



Regular Council - Minutes Tuesday, September 5, 2023

COUNCIL PRESENT:

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

STAFF PRESENT:

Bryan Chadwick, Town Administrator
Marcus Burrell, Town Attorney
Brandon Emory, Town Planner
Kim P. Batten, Assistant Town Administrator/Finance Officer
Chris Allen, Parks & Recreation Director
Jenny Martin, Human Resources Officer/Town Clerk

COUNCIL ABSENT:

MEDIA PRESENT:

None

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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 called for a motion to approve.

Ms. Martin asked the Mayor to remove Agenda Item 8 a) Assistant Town Administrator/Finance Officer's Report and add it to the September 18, 2023 Town Council Work Session agenda.

Mayor Mulhollem asked Council Member Wilson if he would amend his motion as presented, to include the removal of Item 8 a).

Moved by: Council Member Wilson

Seconded by: Mayor Pro Tem Castleberry

Approved the Agenda as presented with the exclusion of Agenda Item 8 a) Assistant Town Administrator/Finance Officer's Report and add it to the September 18, 2023, Town Council Work Session.

CARRIED UNANIMOUSLY

3. OPEN FORUM/PUBLIC COMMENTS:

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

a) No Public Comments.

4. **CONSENT AGENDA:**

- a) **Approval of Minutes:**
20 Mar 2023 Special Meeting Minutes
20 Mar 2023 Budget Planning Retreat Continued Minutes

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

Approved Consent Agenda.

CARRIED 4 to 1 (Bruton Opposed)

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

- a) **Discussion and Possible Action of Appointing a Town of Archer Lodge Representative for the Triangle J Council of Governments**

Mayor Mulhollem shared that he had recently discussed this item with Mr. Chadwick and that he had an idea but would need more time before discussing. Mayor Mulhollem asked for volunteers. Having no volunteers, it was decided to postpone discussion until the October 2023 Town Council Regular Meeting Agenda.

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- b) **Discussion and Possible Action of Adopting Budget Amendment for Fiscal Year Ending June 30, 2024 ~ (BA 2024 01)**

Ms. Batten and Mr. Chadwick explained the following reasons for amending the budget:

- Funds affected by BA 2024 01 are as follows: General Fund and Capital Reserve Fund.
- Funds for elements of the Park not budgeted: Change orders for G&G Builders, Phase I Landscaping, Sod for Ballfields, Dugout Roofs, Electronic Security for the Park, and WIFI.

Discussion followed. Mayor Mulhollem called for a motion.

The signed Budget Amendment for Fiscal Year Ending June 30, 2024 ~ (BA 2024 01) is attached below.

Moved by: Council Member Purvis
Seconded by: Council Member Wilson

Adopted Budget Amendment for Fiscal Year Ending June 30, 2024 ~ (BA 2024 01)

CARRIED UNANIMOUSLY

[BA 2024 01 Signed](#)

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- c) **Discussion and Possible Action of Approving the Planning Director Job Description**

Ms. Martin gave an overview of the job description and informed that original title of the position had been changed from Town Planner to Planning Director and explained some additional changes that was made to the job description. Ms. Martin reminded everyone that the Planning Director's position was proposed during the Budget Sessions. Mr. Chadwick commended Ms. Martin for incorporating everything that is needed in the job description, including code enforcement. Mr. Emory confirmed that towns are now using the title Planning Director. Mr. Chadwick informed that the plan is to have someone incorporated in the position by January 1st. Discussion followed. Mayor Mulhollem called for a motion.

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

Approved the Planning Director Job Description, as presented.

CARRIED UNANIMOUSLY

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- d) **Discussion and Possible Action of Adopting the Town of Archer Lodge Vacation Leave Policy**

Ms. Martin informed that all of the policies that are included on the agenda are already in the handbook and are just being updated. She explained that the update for this policy was removing the section regarding religious holidays. We have floating holidays that the employees could use for that. We could also go through an accommodation process if an employee was needing leave for that. Having no discussion, Mayor Mulhollem called for a motion.

Moved by: Council Member Jackson

Seconded by: Mayor Pro Tem Castleberry

Adopted the Town of Archer Lodge Vacation Leave Policy, as presented.

