



# Town of Archer Lodge

## AGENDA

### Regular Council Meeting

Monday, July 13, 2020 @ 6:30 PM

Jeffrey D. Barnes Council Chambers

NCGS § 143-318.17. Disruptions of official meetings.

*A person who willfully interrupts, disturbs, or disrupts an official meeting and who, upon being directed to leave the meeting by the presiding officer, willfully refuses to leave the meeting is guilty of a Class 2 misdemeanor.*

Page

#### 1. WELCOME/CALL TO ORDER:

- 1.a. Invocation
- 1.b. Pledge of Allegiance

#### 2. APPROVAL OF AGENDA:

#### 3. OPEN FORUM/PUBLIC COMMENTS:

(Maximum of 30 minutes allowed, 3 minutes per person)

#### 4. CONSENT AGENDA:

3 - 10

- 4.a. Approval of Minutes:  
03 Feb 2020 Regular Council Meeting Minutes  
[Regular Council - 03 Feb 2020 - DRAFT](#)

#### 5. RECOGNITION/PRESENTATION:

- 5.a. Sewer Feasibility Study Presentation ~ Coulter | Jewell | Thames, PA

#### 6. DISCUSSION AND POSSIBLE ACTION ITEMS:

11 - 18

- 6.a. Discussion and Consideration of Amending Code of Ordinances, Archer Lodge, NC, Chapter 30 - Zoning and Subdivisions, Article VI - Subdivisions, Division 3. Procedures for Approval of a Major and/or Commercial Subdivision, Section 30-348 - Traffic Impact Analysis Submittal Requirements and Setting a Public Hearing for Monday, August 3, 2020  
[TIA MEMO](#)

- 19 - 21      6.b.    Discussion and Consideration of Amending Code of Ordinances, Archer Lodge, NC, Chapter 30 - Zoning and Subdivisions, Article VI - Subdivisions, Division 4. Final Plat Approval, Section 30-384 - Required Restrictive Covenants and Review by Town and Setting a Public Hearing for Monday, August 3, 2020  
[RESTRICTIVE COVENANTS MEMO](#)

**7.    TOWN ATTORNEY'S REPORT:**

**8.    TOWN ADMINISTRATOR'S REPORT:**

**9.    PLANNING/ZONING REPORT:**

- 9.a.    Planning Activity
- 9.b.    Projects
- 9.c.    Code Enforcement

**10.   MAYOR'S REPORT:**

**11.   COUNCIL MEMBERS' REMARKS:**

(town related, non-agenda items)

**12.   ADJOURNMENT:**



## **Regular Council - Minutes Monday, February 3, 2020**

### **COUNCIL PRESENT:**

Mayor Mulhollem  
Mayor Pro Tem Castleberry  
Council Member Bruton  
Council Member Jackson  
Council Member Purvis  
Council Member Wilson

### **STAFF PRESENT:**

Mike Gordon, Town Administrator  
Chip Hewett, Town Attorney  
Julie Maybee, Town Planner  
Kim P. Batten, Finance Officer/Town Clerk

### **COUNCIL ABSENT:**

### **MEDIA PRESENT:**

None

---

## **1. WELCOME/CALL TO ORDER:**

### **a) Invocation**

Mayor Mulhollem called the meeting to order at 6:30 p.m. in the Jeffrey D. Barnes Council Chambers located at 14094 Buffalo Road, Archer Lodge, NC and declared a quorum present. Council Member Jackson offered the invocation.

---

### **b) Pledge of Allegiance**

Mayor Mulhollem led in the Pledge of Allegiance to the US Flag.

---

## **2. APPROVAL OF AGENDA:**

### **a) Mayor Mulhollem ask for a motion to:**

- 1. Add Item 6b - Discussion and Consideration for Authorizing the Town Administrator to act on behalf of the Archer Lodge Town Council regarding Contractual Agreements for the Town of Archer Lodge**
- 2. Replace Item 11 - Veteran's Committee Report with Mayor's Report and so forth, since there is no Veteran's Committee Report**

Moved by: Council Member Wilson  
Seconded by Council Member Jackson

**Approved Agenda with Changes Noted Above.**

CARRIED UNANIMOUSLY

---

## **3. OPEN FORUM/PUBLIC COMMENTS:**

(Maximum of 30 minutes allowed, 3 minutes per person)

- ### **a) Mr. Neal Brantley of 4796 Covered Bridge Road, Archer Lodge, NC encouraged everyone to exercise their right to vote during the 2020 Primary Election on March 3<sup>rd</sup>.**

**4. CONSENT AGENDA:**

- a) **Approval of Minutes:**  
**04 Nov 2019 Regular Council Meeting Minutes**  
**18 Nov 2019 Work Session/Public Hearing Minutes**

Moved by: Council Member Wilson  
 Seconded by: Mayor Pro Tem Castleberry  
**Approved Consent Agenda.**

CARRIED UNANIMOUSLY

**5. RECOGNITION/PRESENTATION:**

- a) **Proclamation - ALL IN RED WEEK**  
**Friday, Feb. 7 - Feb. 14**

Mayor Mulhollem proclaimed Friday, February 7, 2020 as the start of an 8-day County Wide Heart Awareness Campaign called **"ALL IN RED"** by reading the following Proclamation:





