



Regular Council - Minutes Monday, July 10, 2017

COUNCIL PRESENT:

Mayor Gordon
Mayor Pro Tem Mulhollem
Council Member Castleberry
Council Member Jackson
Council Member Wilson

STAFF PRESENT:

C.L. Gobble, Administrative Consultant
Chip Hewett, Town Attorney
Kim P. Batten, Finance Manager/Town Clerk
Bob Clark, Planning/Zoning Administrator
Danny Eudy, Code Enforcement

COUNCIL ABSENT:

Council Member Bruton

MEDIA PRESENT:

None

1. WELCOME/CALL TO ORDER:

a) Call to Order & Invocation

Mayor Gordon called the meeting to order at 6:31 p.m. in the Jeffrey D. Barnes Council Chambers located at 14094 Buffalo Road, Clayton, NC and declared a quorum was present. Mayor Pro Tem Matt Mulhollem offered the invocation.

b) Pledge of Allegiance

Mayor Gordon led in the pledge of allegiance to the US Flag.

2. APPROVAL OF AGENDA:

a) No additions or changes noted.

Moved by: Council Member Wilson

Seconded by: Council Member Castleberry

Agenda Approved

CARRIED UNANIMOUSLY

3. OPEN FORUM/PUBLIC COMMENTS:

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

a) Neal Brantley of 4796 Covered Bridge Road, Clayton, NC, spoke to Council regarding Agenda items and citizens being more involved in the Town Council meetings.

4. CONSENT AGENDA:

a) Approval of Minutes: 06 Feb 2017 - Regular Council Minutes

20 Feb 2017 - Work Session Minutes

Moved by: Council Member Wilson
Seconded by: Mayor Pro Tem Mulhollem

Consent Agenda Approved

CARRIED UNANIMOUSLY

5. **PUBLIC HEARING FOR PROPOSED ORDINANCE ON ABANDONED, JUNKED & NUISANCE VEHICLES**

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

a) Mayor Gordon asked for motion to open Public Hearing.

Moved by: Council Member Jackson
Seconded by: Mayor Pro Tem Mulhollem

Motion to open public hearing on the Proposed Ordinance on Abandoned, Junked & Nuisance Vehicles was Approved at 6:37 p.m.

CARRIED UNANIMOUSLY

b) Two people addressed Council during the Public Hearing:

1. Neal Brantley of 4796 Covered Bridge Road, Clayton, NC, mentioned the following:

- Questioned if each member had read ordinance
- Enclosure of vehicle
- Complaints only vs. entire Town
- Will Board abide by ordinance

2. Mike McCay of 2209 Raintree Drive, Clayton, NC, stated the following:

- oppose ordinances that limits owners a choice of what they can do on their property
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c) No further public comments for the Public Hearing. Mayor Gordon asked for motion to close Public Hearing.

Moved by: Council Member Wilson
Seconded by: Council Member Castleberry

Motion to close public hearing on the Proposed Ordinance on Abandoned, Junked & Nuisance Vehicles was Approved at 6:45 p.m.

CARRIED UNANIMOUSLY

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

a) Discussion and Consideration of Proposed Ordinance on Abandoned, Junked, and Nuisance Vehicles

Mark Wilson noted that a space is needed between the words term and junked in Section 2 - Definitions, Item (d). Discussion followed between Council and Danny Eudy, Code Enforcement Officer for the town, on matters in the ordinance. Council agreed to postpone effective date until October 1, 2017 to allow for citizens awareness.

Ordinance AL2017-07-1 effective October 1, 2017 appears as follows:

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

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

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

"ABANDONED, JUNKED AND NUISANCE VEHICLES"

Section 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 Ordinance. 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 Ordinance and applicable State laws. Nothing in this Ordinance 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 2. Definitions.

For the purpose of this Ordinance, 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) 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 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 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 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.
- (b) It shall be unlawful to have junked motor vehicles, as defined herein, on the premises of private property except as otherwise exempted by this Ordinance or permitted in strict compliance with the location and concealment requirements of this Ordinance.
- (c) 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 Ordinance.
- (d) Subject to the provisions of subsection (c), the Town Code Administrator or public safety authority may order the removal of a junked motor vehicle found in violation of this Ordinance 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.