CARRIED UNANIMOUSLY

e) Discussion and Possible Action of Adopting the Town of Archer Lodge Vacation Leave: Use by Probationary Period Employees Policy

Ms. Martin informed that the policy was updated to allow employees to use their vacation after a 3-month period of probation instead of a 6-month period. The probationary period will still be 6-months. Discussion followed. Mayor Mulhollem called for a motion.

Moved by: Mayor Pro Tem Castleberry

Seconded by: Council Member Bruton

Adopted the Town of Archer Lodge Vacation Leave: Use by Probationary Period Employees Policy, as presented.

CARRIED UNANIMOUSLY

f) Discussion and Possible Action of Adopting the Town of Archer Lodge Vacation Leave: Accrual Rate Policy

Ms. Martin informed that she updated the policy by converting days to hours for employees that work 10 hours days and part-time positions. Ms. Martin also added verbiage regarding transfer of time from other agencies. We would transfer over years of service for vacation leave accruals. Having no discussion, Mayor Mulhollem called for a motion.

Moved by: Council Member Purvis

Seconded by: Council Member Jackson

Adopted the Town of Archer Lodge Vacation Leave: Accrual Rate Policy, as presented.

CARRIED UNANIMOUSLY

g) Discussion and Possible Action of Adopting the Town of Archer Lodge Vacation Leave: Maximum Accumulation Policy

Ms. Martin explained that the only update was that she converted days to hours on this policy. Having no discussion, Mayor Mulhollem called for a motion.

Moved by: Council Member Purvis

Seconded by: Council Member Jackson

Adopted the Town of Archer Lodge Vacation Leave: Maximum Accumulation Policy, as presented.

CARRIED UNANIMOUSLY

h) Discussion and Possible Action of Adopting the Town of Archer Lodge Vacation Leave: Manner of Taking Policy

Ms. Martin explained that the only update was that she added that approval would be required prior to taking leave time. Having no discussion, Mayor Mulhollem called for a motion.

Moved by: Council Member Jackson

Seconded by: Council Member Purvis

Adopted the Town of Archer Lodge Vacation Leave: Manner of Taking Policy, as presented.

CARRIED UNANIMOUSLY

i) Discussion and Possible Action of Adopting the Town of Archer Lodge Vacation Leave: Payment Upon Separation Policy

Ms. Martin explained that she converted days to hours to be consistant. She also added in information regarding leave rollover. Discussion followed. Mayor Mulhollem called for a motion.

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

Adopted the Town of Archer Lodge Vacation Leave: Payment Upon Separation Policy, as presented.

CARRIED UNANIMOUSLY

j) Discussion and Possible Action of Adopting the Town of Archer Lodge Vacation Leave: Payment Upon Death Policy

Ms. Martin explained that she added hours to this policy. Discussion followed. Mayor Mulhollem called for a motion.

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

Adopted the Town of Archer Lodge Vacation Leave: Payment Upon Death Policy, as presented.

CARRIED UNANIMOUSLY

9 - 10

k) Discussion and Possible Action of Adopting the Town of Archer Lodge Sick Leave Policy

Ms. Martin explained that she updated the Workers' Comp section of this policy. Discussion followed. It was requested to add eye exams to the policy. Mayor Mulhollem called for a motion.

The amended Sick Leave Policy is attached below.

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

Adopting the Town of Archer Lodge Sick Leave Policy, as amended.

CARRIED UNANIMOUSLY

[Sick Leave Policy](#)

l) Discussion and Possible Action of Adopting the Town of Archer Lodge Sick Leave: Accrual Rate and Accumulation Policy

Ms. Martin explained that she just clarified some of the verbiage and combined the transfer of time policy to this policy. She also changed days to hours to be consistent. Discussion followed. Mayor Mulhollem called for a motion.

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

Adopted the Town of Archer Lodge Sick Leave: Accrual Rate and Accumulation Policy, as presented.

CARRIED UNANIMOUSLY

m) Discussion and Possible Action of Adopting the Town of Archer Lodge Sick Leave: Medical Certification Policy

Ms. Martin explained the only change was to clarify the verbiage for FMLA. Discussion followed. She recommended that the Town implement FMLA so that when the Town gets to a point where we are required to comply with FMLA, it will already be in place. Mr. Chadwick reiterated Ms. Martin's

recommendation as a safety matter for the Town. Discussion followed.
Mayor Mulhollem called for a motion.

Moved by: Council Member Jackson
Seconded by: Council Member Purvis

Adopted the Town of Archer Lodge Sick Leave: Medical Certification Policy, as presented.