*WHEREAS*, February 7, 2020 marks the launch of an 8-day County wide heart health awareness campaign called **"ALL IN RED WEEK,"** presented by Johnston Health and Dr. Eric Janis & the Janis Family Fund, and organized by the Johnston Health Foundation; and

*WHEREAS*, heart disease is the leading cause of death in the United States, North Carolina and Johnston County; and

*WHEREAS*, per the Center for Disease Control and Prevention (CDC), 80% of cases are preventable through education, resources and prevention; and

*WHEREAS*, per the 2019 Johnston County [Community Health needs Assessment](#), significant health needs identified are: Access to Health Services, Economy, Exercise, Nutrition & Weight and Heart Disease & Stroke; and

*WHEREAS*, per the 2019 Johnston County [Community Health needs Assessment Implementation Plan](#), Heart Disease and Stroke are on the top 5 health priorities in this county; and

*WHEREAS*, education for early screening and access to resources for quality treatment is important; and

*WHEREAS*, the financial challenges of a heart patient in need is enormous and assistance from individuals and organizations will go a long way; and

*WHEREAS*, the campaign invites all of Johnston County and Town residents, business owners and visitors to participate in this initiative by **wearing RED on Friday, February 7, 2020** which is National Wear Red Day; and

*WHEREAS*, all funds raised within this campaign period will benefit local heart patients in need through the Johnston Health Foundation's Heart Fund; and

*WHEREAS*, the **ALL IN RED WEEK** supports Johnston Health's mission to improve the lives of the people in its communities, and the Johnston Health Foundation's mission to "Bridge the gap to provide quality healthcare close to home"; and

*WHEREAS*, the **ALL IN RED WEEK** is an opportunity to increase heart health awareness and the growing needs of local heart patients, and to encourage support not just from our county, but from residents in neighboring communities; and

*WHEREAS*, on this day, we recognize heart disease and stroke survivors, those battling the disease, their families who are their source of love and encouragement, and applaud the efforts of our medical professionals who provide quality care; and

**NOW, THEREFORE**, by the Honorable Mayor and the Archer Lodge Town Council, do hereby encourage businesses and citizens in our community to support and participate in this event and proudly proclaim the week of February 7 – 14, 2020

**ALL IN RED WEEK**

Duly proclaimed this 3<sup>rd</sup> day of February 2020,  
while in regular session.

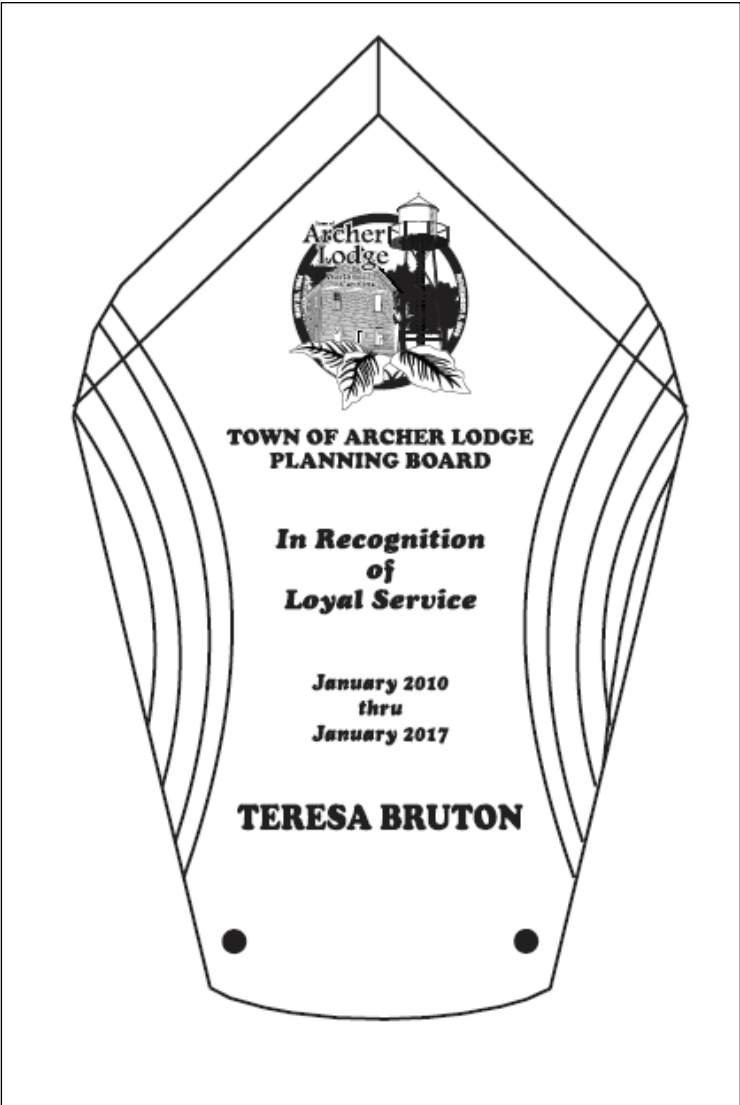
  
 Matthew B. Mulhollem  
Mayor

Moved by: Council Member Jackson  
 Seconded by: Council Member Bruton  
**Adopted the "ALL RED WEEK" Proclamation.**

CARRIED UNANIMOUSLY

**b) Recognition**

Mayor Mulhollem expressed sincere appreciation to Mrs. Teresa Bruton who currently serves as a Council Member and Budget Officer for the Town but formerly served as Chairman on the Planning Board from 2010 - 2017. Mayor Mulhollem presented her a Plaque of Appreciation and appears as follows:



Everyone applauded.