(c) 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 manufactured for the purpose of concealment of vehicles. The covering must remain in good repair and must not be allowed to deteriorate. Any other junk vehicle(s) on the property shall be concealed inside a completely enclosed building.
- (2) The Town Code Administrator has the authority to determine whether any junked motor vehicle is adequately concealed as required by these provisions.

Section 6. Removal of abandoned, nuisance, or junked motor vehicles; pre-towing notice requirements.

Except as set forth in Section 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 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. For vehicles left on the public streets and highways, the Town Council hereby determines that the immediate removal of such vehicles may be warranted when they are:

- (1) Obstructing traffic.
- (2) Parked in violation of an ordinance prohibiting or restricting parking.
- (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 8. Removal of vehicles; post-towing notice requirements.

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 performing 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.

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.

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.

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 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 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 Ordinance.

Section 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 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 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 14. Exceptions.

Nothing in this Ordinance 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, or (4) which is in an appropriate storage place or depository maintained in a lawful place and manner by the Town.

Section 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 Ordinance unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

Section 16. Alternative Remedies.

Nothing in this Ordinance 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 Ordinance shall subject the violator to the penalties and remedies, either criminal or civil or both, as set forth in the General Penalties Ordinance of the Town of Archer Lodge.

Section 17. Penalty.

Unless a different fine or penalty is set out in a particular section of this Ordinance, a violation of any provision of this Ordinance shall subject the violator to the following schedule of

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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 2. All ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Part 3. Upon adoption by the Town Council of the Town of Archer Lodge, North Carolina this Ordinance shall become effective the 1st day of October, 2017.

DULY ADOPTED, this the 10th day of July, 2017.

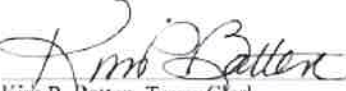
TOWN OF ARCHER LODGE

(SEAL)



Michael A. Gordon, Mayor

ATTEST:



Kim P. Batten, Town Clerk



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Moved by: Council Member Wilson
Seconded by: Council Member Jackson

Ordinance on Abandoned, Junked, and Nuisance Vehicles with respective change being made to Section 2-Definitions, Item (d) with an effective date of October 1, 2017 was Adopted.

CARRIED UNANIMOUSLY

b) Discussion and Consideration of Service Agreement between the Town of Archer Lodge and N-Focus for FY 2018.

Mayor Gordon began discussion regarding the Service Agreement with N-Focus for FY 2018. Ms. Batten noted that the agreement being considered was reflected in the Budget Ordinance adopted June 5, 2017. Discussion followed.

Service Agreement between the Town of Archer Lodge and N-Focus for FY 2018 appears as follows:

THIS AGREEMENT, made the 10th day of July, 2017 by and between Town of Archer Lodge, a North Carolina unit of Local Government (hereinafter known as "Local Government"); and, N-Focus Planning & Design, Inc.; a North Carolina corporation (hereafter known as "Contractor"), by signatures below, enter into the following Agreement:

WITNESSETH:

WHEREAS, Contractor has expertise in local government functions and Local Government has a need for such functions; and

WHEREAS, Local Government and Contractor desire to enter into this Agreement;

NOW THEREFORE, Local Government and Contractor agree as follows:

Section A. SCOPE OF FUNCTIONS

Contractor will provide Contractor personnel to perform the following specialized Functions for Local Government:

1. Planning & Implementation Functions include:
 - a) Conduct comprehensive field studies of land use and development patterns throughout Local Government jurisdiction;
 - b) Conduct comprehensive review of adopted policies applicable to land use and development throughout Local Government jurisdiction;
 - c) Conduct comprehensive review of Local Government programs and policies to serve existing and future development within Local Government jurisdiction;
 - d) Prepare plans and policy documents to achieve stated goals of Local Government through information gathering techniques to be determined and agreed upon with Local Government;
 - e) Preparation of governing and/or advisory board/council/commission reporting materials;
 - f) Presentations of governing and/or advisory board/council/commission reporting materials;
 - g) Conduct review of applications for land development permits and approvals in accordance with applicable policies and ordinances; and
 - h) Coordinate with Local Government staff for the proper filing of records within the official record of Local Government.