CARRIED UNANIMOUSLY

n) Discussion and Possible Action of Adopting the Town of Archer Lodge Leave Pro-Rated Policy

Ms. Martin explained that she added part-time employees and added some examples. Discussion followed. Mayor Mulhollem called for a motion.

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

Adopted the Town of Archer Lodge Leave Pro-Rated Policy, as presented.

CARRIED UNANIMOUSLY

6. TOWN ATTORNEY'S REPORT:

a) Attorney Burrell shared that he missed everyone last month and noted that he would discuss more during the Closed Session.

7. TOWN ADMINISTRATOR'S REPORT:

a) Mr. Chadwick reported the following:

- Mr. Chadwick informed that he has been discussing Emergency Operations Plan (EOP) with Staff. He gave a brief overview of the operation details and noted he would be discussing more in future meetings.
- ETJ discussions will happen next week with the Town of Clayton discussing the needs for both Archer Lodge and Clayton. He noted that the meeting is scheduled to be at the Archer Lodge Town Hall and will include Archer Lodge Staff, Mr. Chad Meadows, CodeWright Planners, LLC, and the Town of Clayton Staff.
- Mr. Chadwick provided a summary of the topics discussed with the members of the Johnston County Regionalization Study that he and Ms. Batten attended last week. He noted that the discussions would be on-going regarding water and sewer.
- He informed Council that at the September 16, 2023 Work Session, there will be a discussion regarding a cell tower ordinance and also a discussion considering alcohol being allowed at special events.
- Mr. Chadwick shared that he would like to meet individually with each Council Member every quarter, via phone or in person, for an update and/or general discussions.
- It was the consensus from the Town Council to schedule a Town Shred It Event for October 21, 2024. Discussion followed. Mr. Chadwick shared that plans are to include a Food Truck. The hours are from 9:00 a.m. - 1:00 p.m. Mayor Mulhollem shared that Boy Scout Troop 421 might have some volunteers to help, if needed.

No further discussion.

8. ASSISTANT TOWN ADMINISTRATOR/FINANCE OFFICER'S REPORT:

a) Interim Financial Reports for July 2023

Approved to move Item 8. to the Work Session on September 18, 2023.

9. HUMAN RESOURCES OFFICER/TOWN CLERK'S REPORT:

- a) **Ms. Martin informed that she will be having School of Government Clerk classes on-line for 2 days to complete classes that were cancel due to a incident at the school (UNC). She also shared that she will have one more week of Clerk classes in October 2023 to finish up her Clerk certification.**

She plans to present more personnel policies for approval in the future. Discussion followed.

10. PARKS AND RECREATION DIRECTOR'S REPORT:

- a) **Mr. Allen reported the following:**

- We are moving forward with finalizing the electricity and picnic shelter at the park within the next couple of weeks.
- NRFA Soccer (Neuse River Futbol Alliance) practice has begun for ages 9 and above. Plans are for the Town to offer soccer in the Spring for ages 8 and below.
- Parks & Recreation Baseball will begin next Monday having 3 games per night.
- Registration for Fall Baseball has 325 participants registered.
- Per the Town agreement with Johnston County Little League, the Town has provided the apparel, equipment, fields, and staff needed to be available for the games.
- Working with local schools for the opportunity to offer Winter Programming.

No further discussion.

11. PLANNING/ZONING REPORT:

11 - 29

- a) **Planning/Zoning Update**

Mr. Emory shared a draft copy of the proposed Minimum Housing Ordinance, which is attached below, for Council to review at their leisure and asked that they contact him with any questions or suggestions. He noted that the ordinance would be beneficial for the Town to implement. Mr. Emory shared that the turn around time for permitting is within a week or less. He reminded Council that Planning works for the Town approximately 16 hours per week.

[DRAFT Minimum Housing Regulations Ordinance](#)

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- b) **Code Enforcement Monthly Report**

Mr. Emory went over the Code Enforcement Report which reported that 7 cases have been abated in the last month, 11 new cases have been opened, 146 cases overall have been opened and 129 cases have been abated with Code Enforcement working 10 hours a week. Discussion followed.