**6. DISCUSSION AND POSSIBLE ACTION ITEMS:**

- a) Discussion and Consideration of Appointing Joyce Lawhorn, Deputy Clerk, as the Secretary to the Board of Adjustment and the Planning Board**  
(Ref: Code of Ordinances Town of Archer Lodge, NC, Chapter 2, Article II, Division 2, Sec. 2 - 44)  
(Ref: Code of Ordinances Town of Archer Lodge, NC, Chapter 2, Article II, Division 3, Sec. 2 - 87)

Ms. Maybee shared that Joyce Lawhorn, Deputy Clerk for the Town, was recommended to serve as Secretary for both the Board of Adjustment and the Planning Board. No further discussion.

Moved by: Council Member Wilson

Seconded by: Mayor Pro Tem Castleberry

**Appointed Joyce Lawhorn to Serve as Secretary for both the Town of Archer Lodge Board of Adjustment and the Planning Board.**

CARRIED UNANIMOUSLY

---

**b) Discussion and Consideration for Authorizing the Town Administrator to act on behalf of the Archer Lodge Town Council regarding Contractual Agreements for the Town of Archer Lodge.**

Due to the Town park, sewer feasibility study, planning and zoning text amendments, contracts and agreements soon, Mr. Gordon suggested the Town Council authorize him to make decisions regarding Contractual Agreements on the behalf to facilitate these processes. Discussion followed.

Moved by: Council Member Jackson

Seconded by: Mayor Pro Tem Castleberry

**Authorized the Town Administrator to Act on Behalf of the Archer Lodge Town Council Regarding Contractual Agreements for the Town of Archer Lodge.**

CARRIED UNANIMOUSLY

Moved by: Mayor Pro Tem Castleberry

Seconded by: Council Member Wilson

**Rescinded Motion.**

CARRIED UNANIMOUSLY

Moved by: Council Member Jackson

Seconded by: Mayor Pro Tem Castleberry

**Authorized the Town Administrator to Act on Behalf of the Archer Lodge Town Council Regarding Budgeted Contractual Agreements for the Town of Archer Lodge.**

CARRIED UNANIMOUSLY

---

**7. TOWN ATTORNEY'S REPORT:**

**a) Attorney Hewett mentioned the following:**

- Reminded everyone of the 2020 Primary Elections and encouraged registering to vote and voting.
- Since the Brough Law Firm will be assisting Ms. Maybee with updating the Town Ordinances, there will be changes upcoming; therefore, he advised to read the revisions in depth for consistency with the Town of Archer Lodge Ordinances, prior to adopting.

Discussion followed.

---

**8. TOWN ADMINISTRATOR'S REPORT**

**a) Mr. Gordon reported the following:**

- He, along with Council Member Jackson and Council Member Purvis, attended the Essentials of Municipal Government at the UNC School of Government, which was very educational.
- The Park storage house was inspected by an historical building inspector and he'll determine the feasibility of the structure for park use.
- Upcoming meeting with Susan Hatchell, Landscape Architect for the Town Park, to discuss her proposal for Town Park Project.
- Applying for the Johnston County Open Space Grant of \$218,000 which will require a 5% match from the Town and the application is due Monday, February 17, 2020. If awarded, the Town must spend funds within a three-year period. Discussion followed. The Town Council agreed that any grant proceeds, if awarded, should fund a picnic shelter at the new Town Park.

---

**9. FINANCIAL/TOWN CLERK'S REPORT:****a) Courses**

- **UNC SOG: Ethics 2-hour Webinar**
- **NCLM: New School for Mayors**
- **NCLM: New Academy for Elected Officials**

Ms. Batten noted the following:

- Ethics Webinar has been purchased so please complete as soon as possible.
- Recommended Council Members attend either 1) New Mayor School or 2) New Elected Officials Class on Thursday, February 6<sup>th</sup> presented by the NCLM in Greenville, NC and please advise her by Wednesday, February 5<sup>th</sup> allowing her time to register.

---

**b) Council Pictures**

Ms. Batten announced that a photographer will be at the April 6<sup>th</sup> Town Council Meeting to get a new Town Council portrait for the Jeffrey D. Barnes Council Chambers and individual pictures for our website.