N-Focus

Initials: Date:

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2. Code Enforcement Functions Include:

- a) Investigations of complaints and/or reports of violations;
- b) Preparation of materials for distribution and notifications to owners of record and/or occupants of violation activities;
- c) Meeting and/or hearing with owners of record and/or occupants of violation activities;
- d) Field inspections to determine progress and/or compliance;
- e) Preparation of governing and/or advisory board/council/commission reporting materials;
- f) Presentations of governing and/or advisory board/council/commission reporting materials;
- g) Assisting owners of record and/or occupants of violation activities and advising said to achieve compliance;
- h) Coordination with Local Government legal counsel, when necessary, to provide supporting materials as may be required for the filing of actions and/or liens; and
- i) Updating and submitting summary reports on periodic activities and accomplishments.

Section B. TERMS AND CONDITIONS

1. **Contractor Personnel:** To ensure performance of Functions defined in "Section A" herein above meet the expectations of Local Government, Contractor shall assign a primary professional, an employee of the Contractor, to Local Government. The primary professional shall be responsible for Contractor employees performing the agreed upon Functions. Contractor personnel performing the Functions shall be either certified or licensed in their respective fields or apprentice under direct supervision of the primary professional. Contractor personnel performing these Functions shall have considerable knowledge in the principles and practices of local government. The primary professional, supporting personnel and subordinate person(s), if applicable, assigned to perform these Functions shall be skilled in the use of work related computer software packages and other technology used to perform position Functions.
2. **E-Verify:** Contractor represents and warrants that it is in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, Contractor warrants that any subcontractors used by Contractor will be in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.
3. **Certification:** Contractor certifies that, as of the Effective Date of this Agreement, Contractor is not on the Final Divestment List as created by the State Treasurer pursuant to N.C.G.S. § 147-86.58. In compliance with the Iran Divestment Act and N.C.G.S. § 147-86.58, Contractor shall not utilize in the performance of the contract any subcontractor that is identified on the Final Divestment List.
4. **Status of Contractor:** Contractor and Local Government agree that in the performance of the Functions defined in "Section A." herein above, Contractor personnel shall not be deemed to be an employee(s) of Local Government for any purpose whatsoever, nor act under Color of State Law.

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Initials: Date:

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5. **Work Products:** All materials produced by Contractor personnel assigned to Local Government shall be the property of Local Government and shall be filed on-site in the offices of Local Government, unless otherwise authorized for purposes and intent of the performance of Functions. Contractor shall be entitled to retain copies, both electronic and paper, of any work products prepared for the benefit of Local Government. Contractor shall not copyright any work products on behalf of Local Government; however, Contractor shall retain the right to utilize work products, such as improved administrative forms, plans, etc., or any portion thereof, for the purpose of performing similar Functions to other jurisdictions.
6. **Progress Reporting:** Contractor shall communicate progress of work performed to Local Government's administrative officer and/or department head periodically or as determined by Local Government.
7. **Period of Service (POS):** Functions defined in "Section A." herein above shall be performed routinely based upon a mutually agreeable schedule during the period July 1, 2017 and ending June 30, 2018. POS as defined herein may be amended through either Termination, as set forth in "Section B.13." herein, or, Extension, as set forth in "Section B.15." herein.
8. **Level of Service (LOS):** Functions to be performed as defined in "Section A." herein above total 1,040 hours of service or 50% Full Time Equivalency (FTE) and shall be delivered at approximately 104 hours per calendar month on average. The LOS may increase by not more than five (5%) percent without affect upon Compensation, as defined in "Sections B.9." herein and/or Payments, as defined in "Section B.10." herein; thereafter, the amount of compensation due shall be adjusted by a pro-rata amount proportional to the basic LOS. LOS will be monitored monthly, with quarterly invoicing for overages. LOS may be amended by either separate agreement, subsequent addendum hereto, or written/e-mail authorization with Compensation, as defined in "Section B.9." herein, and Payments, as defined in "Section B.10." herein, adjusted accordingly.
9. **Compensation:** The fee for Functions to be performed as defined in "Section A." herein above shall be Sixty-Eight Thousand Eight Hundred Ninety-Two and 46/100's (\$68,892.46) dollars for the POS, as noted in "Section B.7." herein. The fee is inclusive of all personnel costs including but not limited to:
 - a. Base Salary plus:
 - i. Social Security
 - ii. Medicare
 - iii. State Unemployment Insurance (SUTA)
 - iv. Federal Unemployment Insurance (FUTA)
 - v. Worker's Compensation Insurance
 - b. Benefits:
 - i. Health & Life Insurance
 - ii. Paid Vacation & Personal Time
 - iii. Paid Holidays
 - iv. Paid Travel Time
 - c. Professional Development & Certifications;