12. MAYOR'S REPORT:

- a) **Mayor Mulhollem had no report.**

13. COUNCIL MEMBERS' REMARKS:

(non-agenda items)

- a) **Council Member Wilson asked if there were any plans for the upcoming Veterans Day Ceremony. Mayor Mulhollem shared that he would relay his question to the persons planning the event.**
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b) Council Member Jackson discussed buildings that are located in the Town that have historical value to see if there is anything that the Town can do to help preserve these buildings. Discussion followed.

c) Council Member Purvis had no remarks.

d) Council Member Castleberry had no remarks.

e) Council Member Bruton shared that she would not be available to attend the Town Council Work Session on September 18, 2023.

14. CLOSED SESSION - ATTORNEY CONSULTATION

§ 143-318.11(a)(3)

a) Attorney Burrell advised Council to enter into Closed Session for attorney consultation for a potential litigation as permitted by §143-318.11(a)(3).

Moved by: Council Member Wilson

Seconded by: Council Member Bruton

Approved to enter into Closed Session at 8:45 p.m.

CARRIED UNANIMOUSLY

15. RETURN TO OPEN SESSION:

a) Mayor Mulhollem called for a motion to return to Open Session.

Moved by: Council Member Wilson

Seconded by: Mayor Pro Tem Castleberry

Approved to return to Open Session at 9:01 p.m.

CARRIED UNANIMOUSLY

16. POTENTIAL ACTION:

a) No potential action.

17. ADJOURNMENT:

a) Having no further business, Mayor Mulhollem called for a motion to adjourn.

Moved by: Council Member Wilson

Seconded by: Mayor Pro Tem Castleberry

Approved to adjourn meeting at 9:02 p.m.

CARRIED UNANIMOUSLY



Matthew B. Mulhollem, Mayor



Jenny Martin, Town Clerk

Town of Archer Lodge
Fiscal Year Ending June 30, 2024

BA 2024 01



Budget Amendment # BA 2024 01

Date: 05-Sep-23

Gen Fund/Cap Res Fund

Account	Account Number	Budget	Amendment	Amended Budget
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Revenues:

Gen/Transfer from Capital Reserve Fund 30	10-3900-3930	-	125,000.00	125,000.00
Gen/Fund Balance Appropriated	10-3990-0000	347,846.00	152,154.00	500,000.00
Cap Res Fnd/Fund Balance Appropriated	30-3990-0000	-	125,000.00	125,000.00
Total Increase (Decrease) in Revenues			402,154.00	

Expenditures:

Gen/Public Buildings/Supplies-Buildings	10-4190-2000	3,000.00	3,389.00	6,389.00
Gen/Public Buildings/Solid Waste-Garbage	10-4190-3300	-	6,000.00	6,000.00
Gen/Public Buildings/Contracted Services	10-4190-3500	20,000.00	229,500.00	249,500.00
Gen/Public Buildings/Building Permits	10-4190-5900	-	7,000.00	7,000.00
Gen/Parks & Rec/Contracted Services	10-6120-3500	26,000.00	29,565.00	55,565.00
Gen/Parks & Rec/Insurance Workers Compensation	10-6120-4550	4,735.00	1,700.00	6,435.00
Cap Res Fnd/Transfer to General Fund 10	30-9900-0010	-	125,000.00	125,000.00
Total Increase (Decrease) in Expenditures			402,154.00	

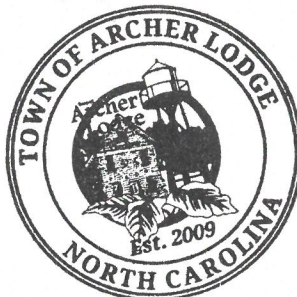
Justification for Budget Amendment:

To appropriate or reappropriate unanticipated revenues and expenditures as recorded.

Adopted this 5th day of September 2023

ATTEST:


Jenny Martin, Town Clerk




Matthew B. Mulhollem, Mayor


Bryan Chadwick, Budget Officer



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 L. (Jim) Purvis, III

Mark B. Wilson

Sick Leave Policy

Sick leave with pay is a privilege granted to employees by the Town, not a right, and may be used only for the purposes described in this policy. Abuse of sick leave privileges will subject the employee to disciplinary action up to and including termination.

Employees serving a probationary period following initial employment will accumulate sick leave at the applicable rate and may be permitted to take sick leave during the probationary period.

Sick leave may be used for the following reasons: sickness, bodily injury, required physical/dental/eye examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others.