---

**10. PLANNING/ZONING REPORT:****a) Development Activity**

Ms. Maybee reported the following:

- Staff has five zoning permits pending approval by Johnston County Environmental Health which are approximately five weeks behind schedule.
- Continuing to respond to Developers/Citizens inquiries.
- Attended Johnston County Growth Management Meeting on January 23<sup>rd</sup>.
- Responded and identified contacts for Hazard Mitigation Program.
  - FEMA requires local governments to develop and adopt a hazard mitigation plan as a condition for both applying for and receiving certain types of non-emergency disaster assistance.
- Continuing to work on Cape Fear Hazard Mitigation Plan.
  - Updating: Risk Assessment, Capability Assessment and Mitigation Action Plans.
- Update on Board of Adjustment Meeting held on January 15<sup>th</sup> as follows:
  - Elections: Chair John Oglesby and Vice Chair Teresa Romano.
  - Approved Minutes and Findings of Facts (To be recorded in the Register of Deeds Office) for 155 Tast Drive and 861 South Murphrey Road.
  - Approved 2020/2021 Goals for the Board of Adjustment.
- Update of the Planning Board Meeting held on January 15<sup>th</sup> as follows:
  - Elections: Chair John Oglesby and Vice Chair Teresa Romano.
  - Approved 2020/2021 Goals for the Planning Board.
  - Presented informational Training Module UNC School of Government regarding an overview of NC § Chapter 160D.

---

**b) Projects**

Ms. Maybee reported the following:

- 
- Decennial Census will be taking place in April 2020, with letters being mailed mid-March for everyone in the US and its' territories to respond in one of three ways: online, phone, or mail.
  - Bicycle and Pedestrian Plan Update:
    - Comments were sent back to AECOM on December 20, 2019 with a tentative date of Monday, March 2<sup>nd</sup> to present the Final Draft to Town Council.
  - Adding the Archer Lodge Zoning Map, Zoning Overlay Districts, Johnston County GIS Link and Archer Lodge Future Land Use Map to the Planning and Economic Town Website Page.
  - Town is moving forward with a sewer feasibility study.
  - Regarding the Edmunds Permitting Software, two phone conversations have transpired: an implementation conversation and a permit content conversation.
  - Staff held an Orientation meeting in January for new Planning Board Members.
  - Discussion of Text Amendments and a requirement of Plat Certificates before recording are tentatively being scheduled for the March 18<sup>th</sup> Planning Board Meeting.
  - Attended a workshop for Chapter 160D on January 16<sup>th</sup>.
  - Staff added a fillable Preliminary Plat Application form to the Town's website under the Planning and Zoning Department.

Discussion followed.

---

**c) Code Enforcement**

Ms. Maybee reported the following:

- Staff has a "While You Were Away" door hanger developed for inspections.
- Complaints:
  - One Lessee must obtain a permit from Town, pending Johnston County Environmental Health approval.
  - Two sign complaints pending resolution.
  - Four Code complaints pending resolution.
  - One Nuisance Abatement Citation referred to Town Attorney.

Discussion followed.

---

**d) CAMPO Update**

Ms. Maybee informed that a link to CAMPO has been added to the Planning and Zoning Department's page on the Town's Website.

---

**11. MAYOR'S REPORT:**

- a) Mayor Mulhollem read a card received from Mr. C. L. Gobble, former Town Consultant, expressing sincere appreciation and thanking the Council for the Resolution naming the Town Hall Conference Room the "*C. L. Gobble Conference Room*" and it read as follows:**

*Mayor Matt Mulhollem and Archer Lodge Town Council,*

*Words can't begin to express my sincere appreciation for the resolution and naming of the conference room.*

*I was truly overwhelmed at the unveiling. This past twelve years has been a challenge and a joy, but the sincere effort of all the Council and both Mayors made it all worthwhile.*

*The future is bright for Archer Lodge because of the people involved, both elected and your staff. You have a fine team and I know together you will be successful.*

*I especially want to thank Mike Gordon for putting up with me, but we made great partners along the way.*

*Most importantly I consider the Archer Lodge Family my friends.*

*Thank you again and feel free to call anytime if I can be of service.*

*Sincerely,  
C. L. Gobble*

Mayor Mulhollem shared that Mr. Gobble had always used the Town Hall Conference Room as his office and naming it after him was perfect.

---

---

**12. COUNCIL MEMBERS' REMARKS:**

(non-agenda items)

a) **Council Member Wilson shared that he will attend a TJCOG meeting Wednesday, February 5<sup>th</sup> in Durham and if anyone wishes to attend with him, may do so.**

---

b) **Council Member Jackson shared that, while he is an elected official, that he would not use an open meeting to complain about a citizen.**

---

c) **Council Member Purvis reminded everyone to exercise their right to vote either at Early Voting or on Election Day because "Every Vote Counts."**

---

d) **Mayor Pro Tem Castleberry reported that he attended the Johnston County Mayor's meeting, on behalf of Mayor Mulhollem, the Johnston County Economic Development meeting, and the Johnston County Growth Management meeting. He urged everyone to exercise their right to vote.**

---

e) **Council Member Bruton had no remarks.**

---

**13. ADJOURNMENT:**

**a) Having no further business.**

Moved by: Council Member Jackson  
Seconded by: Council Member Purvis  
**Adjourned meeting at 7:55 p.m.**