N-Focus

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- d. Cellular Communications;
- e. Company Vehicle with
 - i. Vehicle Insurance
 - ii. Vehicle Operations & Maintenance
- f. Meals & Lodging; and
- g. Management cost

Printing and reproduction shall be provided by Local Government. Any direct expenses (i.e. printing, postage, etc.) provided by Contractor on behalf of Local Government, shall be reimbursed at actual cost plus five percent (5%). Travel cost to and from Local Government by Contractor personnel is included in the fee above. Travel by Contractor personnel on behalf of Local Government to perform inspections within Local Government, or attend meetings outside Local Government, shall be reimbursed at the current IRS Standard Mileage Rate.

- 10. **Payments:** Local Government shall provide twenty-six (26) equal bi-weekly payments in the amount of Two Thousand Six Hundred Forty-Nine and 71/100's (~~\$2,649.71~~) dollars without invoice. Bi-weekly payments shall be made during the bi-weekly POS with the first payment due and payable within ten (10) days of the beginning of the POS defined in "Section B.7." herein. Monthly invoicing for travel & direct expenses as noted in "Section B.9." herein and quarterly invoicing for LOS overages as noted in "Section B.8." herein shall be due and payable within ten (10) days of invoice. A late payment penalty equal to 1.5% of the unpaid balance of either bi-weekly payments or monthly invoicing may be assessed.
- 11. **Access:** Local Government shall provide Contractor personnel with legal access to the primary work area during normal operating hours.
- 12. **Liability:** Contractor personnel assigned to Local Government will serve as agents of Local Government for the purpose of performing professional Functions and/or administration, and to conduct investigations and research on behalf of Local Government. Contractor personnel assigned to Local Government are acting as contracted agents of Local Government in accordance with NCGS 160A-20.1 and no liability is implied or assumed for actions on behalf of Local Government, its administration, appointed officials and/or elected officials. General liability insurance shall be maintained by Contractor throughout the POS as defined in "Section B.7." herein for the Functions to be performed under this Agreement. Contractor shall provide Local Government with a Certificate of Insurance prior to beginning Functions defined in "Section A." herein above. This certificate will become a part of this Agreement upon execution of this Agreement. Contractor shall further indemnify and hold Local Government harmless from any/all worker compensation claims by Contractor personnel and any other claims arising out of Contractor personnel's conduct.
- 13. **Termination:** Contractor or Local Government may terminate this Agreement for any reason with sixty (60) days written notification. In the event of early termination by Local Government, compensation for all Functions actually provided through the date of termination will be due and payable at the unit costs in effect at the time of termination. Compensation for any part of a billing cycle based upon the days within said cycle shall be prorated through the date of termination. In the event Contractor personnel currently employed, recently

N-Focus

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separated/terminated or retired from Contractor become employed directly by Local Government either during the POS as defined in "Section B.7" herein or within one-hundred-eighty (180) days of the effective date of contract termination and/or expiration, Contractor shall be entitled to supplemental compensation by Local Government equal to three (3) months of said employee's full time gross salary equivalent in effect at the time of Agreement Termination and or/Expiration; furthermore, the supplemental compensation shall be due and payable within ten (10) calendar days of the date Contractor personnel begins employment with Local Government.