Sick leave may also be used when an employee must care for a member of his or her immediate family who is ill; however, sick leave may not be used to care for healthy children when the regular care giver is sick.

Immediate family is defined as spouse, child, parent, guardian, children, sister, brother, grandparent, grandchildren, plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

Sick leave, if available, will be used to supplement worker's compensation disability leave during the waiting period of seven (7) days before worker's compensation benefits begin. Sick leave may be used to supplement the remaining one third (1/3) of salary after worker's compensation benefits begin, up to one (1) week out of work.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or no later than the start of the scheduled workday.

MINIMUM HOUSING REGULATIONS

Statutory reference:

Repair, closing or demolition of abandoned structures, see G.S. 160D-1203

GENERAL PROVISIONS

SCOPE.

The provisions of this chapter and of the regulatory codes herein adopted shall apply to the following:

- (A) The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use and occupancy of every dwelling or any appurtenances connected, attached or used in connection with any dwelling;
- (B) The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of building sewers, building drains, waste and vent systems, hot and cold-water supply systems, and all fixtures and appurtenances thereof;
- (C) The installation, erection, alteration, repair, use and maintenance of mechanical systems consisting of heating, ventilating, air conditioning or refrigerating systems, fuel burning equipment, and appurtenances thereof; and
- (D) The installation, erection, alteration, repair, use and maintenance thereof.

JURISDICTION.

The provisions of this chapter and of the regulatory codes herein adopted shall apply within the corporate limits of the town and within the town's extraterritorial jurisdiction beyond and surrounding the corporate limits as shown on the official zoning map of the town (if applicable).

STATE BUILDING CODE ADOPTED

The current version of the North Carolina State Building Code is hereby adopted, and any later adopted versions of the State Building Code shall be deemed adopted by the town without further action by the Town Council.

COMPLIANCE WITH THE STATE BUILDING CODE

All dwellings, nonresidential buildings and other structures which are hereafter constructed, reconstructed, erected, altered, extended, enlarged, repaired, demolished or moved shall conform to the requirements of the North Carolina State Building Code.

MINIMUM HOUSING STANDARDS

FINDING; PURPOSE.

(A) Pursuant to G.S. § 160D-1203, it is hereby found and declared that there exist in the town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering the dwellings unsafe or unsanitary, and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.

(B) In order to protect the health, safety and welfare of the residents of the town, as authorized by G.S. § 160D-1203et seq., it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. § 160D-1203.

DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BASEMENT. A portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

CELLAR. A portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

DETERIORATED. A dwelling which is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this chapter, at a cost not in excess of 50% of its value, as determined by finding of the Inspector.

DILAPIDATED. A dwelling which is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter at a cost not in excess of 50% of its value, as determined by a finding of the Inspector.

DWELLING. Any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that a “dwelling” does not include any manufactured home or mobile home, which is used solely for a seasonal vacation purpose, or other temporary housing. See, “Temporary Housing,” below.

DWELLING, DWELLING UNIT, ROOMING HOUSE, ROOMING UNIT, PREMISES. Shall be construed as though they were followed by the words or any part thereof.

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

EXTERMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the Inspector.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

INFESTATION. The presence, within or around a dwelling, of any insects, rodents or other pests in a number as to constitute a menace to the health, safety or welfare of the occupants or the public.

INSPECTOR. A Building Inspector or any other official or employee of the town authorized by ordinance to exercise the powers and duties of this chapter. The term "Inspector" shall have the same meaning as "public officer," as that term is used in G.S. Chpt. 160A, Art. 19., Part 6, "Minimum Housing Standards."

MANUFACTURED HOME. Means a structure as defined in G.S. § 143-145(7). A manufactured home may also be referred to as a "mobile home."

MULTIPLE DWELLING. Any dwelling containing more than two dwelling units.

OCCUPANT. Any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

OPERATOR. Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

OWNER. The holder of fee simple title to real property and every mortgagee of record.

PARTIES IN INTEREST. All individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

PLUMBING. All of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

PUBLIC AUTHORITY. The Town Housing Authority or any officer who is in charge of any department or branch of the government of the Town of Archer Lodge or Johnston County or the State of North Carolina relating to health, fire, building regulations or other activities concerning dwellings in the town.

ROOMING HOUSE. Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit, used or intended to be used for living and sleep, but not for cooking or eating purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

SUPPLIED. Paid for, furnished or provided by, or under the control of, the owner or operator.