CARRIED UNANIMOUSLY

---

---

Matthew B. Mulhollem, Mayor

---

Kim P. Batten, Town Clerk



**TOWN OF ARCHER LODGE**

14094 Buffalo Road  
Archer Lodge, NC 27527

*Main:* 919-359-9727

*Fax:* 919-359-3333

***Mayor:***

Matthew B. Mulhollem

***Council Members:***

Clyde B. Castleberry

*Mayor Pro Tem*

Teresa M. Bruton

J. Mark Jackson

James (Jim) Purvis, III

Mark B. Wilson

To: Town Council

Date: July 9, 2020

From: Julie Maybee, Town Planner

Cc: Town Administrator, Finance Officer/Town Clerk, Deputy Clerk, Town Attorney, Brough Law Firm

Re: Proposed Revision of Chapter 30 – Zoning and Subdivisions, Article VI – Subdivisions, Division 3. Procedures for approval of a Major and/or Commercial Subdivision, Section 30-348 – Traffic Impact Analysis Submittal Requirements

---

**Background Information:**

On Monday, June 15, 2020, the Town Council adopted Ordinance# AL2020-06-1, An Ordinance Amending the Code of Ordinances, Town of Archer Lodge, North Carolina, Chapter 30 – Zoning & Subdivisions, Article VI. Subdivisions and Appendix Section 30-A4.

At the meeting, the Mayor and Council asked staff to develop alternatives to Section 30-348 referenced above pertaining to traffic impact analysis submittal requirements.

**Requested Town Council Action:**

Staff respectfully requests direction as to whether to pursue options B, or C; and also revisit the issue of requiring off-site improvements to roads identified by the TIA; and, if desired, set a public hearing on an amendments at the next regular Council meeting on Monday, August 3, 2020.

## MEMO

TO: Mayor Matt Mulhollem, Mayor Pro-Tem Clyde Castleberry, Council Members Teresa Bruton, J. Mark Jackson, James Purvis, III, Mark Wilson, Town Attorney Chip Hewett

CC: Town Administrator Mike Gordon, Finance Officer/Town Clerk Kim Batten

FROM: Julie Maybee, Town Planner; Al Benshoff, The Brough Law Firm

RE: CODE OF ORDINANCES Section 30-348 Traffic Impact Analysis (TIA) Submittal Requirement

DATE: June 22, 2020

INTRODUCTION: The Mayor and Council asked the staff to develop alternatives to section 30-348. This memo contains two main alternatives to the adopted ordinance. The recently-adopted ordinance is included for your reference at section A) on page 1. Section B) on page 4 includes a version of Mr. Hewett's suggestions that developers required to select a traffic engineering firm from the Town's short list. In this scenario, the developer will pay for the TIA. One variant not included is Section B) with the developer reimbursing the Town for the cost of the TIA.

Section C) on page 4 is Mrs. Bruton's scenario. In this version the Town selects the traffic engineer and contracts directly with the engineering firm.

The original version of 30-348 appears to have been based on Johnston County's TIA policy. A copy of that policy starts on page 5.

Finally, there is a note from Al Benshoff on page 5 suggesting that we revisit the issue of requiring improvements to roads identified by TIAs.

**A) Section 30-348 as adopted with comments by Commissioner Bruton [TB], Al Benshoff [AB] and Julie Maybee [JM].**

**Sec. 30-348. - Traffic Impact Analysis (TIA) Submittal Requirement.**

- (a) *Purpose:* Archer Lodge is committed to maintaining and improving the quality of life for current and future citizens. A major factor affecting the quality of life has become traffic congestion along the major thoroughfares and local streets within urbanizing areas. By requiring a traffic impact analysis (TIA), the Town can evaluate the effect proposed development will have on the Town's existing traffic system and enable the Town to require specific improvements. The intent of this section is to provide developers with a clear policy as to the Town's TIA expectations and to ensure that all developments are treated equally through the establishment of specific guidelines and improvement requirements.

(b) *Requirement thresholds:*

- (1) Residential subdivision proposing 100 lots/units or more, no matter how many phases are proposed.
- (2) Proposed nonresidential subdivision which generates an average daily traffic count of 1,000+ vehicles per day or 100+ trips during peak hour of generator. This traffic count must be based on the latest version of the Institute of Transportation Engineers (ITE) Trip Generation Manual.
- (3) Any residential or nonresidential development requiring a special use permit or site plan approval which generates an average daily traffic count of 1,000+ vehicles per day or 100+ trips during peak hour of generator. This traffic count must be based on the latest version of the Institute of Transportation Engineers (ITE) Trip Generation Manual.

Note #1: The count is cumulative; as a proposed development reaches the threshold, a TIA will be required for the entire development. As new phases are proposed and once a development has reached the threshold, an additional TIA will be conducted for each additional phase.

Note #2: Failure to meet all requirements listed within this section may constitute disapproval of the development request.

