located outside the roadway clear zone.
 - (3) *Wheelchair Ramps and Curb Cuts for Disabled Persons:* All roads, sidewalks, curbing, crosswalks, and other road improvements shall conform to the requirements of North Carolina General Statutes Chapter 136, Article 2A, Section 136-44.14 and the American Disabilities Act.
- v) ~~viii)~~ *Relationship to adjoining properties.* New streets or roads shall be appropriately related to, and coordinated with, adjoining properties and existing and proposed roadways. Roadways within a proposed subdivision may be required to connect with adjoining properties where necessary to permit the convenient, efficient and safe movement of traffic. All roads that extend to adjacent properties shall be designated as public roads.
- c) *Cul de Sac Length.* No residential street cul-de-sac serving lots of 20,000 square feet or greater in size shall exceed 1,000 feet in length. No residential street cul-de-sac serving lots less than 20,000 square feet in size shall exceed 700 feet in length
- d) ~~b)~~ *Access to streets.* Every subdivided lot shall front on, or have direct driveway access or dedicated easement to, a public or private street meeting the standards of the latest edition of the NCDOT Subdivision Roads Minimum Construction Standards.
- e) ~~e)~~ *Direct residential driveway connections.* Subdivisions located on ~~an arterial~~ a collector road shall be designed such that no new subdivided lot shall have a direct driveway connection onto ~~an arterial~~ the collector road, unless it can be demonstrated that the proposed subdivision cannot be feasibly designed, or that no reasonable alternative exists, to prohibit driveway access onto ~~an arterial~~ the collector street.
- i) Major subdivisions to be located on a local road shall be designed such that there shall be no more than one direct residential driveway connection per 500 feet along the same side of the local road, unless it can be demonstrated that the proposed subdivision cannot be physically designed, that no reasonable alternative exists, or it would create an unreasonable hardship without a corresponding public benefit to prohibit individual driveway access onto a local road.
 - ii) *Subdivision access.* A second full-service access for the purpose of ingress and egress or an emergency access easement shall meet the requirements of the latest edition of the NCDOT Subdivision Roads Minimum Construction Standards ~~for the~~

purpose of ingress and egress or an emergency access easement. The second full service access will be required when meeting or exceeding the following thresholds:

- iii) For subdivisions proposing between 100 and 200 lots, 30 and 74 lots, at least two access points shall be included. The second access may consist of an existing or future street connection to an adjacent development. Where no adjacent development exists, the developer has the option of providing a second full-service access for the purpose of ingress and egress or a dedicated "emergency vehicle access." This "emergency vehicle access" is to be constructed of any all-weather surface and kept cleared at all times in case the main entrance is blocked and emergency vehicles need to access the development.
 - iv) For subdivisions proposing 201 between 75 to 249 lots or more, the developer shall provide a second full-service access for the purpose of ingress and egress.
 - v) For subdivisions proposing (or which have the potential for) 250 or more lots, three separate access points shall be included. Where three or more access points are required, the Town Board/Planning Board may waive the requirement for immediate construction of more than two access points, provided that subdivision phasing and design illustrates the additional required connections.
 - vi) A waiver of these standards may be allowed by the Town Council/Planning Board during approval of the preliminary subdivision plat only where limited frontage, natural features (slope, topography), or similar circumstances preclude the required connections and there is no substantial impact noted regarding emergency service access.
- f) *Subdivision road standards.*
- i) Once a subdivision street has a minimum of four occupied homes and an average of two occupied homes per tenth of a mile, no more Zoning Compliance Permits will be issued for lots on that street until the NCDOT accepts the subject street into the state-maintained roadway network, per the developer's request.
 - ii) No more than 75% of a subdivision's certificates of occupancy may be issued until the required secondary access has been constructed or bonded for construction.