TEMPORARY HOUSING. Any tent, trailer or other structure used for human shelter which is designed to be transportable, and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than thirty (30) consecutive days.

UNFIT FOR HUMAN HABITATION. Conditions which exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this chapter.

FITNESS OF DWELLINGS AND DWELLING UNITS.

(A) Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with the North Carolina State Building Code and all of the minimum standards of fitness for human habitation and other requirements this code.

(B) No person shall occupy as owner-occupant or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with the North Carolina State Building Code and all of the minimum standards of fitness for human habitation and other requirements of this code.

STRUCTURAL CONDITION.

(A) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.

(B) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(C) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.

(D) Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in a condition that they will not fail or collapse.

5. (E) Adequate facilities for egress in case of fire or panic shall be provided.
6. (F) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable

materials, which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(G) The roof, flashings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.

(H) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in a condition or location as to constitute a fire hazard.

(I) There shall be no use of the ground for floors, or wood floors on the ground.

BASIC EQUIPMENT AND FACILITIES.

(A) Plumbing system.

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.

(2) (a) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water.

(b) All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All plumbing fixtures shall meet the standards of the North Carolina State Building Code and shall be maintained in a state of good repair and in good working order.

(4)(a) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of the same.

(b) The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(B) *Heating system.* Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either division (B)(1) or (B)(2) below.

(1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity, and shall be connected, so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to a minimum temperature of 70°F measured as a point three (3) feet above the floor.

(2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms to a minimum temperature of 70°F measured three (3) feet above the floor.

(3) *Portable kerosene heaters.* Portable kerosene heaters are not acceptable as a permanent source of heat but may be used as a supplementary source in single family dwellings and duplex units. An owner who has complied shall not be held in violation of this subsection where an occupant of a dwelling unit uses a kerosene heater as a primary source of heat.

(C) Electrical system.

(1)(a) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two (2) floor or wall-type electric convenience receptacles, connected in a manner as determined by the North Carolina State Building Code.

(b) There shall be installed in every bathroom, water closet room, laundry room and furnace room, at least one supplied ceiling, or wall-type electric light fixture.

(c) In the event wall or ceiling light fixtures are not provided in any habitable room, then each habitable room shall contain at least three floor or wall-type electric convenience receptacles.

(2) Every public hall and stairway in every multi-dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the North Carolina State Building Code.

VENTILATION.

(A) General.

(1) Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors.

(2) The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of the room.

(3) Whenever walls or other portions of structures face a window or any room and the light-obstructing structures are located less than five (5) feet from the window and extend to a level

above that of the ceiling of the room, the window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area.

(4) Whenever the only window in a room is a skylight-type window in the top of the room, the total window area of the skylight shall equal at least 15% of the total floor area of the room.

(B) Habitable rooms.

(1) Every habitable room shall have at least one (1) window or skylight which can easily be opened, or other device as will adequately ventilate the room.

(2) The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation.

(C) Bathroom and water closet rooms. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

SPACE, USE AND LOCATION.

(A) Room sizes. Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the North Carolina State Building Code.

(1) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three (3) occupants, and at least seventy-five (75) square feet of additional habitable floor area for each additional occupant.

(2) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

(B) Ceiling height. At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of not less than seven (7) feet and six (6) inches.

(C) Floor area calculation.

(1) Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area.

(2) The floor area of any part of any room where the ceiling height is less than four and one-half (4 1/2) feet shall not be considered as part of the floor area computing the total area of the room to determine maximum permissible occupancy.

4. (D) *Cellar*. No cellar shall be used for living purposes.

5. (E) *Basements*. No basement shall be used for living purposes unless:

(1) The floor and walls are substantially watertight;

(2) The total window area, total openable window area and ceiling height are equal to those required for habitable rooms; and

(3) The required minimum window area of every habitable room is entirely above the grade adjoining the window area, except where the window or windows face a stairwell, window well or access way.

SAFE AND SANITARY MAINTENANCE.

(A) *Exterior foundation, walls and roofs*.

(1) Every foundation wall, exterior wall and exterior roof shall be substantially weather tight and rodent proof, shall be kept in sound condition and good repair, shall be capable of affording privacy; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(2) Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(B) *Interior floors, walls and ceilings*. Every floor, interior wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(C) *Windows and doors*. Every window, exterior door, basement or cellar door, and hatchway shall be substantially weather tight, watertight and rodent proof, and shall be kept in sound working condition and good repair.