(c) *Retention of expert assistance and reimbursement by applicant*

- (1) The Town shall hire a consultant and/or expert necessary to assist the Town in preparing, reviewing, and evaluating the traffic impact analysis, and at the request of the Town may be asked to look at other specific issues.
- (2) An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the performance and review of any analysis. The initial deposit shall be established by the Town and may be changed within the discretion of the Town. These funds shall be deposited at the time the subdivision application is submitted and the Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall bill or invoice the Town no more frequently than monthly for its services in reviewing the application and performing its duties. The applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance established by the Town and may be changed within the discretion of the Town. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the subdivision application. In the event that the amount held in escrow by the Town is more than the amount of the actual billing or invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. All invoices submitted by the applicant shall be itemized and be public records available for inspection.
- (3) The total amount of the funds needed as set forth above may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed by the Town or its consultant/expert to complete the necessary review and analysis. Additional escrow funds, as reasonably required and requested by

the Town, shall be paid by the applicant. However, notwithstanding any other provisions of this section, if the total amount paid to the consultant exceeds \$7,500.00 for a single application, such amount shall be subject to review and approval by the Town Council at the request of the applicant.

- (4) The developer may have a TIA conducted by a consultant of his or her choice but will be required to be submitted for review and evaluation by the Town's consultant. *[TB: Recommend that this not be allowed – if hired by the developer, there could be a conflict of interest. JM: I believe the option should exist. We would hire consultant and still review the TIA.]* Any cost associated with the Town's review shall be paid by the developer as described in subsections (c)(2) and (3).
- (d) *Traffic impact analysis guidelines.* All traffic impact analyses shall be completed in accordance with the guidelines listed in section 3 of the Johnston County Land Design Manual. *[TB: Recommend that all TIAs adhere to the current version of the NCDOT Congestion Management's Capacity Analysis Guidelines. AB: The Johnston County Design Manual provides for some local detail that may not be found in the general state model. Please see Section 3. JM: I concur with utilizing the County Design Manual as well.]*
- (e) *Improvement requirements.*
  - (1) Left turn lane, right turn lane, and/or right turn taper. Based on requirements of the NCDOT Driveway Manual or other NCDOT standards.
  - (2) *Additional right-of-way.* If a subject development falls along a road projected to be widened by NCDOT or an adopted Town or Johnston County plan, additional right-of-way along the development's road frontage shall be dedicated as deemed acceptable by NCDOT.
  - (3) *Offsite improvements.* If a road segment or intersection is currently performing at level of service (LOS) D or better and is projected to perform at LOS E or F at the time of build-out, improvements to maintain the road segment or intersection at LOS D must be included. If a road segment or intersection is currently performing at level of service (LOS) E or F and is projected to continue to perform at LOS E or F at the time of build-out, the TIA shall demonstrate how an LOS D could be achieved and also specify what improvements must be made to ensure that the road segment or intersection is not degraded any further than the current levels *[TB: Will the applicant be required to make these improvements? If so, need to indicate. AB: This is not the place to indicate that improvements are required. This section deals only with what is in the study. Town needs to be careful about requiring off-site improvements given our Supreme Court's decisions. Under the statutes as amended in 2019, if the Town requires something not clearly legal, the Town may end up paying the plaintiff's lawyer's fees.]*
  - (4) *Other necessary improvements.* Additional improvements may be required based on the TIA recommendations related to topographic/environmental conditions, sight distance, street offsets, conflicting movements, existing traffic accident counts, circulation, and other potential traffic issues resulting from the proposed development.

Additionally, the Planning Board may determine that additional improvements are necessary to ensure the safety and welfare of the Town's citizens and travelers.<sup>1</sup>

**B) Section 30-348 (c) Retention of Expert Assistance and Reimbursement as suggested by C. Hewett.**

*(c) Retention of expert assistance and reimbursement by applicant*

- (1) The Town shall identify consultants and/or experts who are able to prepare, review and evaluate the traffic impact of the proposed development.
- (2) The Town will present a list of the consultants identified in (a) to the applicant. The applicant shall select one firm from the list to conduct a TIA for the applicant's proposed development at the applicant's expense.
- (3) The Town, applicant and consultant shall agree in writing to the scope of work and costs of the TIA. The selected consultant shall provide draft and final versions of the TIA directly to the Town.
- (4) The Town may retain a consultant to review and evaluate the applicant's TIA. Any cost associated with the Town's review shall be paid by the applicant. The applicant will provide funds for the review at step (2) above. The Town will hold the funds in escrow until either used for a TIA review or returned to the applicant.

**C) Section 30-348 (c) Retention of Expert Assistance and Reimbursement as suggested by T. Bruton.**

*(c) Retention of expert assistance and reimbursement by applicant*

- (1) The Town shall hire a consultant and/or expert necessary to assist the Town in preparing, reviewing, and evaluating the traffic impact analysis, and at the request of the Town may be asked to look at other specific issues.
- (2) An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the performance and review of any analysis. The initial deposit shall be established by the Town and may be changed within the discretion of the Town. These funds shall be deposited at the time the subdivision application is submitted and the Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall bill or invoice the Town no more frequently than monthly for its services in reviewing the application and performing its duties. The applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance established by the Town and may be changed within the discretion of the Town. Such additional escrow funds shall be deposited with the Town before any further action or

---

<sup>1</sup> Adapted from Johnston County ordinances (Amend. of 11-8-2004; Amend. of 02-03-2010(2))

consideration is taken on the subdivision application. In the event that the amount held in escrow by the Town is more than the amount of the actual billing or invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. All invoices submitted by the applicant shall be itemized and be public records available for inspection.