14. **Expiration:** This Agreement shall expire at 11:59 pm on June 30, 2018, unless extended, as defined in "Section B.15." herein.
15. **Extension:** This Agreement may be extended by either separate agreement, subsequent addendum hereto, or written/e-mail authorization. Upon extension of this Agreement, POS as defined in "Section B.7." herein, LOS, as defined in "Section B.8." herein, Compensation, as defined in "Section B.9." herein, and Payments, as defined in "Section B.10." herein, are subject to change. All other Terms & Conditions defined herein shall remain the same.
16. **Certifications:** Contractor personnel shall not be required to sign any documents, no matter by whom requested, that would result in Contractor personnel having to certify, guarantee or warrant the existence of conditions whose existence Contractor personnel cannot ascertain. Local Government agrees not to make resolution of any dispute with Contractor or payment of any amount due to Contractor in any way contingent upon Contractor's personnel signing any such certification or document.
17. **Force Majeure:** Contractor shall not be responsible for any delays, damages, costs, expenses, liabilities or other problems that may arise as a result of a force majeure. A "Force Majeure" is defined as any event arising from causes beyond the reasonable control of Contractor, including but not limited to fire, flood, unusual inclement weather, acts of God, civil strikes or labor disputes, riots, acts or failures of Local Government or others
18. **Conflicting Terms and Provisions:** In the event of conflict among this Agreement and any hereto attached exhibits, this Agreement shall govern.
19. **Dispute Resolution:** It is acknowledged this Agreement shall be governed by the laws of the State of North Carolina in the event of dispute. Any dispute, controversy or claim arising out of or relating to this Agreement, in particular its conclusion, interpretation, performance, breach, termination or invalidity, shall be finally settled by the courts having exclusive jurisdiction within the county of Local Government.
20. **Counterparts:** This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

N-Focus

Initials: Date:

Archer Lodge – FY 18 Planning & Code Agreement

Initials: Date:

21. **Entire Agreement:** Local Government and Contractor acknowledge this Agreement and any Attachments hereto constitute the entire agreement between Local Government and Contractor concerning the subject matter hereof. All prior agreements, discussions, representations, warranties and covenants are merged herein. There are no warranties, representations, covenants or agreements, expressed or implied, between Local Government and Contractor except those expressly set forth in this Agreement. Any amendments or modifications of this Agreement shall be in writing and executed by Local Government and Contractor. Unless stated otherwise in this Agreement, this Agreement may not be modified.
22. **Representatives:** On behalf of Contractor, only the following individuals have authority to modify or alter the terms and conditions of this Agreement:

F. Richard Flowe, President & CEO
Patricia A. Rader, Secretary/Treasurer

23. **Notification:** All correspondence shall be directed to:

Patti Rader, Manager
N-Focus Planning & Design, Inc.
313 South Main Street, Suite 110
Kannapolis, NC 28081
Tel: 704-933-0772
E-Mail: prader@nfocusplanning.org

(This space left blank intentionally)

N-Focus

Initials: Date:

Archer Lodge – FY 18 Planning & Code Agreement

Initials: WRP Date: 10 JUL 17

Section C. ACCEPTANCE:

Patricia A. Rader

June 13, 2017

Patricia A. Rader, Manager
N-Focus Planning & Design, Inc.

Date

ACCEPTED on behalf of Local Government by:

[Signature]
Signature

10 Jun 17
Date

MICHAEL A. GORDON, MAYOR
Printed name of authorized person signed above

Seal of Local Government



ATTEST:

[Signature]
Clerk to the governing board/council of
Local Government

7/11/2017
Date

PRE-AUDIT:

This document has been pre-audited in accordance with applicable North Carolina General Statute.

[Signature]
Finance Officer

7/11/2017
Date

N-Focus

Initials: [Signature] Date: 6/13/17

Archer Lodge – FY 18 Planning & Code Agreement

Initials: [Signature] Date: 10 Jun 17

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Moved by: Council Member Wilson
Seconded by: Mayor Pro Tem Mulhollem

Service Agreement between the Town of Archer Lodge and N-Focus for FY 2018 was Adopted.

CARRIED UNANIMOUSLY

c) Discussion and Consideration of Accepting the Resignation of Joel Pace from the Town of Archer Lodge Planning Board/Board of Adjustments

No discussion followed.

Moved by: Council Member Mark Jackson
Seconded by: Mayor Pro Tem Mulhollem

Resignation of Joel Pace from the Archer Lodge Planning Board/Board of Adjustments was Accepted.

CARRIED UNANIMOUSLY

7. TOWN ATTORNEY'S REPORT:

a) Attorney Hewett noted two items:

1. Board of Elections has filing time limitations and restrictions on the upcoming November elections
 2. Brunch Ordinance Law - State has passed the law, each municipality may consider passing as well
-

8. ADMINISTRATIVE CONSULTANT'S REPORT:

- a) **Mr. Gobble commended Amber Butler, our Animal Control Officer, for doing a great job, and the service is a financial benefit for the Town.**
-

9. FINANCIAL/TOWN CLERK'S REPORT:

a) **June 2017 Financials**

With 100% of the fiscal year completed, Ms. Batten shared the financials for month ending June 30, 2017 and is tentative. The collection rate for the Ad Valorem Tax is 99.98% and Auditor will begin Thursday. Once auditors complete their year end, Ms. Batten will share a final financial statement for 6.30.17.