(D) *Stairs, porches and appurtenances*. Every outside and inside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

(E) *Bathroom floors*. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit the floor to be easily kept in a clean and sanitary condition.

(F) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(G) *Drainage.* Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

(H) *Noxious weeds.* Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.

(I) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the North Carolina State Building Code.

CONTROL OF INSECTS, RODENTS AND INFESTATIONS.

(A) *Screens.* In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed.

(B) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or other approved device as will effectively prevent their entrance.

(C) *Infestation.*

(1) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for the extermination whenever his or her dwelling unit is the only one infested.

(2) Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner.

(3) Whenever infestation exists in two or more dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(D) *Rubbish storage and disposal.* Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by town ordinances, and the owner, operator or agent in control of the dwelling or dwelling unit shall be responsible for the removal of rubbish.

(E) *Garbage storage and disposal.* Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an incinerator unit, to be approved by a Town Building Inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage can as required by town ordinances.

ROOMING HOUSES; EXCEPTIONS.

All of the provisions of this chapter, and all of the minimum standards and requirements of this chapter, shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following divisions.

(A) Water closet, hand lavatory and bath facilities.

(1) At least one (1) water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house wherever the facilities are shared.

(2) All the facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one (1) story removed from any of the persons sharing the facilities. at all times.

(3) Every lavatory basin and bathtub or shower shall be supplied with hot and cold water

(4) The required facilities shall not be located in a cellar.

(B) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least (fifty) 50 square feet of floor area for each occupant (twelve) 12 years of age and over and at least (thirty-five) 35 square feet of floor area for each occupant under (twelve) 12 years of age.

(C) *Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the rooming house; and he or she shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

(D) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by subsection (A) above shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein.

RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

(A) *Public areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(B) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he or she occupies and controls.

(C) *Rubbish and garbage.*

(1) Every occupant of a dwelling or dwelling unit shall dispose of all his or her rubbish and garbage in a clean and sanitary manner.

(D) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of the same.

(E) *Care of facilities, equipment and structure.* No occupant shall willfully destroy, deface or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

INSPECTOR; POWERS AND DUTIES.

(A) *Inspector appointed.* The Town Administrator is hereby appointed to serve as the Minimum Housing Inspector. The Town Administrator may delegate these duties to any town employee or contractor.

(B) *Duties.* It shall be the duty of the Inspector:

(1) To investigate the dwelling conditions, and to inspect dwellings and dwelling units located in the town, in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this chapter with respect to the dwellings and dwelling units;

(2) To take action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(3) To keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed; and

(4) To perform the other duties as may be herein prescribed.

(C) *Powers.* The Inspector is authorized to exercise the powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter including the following powers in addition to others herein granted:

- (1) To investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation;
- (2) To administer oaths and affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examinations and inspections; provided, the entries shall be made in accordance with law and in the manner as to cause the least possible inconvenience to the persons in possession; and
- (4) To appoint and fix the duties of the officers, agents and employees as he or she deems necessary to carry out the purpose of this chapter.

(D) Relief from personal liability. Any official, officer, employee, or authorized qualified third-party agency or individual charged with the enforcement of this code, while acting for the Town, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of the official duties described herein.

PROCEDURE FOR ENFORCEMENT; SERVICE OF COMPLAINTS AND ORDERS.

(A) Procedure for enforcement.

(1) Preliminary investigation; notice; hearing.

- (a) Whenever a petition is filed with the Inspector by a public authority or by at least five (5) residents of the town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he or she shall if his or her preliminary investigation discloses a basis for the charges, issue and cause to be served upon the owner of and parties in interest in the dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten (10) nor more than thirty (25) days after the serving of the complaint.
- (b) The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint.
- (c) Notice of the hearing shall also be given to at least one of the persons signing a petition relating to the dwelling.
- (d) Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard.
- (e) Hearings before the Inspector shall be quasi-judicial in nature. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

(2) Procedure after hearing.

(a) After the notice and hearing, the Inspector shall state in writing his or her determination whether the dwelling or dwelling unit is unfit for human habitation. If the Inspector determines the dwelling or dwelling unit is unfit for human habitation, then her or she shall also determine whether the structure is deteriorated or dilapidated.