Note: For determining when a second access is required, the count will be cumulative.

g) *Sidewalks*

- i) Specifications: When provided, or required by the Planning Board, sidewalks shall be constructed to a minimum width of five (5) feet and in accordance with NCDOT

- specifications and construction standards. All sidewalks shall be located behind curb and gutter or beyond the clear zone behind a swale or ditch. All sidewalks shall be placed in the street right-of-way or within a public access easement, except as provided below. Sidewalks shall have a minimum width of five (5) feet.
- ii) Protection of significant trees: Sidewalks shall be meandered as to protect and preserve existing significant trees. For that purpose, sidewalks may be placed within a minimum 15-foot wide maximum 10-foot wide public access easement located outside the public right-of-way.
 - iii) When required: At the discretion of the Planning Board, sidewalks may be required on one side or both sides of the street where it is reasonable that the public has access and will use the sidewalks where an existing school, church or other civic facility, such as a park, open space, trail, or greenway, lies within one-quarter-mile of the boundaries of the proposed subdivision, in which case a safe pedestrian connection between the subdivision and the off-site facility is desirable.
- h) *Curb and gutter.*
- i) Curb and gutter standards: When provided, or required by either the Planning Board or town council, curb and gutter shall be constructed in accordance with plans and profiles meeting NCDOT specifications.
 - i) *Open Space Requirements.* All major subdivision residential developments shall provide or dedicate common open space or recreation areas suitable for the residents' common passive or active recreational uses or make a payment in lieu of provision or dedication.
 - i) *Minimum common open space or recreation area.* Where common open space or recreational area must be provided or dedicated as part of a major subdivision residential development, its total land area shall be at least 15 percent of the total gross land area of the development. Where amenities are proposed, a reduction in the required minimum acreage may be approved by the Planning Board. For major subdivisions with less than two acres of open space, the Planning Board shall determine if the location, design, use, and area provide a benefit to the community, require revision, or proposal of fee-in-lieu.
- (1) The required open space shall be contiguous, unless it is determined by the Planning Board that the required open space can be split and located at different places in a subdivision. Wherever possible, open space and recreation areas should be located as to abut existing open space in adjacent developments or phases. If a proposed major subdivision contains wetlands and/or riparian or stream buffer areas, or overhead electric utility easements, they must be designated as common open space. However, these areas will not count toward the amount of required open space. No off-site septic areas for the benefit of residential lots can be included within the required open space.

- (2) Any proposed reduction or change involving previously recorded open space must be approved by the Planning Board. The applicant must provide sufficient information on why the change is requested and why no other alternative exists.
- ii) *Method of provision or dedication.* Land provided or dedicated for common open space or recreation purposes shall be designated on a final plat duly recorded with the Johnston County Register of Deeds. Amenities shall be designated on the final plat and shall be specific as to type of amenity/use. Design criteria can be found in Chapter 16 – Design Standards. Such common open space land shall be dedicated or deeded to an appropriate public body, pending their acceptance, land trust, nonprofit, or for-profit organization established for the purpose of land conservation or recreational purposes; or create a neighborhood or homeowner's association for the continuing maintenance and control of common open space or recreation area; or, held by the owner for the continuing maintenance and control of common open space or recreation area, subject to a binding agreement with financial surety for such maintenance.
- iii) *Payments in lieu of provision or dedication.* In lieu of providing or dedicating common open space or recreation area required pursuant to this section, a developer of a subdivision may choose to make a payment to the Town of Archer Lodge. As noted in subsection i), if the required open space to be provided is less than two acres the Planning Board shall determine if fee-in-lieu shall be required. The Town of Archer Lodge shall use such payment only for the acquisition or development of open space, recreation, or park sites to serve residents of the Town of Archer Lodge. The amount of the payment shall be the product of the total number of dwelling units recorded multiplied by the fee established in the Town of Archer Lodge's annual schedule of fees. The developer shall make the payment before approval of a final plat; however, the zoning administrator may allow phasing of payments consistent with the approved phasing of the major subdivision.
- iv) *Access to open space.* All open space must be pedestrian accessible. Open space not contiguous to a proposed subdivision street must have a minimum 20-foot fee-simple access.
- j) An incorporated homeowners association shall be required for all major residential subdivisions.

Sec. 18-229. Public water, fire hydrants, and sewer systems.

- A* Subdivisions that incorporate a public water distributions system and/or a public sewage collection system shall require that all future homeowners connect to the public water and/or sewer system prior to the issuance of a certificate of occupancy for their principal structure. All subdivisions incorporating a public water distribution system and/or a public sewage collection system, shall comply with the standards of the applicable state, county and local agencies.
- B* Fire hydrants shall be provided in accordance with National Fire Protection Association standards. Adequate flow for firefighting will be available to every lot in the subdivision. This provision will require that the main lines be a minimum six inches in diameter, and that a hydrant tee and valve be provided within 500 feet of each lot, unless otherwise approved by the Johnston County Fire Marshal.

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