- (3) The total amount of the funds needed as set forth above may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed by the Town or its consultant/expert to complete the necessary review and analysis. Additional escrow funds, as reasonably required and requested by the Town, shall be paid by the applicant. However, notwithstanding any other provisions of this section, if the total amount paid to the consultant exceeds \$7,500.00 for a single application, such amount shall be subject to review and approval by the Town Council at the request of the applicant.

**D) A note about Sub-Section 30-348 (e) Improvement Requirements.**

There are now strict legal restrictions on requiring off-site improvements. DOT should require improvements to DOT roads, so the City will be left with possibly requiring improvements for private roads. This is a topic for another discussion we can have in the future at the appropriate time. AB

**EXCERPT FROM JOHNSTON COUNTY DESIGN MANUAL**

**SECTION 3 - TRAFFIC IMPACT ANALYSIS GUIDELINES**

**A. INTENT**

The intent of this Section is to provide specific guidelines for the completion of a Traffic Impact Analysis (TIA).

**B. STANDARDS**

- 1) Prior to beginning a TIA, the preparer must meet with Planning staff to determine the scope of the analysis including the appropriate intersections to study, surrounding factors and future developments to consider, proposed NCDOT road projects and any other concerns which may need to be addressed.
- 2) An executive summary shall be provided with the TIA noting the following:
  - a) Name of Development and township location,
  - b) Property owner and developer names,

- c) Description of uses proposed,
  - d) Number of lots proposed,
  - e) Number of access points proposed and studied,
  - f) Intersections and streets studied,
  - g) Existing traffic count for road(s) and intersection(s) studied and dates/times counts were conducted,
  - h) Existing and future Level of Service for studied intersections,
  - i) AM and PM Peak Hour Trips,
  - j) Average Daily Trips created by the development at build-out,
  - k) Existing Traffic Accident Counts, and
  - l) Any recommended improvements.
- 3) Studied roads and intersections shall be determined based on 10% contribution by the development to the total traffic counts.
  - 4) Studied road segments, intersections, and development access points shall be evaluated based on current traffic counts, projected traffic generated by the development at time of build-out, projected background traffic at time of build-out, and projected traffic counts two years beyond build-out.
  - 5) The TIA shall take into account the existing background traffic and growth of such traffic at time of build-out and two years beyond build-out with an annual background traffic growth rate based on townships as follows:
    - a) Clayton, Cleveland, Pleasant Grove, Wilders: 9% annual growth rate.
    - b) Banner, Beulah, Elevation, Ingrams, Micro, O'Neals, Pine Level, Selma, Smithfield, Wilson Mills: 5% annual growth rate
    - c) Bentonville, Boon Hill, Meadow: 3% annual growth rate
  - 6) Traffic counts no older than one year must be provided for all studied intersections, road segments, and development access points and shall be based on the AM and PM peak hour.
  - 7) Number of Daily Trips generated by the proposed development along with AM and PM peak hour trips shall be evaluated by the TIA.
  - 8) Studied intersections shall be evaluated based on AM and PM peak hour traffic with Level of Service provided at time of build-out and two years beyond build-out.
  - 9) Provide trip distribution for access points and studied intersections.
  - 10) TIA shall evaluate sight distances at all proposed access points based on the existing speed limit.
  - 11) Evaluate the offset of the proposed access points with existing driveways or streets to ensure the reduction of conflicting movements.
  - 12) Traffic accident counts for studied intersections and road segments shall

be evaluated based on the latest records obtained from NCDOT, local law enforcement, and/or the Highway Patrol Office.

- 13) TIA shall take into consideration proposed/planned NCDOT roadway improvement projects, future County Thoroughfare Plan recommendations, and proposed development projects potentially affecting the road network and traffic generation.
- 14) Recommended improvements within the TIA shall take into account the County's *Improvement Requirements* listed in Section 14-366(5) of the Land Development Code. Additional recommended improvements not addressed in the Land Development Code shall be provided to ensure that all the Guidelines within this Section have been addressed.



**TOWN OF ARCHER LODGE**  
14094 Buffalo Road  
Archer Lodge, NC 27527  
*Main: 919-359-9727*  
*Fax: 919-359-3333*

**Mayor:**  
Matthew B. Mulhollem

**Council Members:**  
Clyde B. Castleberry  
*Mayor Pro Tem*  
Teresa M. Bruton  
J. Mark Jackson  
James (Jim) Purvis, III  
Mark B. Wilson

To: Town Council  
Date: July 9, 2020  
From: Julie Maybee, Town Planner  
Cc: Town Administrator, Finance Officer/Town Clerk, Deputy Clerk, Town Attorney, Brough Law Firm  
Re: Proposed Revision of Chapter 30 – Zoning and Subdivisions, Article VI – Subdivisions, Division 4. Final Plat Approval, Section 30-384 – Required Restrictive Covenants and Review by Town

---

### **Background Information:**

On Monday, June 15, 2020 the Town Council adopted Ordinance# AL2020-06-1, An Ordinance Amending the Code of Ordinances, Town of Archer Lodge, North Carolina, Chapter 30 – Zoning & Subdivisions, Article VI. Subdivisions and Appendix Section 30-A4.