10. PLANNING/ZONING REPORT:

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

1. The Bi-Centennial Census will be taking place in the US next year
 2. In FY 2017, permits were issued for 42 single-family homes as well pre-manufactured homes and the information is used to prepare the State annual report for estimating population
 3. Johnston County's mapping system is extremely helpful
 4. Excellent training modules for Planning Board provided by NCLM Risk Management department
 5. Staff attended a Quasi-Judicial Training Session in Wilson, NC sponsored by the UNC School of Government
 6. Staff will be on vacation the next couple of weeks
-

11. VETERAN'S COMMITTEE REPORT:

a) **Jim Purvis reported the following:**

1. The Veterans Memorial Biscuit Sales raised \$1,801.85
 2. Bank balance is now over \$50,000
 3. Trip planned to Mecklenburg County, VA to view a Vet Memorial Monument similar to their plans
 4. Brick sales are slow
 5. Considering to price other manufacturers of stone and brick
 6. Pamphlets are updated
 7. July Biscuit Sales has been cancelled due to work being done on the grill at the ALCC
 8. American Legion Troop 71 presented the Veteran's Committee with a plaque commemorating their efforts and the committee would like to display it in the Archer Lodge Town Hall lobby
-

12. MAYOR'S REPORT:

a) **Report on US 70 Corridor Commission (flooding impacts within the**

lower Neuse River basin)

Mayor asked Council to review the attached US 70 Corridor Commission Resolution because it will be on the Work Session for discussion.

b) ALCC Family Fun Day Recap

Mayor stated the Archer Lodge Family Day was well attended.

- c) Mayor Gordon mentioned that Representative Donna White, a long-time supporter of Archer Lodge, will provide more information pertaining to the Town receiving a grant for \$50,000 that was approved for park land development and greenways during FY 2018.**
-
-

13. COUNCIL MEMBERS' REMARKS:

(non-agenda items)

- a) Council Member Castleberry mentioned that the Veteran's program at the Family Fun Day was wonderful and he conveyed conversations with Archer Lodge citizens that attended. The event was enjoyed by all.**
-

- b) Mayor Pro Tem Mulhollem and Council Member Jackson thanked the Archer Lodge Fire Department for their quick response to emergency services and for their participation at the ALCC Family Fun Day event.**
-

- c) Council Member Wilson wanted to encourage original families of Archer Lodge to share their values of our community so new families will understand why they love living here.**
-
-

14. CLOSED SESSION - PERSONNEL

NCGS 143-318.11 (a)(6)

- a) Mayor Gordon asked for a motion to go into Closed Session at 7:53 p.m.**

Moved by: Council Member Wilson

Seconded by: Mayor Pro Tem Mulhollem

Motion to enter into Closed Session Approved.

CARRIED UNANIMOUSLY

15. DISCUSSION AND POSSIBLE ACTION ITEMS:

- a) Following the Closed Session ~**

Mayor Pro Tem Mulhollem made a motion to offer the full-time Administrative Support Specialist/Deputy Clerk position to Mrs. Joyce P. Lawhorn at \$16/hour with our standard benefit package beginning August 1, 2017.

Moved by: Mayor Pro Tem Mulhollem

Seconded by: Council Member Wilson

Motion Approved.

CARRIED UNANIMOUSLY

b) Council Member Bruton's absence ~

Discussion followed.

Moved by: Council Member Wilson

Seconded by: Mayor Pro Tem Mulhollem

Motion to excuse Council Member Bruton's absence Approved.

CARRIED UNANIMOUSLY

16. ADJOURNMENT:

a) No Further Business

Moved by: Mayor Pro Tem Mulhollem

Seconded by: Council Member Jackson

Meeting adjourned at 8:32 p.m.

CARRIED UNANIMOUSLY



Michael A. Gordon, Mayor



Kim P. Batten, Town Clerk