At the meeting on Monday, June 1, 2020, the Mayor and Council asked staff to look at ordinance provisions pertaining to subdivision road maintenance responsibilities; and also encourage Developers and Homeowner's Associations (HOA) to turn over subdivision roads over to NC Department of Transportation (NCDOT) for maintenance.

On Tuesday, May 19, 2020, Sam Lawhorn, P.E., District 3 Engineer, Highway Division 4, North Carolina Department of Transportation, relayed to staff the following information:

"For a road to be considered for State maintenance, it needs to be a recorded as a public street, have been built to NCDOT standards, meet a minimum housing density of 2 homes

per 0.10 miles and in a current acceptable state of maintenance. For us to consider adding a street to the system, it is to first be petitioned by the developer or homeowners by completing a NCDOT SR-1 form located on our website. NCDOT does not review the subdivision at all until this official form is submitted to the NCDOT. Once petitioned we will perform an inspection and provide a list of repairs or discrepancies necessary for either an acceptable state of maintenance or to get the street to meet minimum standards. Once the requirements have been provided, repairs must be performed within 90 days and a follow up inspection must be requested. If all requirements have been satisfied and repairs have been made, the petition will be submitted to the local County Commissioners and NCDOT Board of Transportation for final approval. "

It should be noted, it may take years, if at all, before a subdivision road meets NCDOT criteria and turned over to for maintenance. In the meantime, things can happen – death of the developer or bankruptcy, insufficient funds to bring roads up to NCDOT standards, no restrictive covenants or no homeowner's association etc. Consequently, subdivision roads eventually fall into a state of disrepair.

As conveyed by Attorney Benshoff, "... If NCDOT won't accept the roads, then, eventually they become orphaned unless the homeowners maintain the streets...",

**Requested Town Council Action:**

Staff respectfully requests Council's input on the restrictive covenants attached (blue text is existing language in Section 30-384) to address concerns referenced above. If desired, model covenants can be also be developed.

If Council concurs, staff requests that a public hearing on draft amendments be set for the next regular Council meeting on Monday, August 3, 2020.

**Sec. 30-384. - Required Restrictive Covenants and Review by Town.**

- (a) Prior to the approval of any final subdivision plat the applicant/developer shall create a homeowner's association to be responsible for the at least the items listed in this section. The restrictive covenants will contain the model language found in Appendix \_\_\_\_\_. The proposed restrictive covenants will be reviewed and approved by the Town Attorney. The model language need not be followed, if substantial similar covenants accomplishing the goals of this section are proposed and then approved by the Town Attorney. A copy of the recorded covenants will be provided to the Administrator before the final plat is recorded. If a development is built in phases the covenants will be reviewed and approved before the final plat is issued for the first phase.
- (b) Prior to final approval of any residential major subdivision submitted after the effective date of this ordinance, the applicant/developer shall include in the restrictive covenants a provision that mandates the discharge of firearms is strictly prohibited anywhere in the subdivision or on any adjoining property owned by the developer or Homeowner Association (HOA). Discharging of air guns, air pistols and air rifles, not to exceed a caliber of 0.177, is permitted, as they are not considered firearms within the meaning of this section.
- (c) Prior to the final approval of any major subdivision submitted after \_\_\_\_\_, 2020, the applicant/developer will meet the following goals regarding ownership, maintenance and repair of the subdivision's rights-of-way, roads, sidewalks, greenways:
  - (1) A homeowner's association will be created by the applicant/developer, known in this sub-section as the declarant.
  - (2) Membership in the HOA is mandatory for all current and future property owners for the purpose of maintaining the streets, sidewalks, greenways and related drainage infrastructure.
  - (3) The declarant will own and maintain the roads, sidewalks, greenways and associated drainage infrastructure until such time as the ownership interest is transferred to the HOA;
  - (4) The HOA is responsible for the maintenance and repair of the streets, sidewalks and related drainage infrastructure to NC DOT Standards in the current edition of the "Subdivision Roads Minimum Construction Standards."
  - (5) Each member of the HOA will be assessed annually their pro rata share of the costs of road, sidewalks and greenway maintenance, but in no case less than \$\_\_\_\_\_.
  - (6) The assessments will be held in an escrow account. Every year the HOA will report to the town the name of this institution holding the escrow account, the account number the total amount held and the total annual contribution.
  - (7) The HOA or Declarant, whichever the case may be, shall either (i) Petition the NC DOT to assume ownership and maintenance of the rights-of-way, roads, sidewalks greenways and related drainage infrastructure or (ii) Provide that the rights-of-way, roads, sidewalks, greenways and related drainage infrastructure be privately owned and maintained to NC DOT standards in perpetuity.
  - (8) To the extent permitted by law, the HOA cannot dissolve without passing road, sidewalk, greenway and related drainage infrastructure to another legal entity.