(b) 1. If the Inspector determines that the dwelling or dwelling unit is deteriorated, he or she shall state in writing his or her findings of fact in support of the determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter and improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed ninety (90) days. 2. If the Inspector determines that the dwelling or dwelling unit is deteriorated, the order may also require that the property be vacated and closed. The Inspector may issue an order to vacate and close only if the Inspector determines in writing that continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of eighteen (18) or occupants with physical or mental disabilities.

(c) If the Inspector determines that the dwelling is dilapidated, he or she shall state in writing his or her findings of fact to support the determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter or else vacate and remove or demolish the same within a specified period of time not to exceed ninety (90) days. However, notwithstanding any other provision of law, if the dwelling is located in a historic district of the town and the town's Historic District Commission determines, after a public hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. § 160D-1203.

(d) An order issued shall also state:

(i) That the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order, and

(ii) That any person aggrieved by the order may appeal the decision to the Zoning Board of Adjustment within thirty (30) days from the rendering of the decision or service of the order.

(B) Whenever the Inspector orders a dwelling be vacated and closed or removed or demolished, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of forty-five (45) days from the mailing of such notice shall be given before removal or demolition by action of the Inspector, to allow the opportunity for any organization to

negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The Inspector or Town Clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the Inspector to wait forty-five (45) days before causing removal or demolition.

(C) Methods of service of complaints and orders.

(1) Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(2) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Inspector in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the Inspector makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the town at least once no later than the time at which personal service would be required under this chapter. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

FAILURE TO COMPLY WITH AN ORDER.

(A) Failure to comply with an order – in personam remedy. Pursuant to G.S. § 160D-1203, if the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter or improve the same within the time specified therein, or if the owner of a dilapidated

dwelling shall fail to comply with an order of the Inspector to vacate and close, and remove or demolish the same within the time specified therein, the Inspector may submit to the Town Council a resolution directing the Town Attorney to institute any appropriate action in the Johnston County Superior Court for an order directing the owner and/or occupants to comply with the order of the Inspector; to otherwise prevent the unlawful erection, construction, reconstruction, alteration or use; to restrain, correct or abate the violation; to prevent the occupancy of the dwelling; or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

(B) Failure to comply with an order – in rem remedy.

(1) If the owner of any deteriorated or dilapidated dwelling or dwelling unit shall fail to comply an order of the Inspector issued pursuant to this chapter, the Inspector may petition the Town Council adopt an ordinance authorizing the Inspector to carry the Inspector's order into effect.

Upon adoption of said ordinance, the Inspector shall proceed to cause the dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter or to be vacated and closed and removed or demolished, as directed by the ordinance of the Town Council and shall cause to be posted on the main entrance of the dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."

(2) No ordinance adopted by the Town Council shall direct the Inspector to take an action other than those actions specified in the Inspector's written order, except that the Council may allow additional time to repair a dwelling.

(3) No ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the town Minimum Housing Code.

(4) Occupation of a building so posted shall constitute a Class 1 misdemeanor.

(B) Each ordinance shall be recorded in the office of the Johnston County Register of Deeds and shall be indexed in the name of the property owner in the grantor index.

COSTS A LIEN ON PREMISES; SALE OF MATERIALS.

(A) As provided by G.S. § 160D-1203, the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. Chapter. 160D-1203.

(B) If the real property upon which the cost was incurred is located within the corporate limits of the town, then the amount of the cost is also a lien on any other real property of the owner located within the town limits or within one (1) mile thereof except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(C) If the dwelling is removed or demolished by the Inspector, he or she shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Johnston County Superior Court by the Inspector, shall be secured in a manner directed by the Court, and shall be disbursed by the Court to the persons found to be entitled thereto by final order or decree of the Court. Nothing in this subsection shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

ABANDONMENT OF INTENT TO REPAIR.

(A) If (i) the Town Council has adopted an ordinance as provided in this chapter or the Inspector has issued an order determining a structure is deteriorated and ordering a dwelling to be repaired or vacated and closed and (ii) the dwelling has been vacated and closed for a period of one (1) year pursuant to the ordinance or order, then the Council may conduct a hearing to determine whether the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation. If after a hearing, the Council finds that the owner has abandoned his or her intent to repair the dwelling and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the town in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the Council may, after the expiration of such one (1) year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(1) If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within ninety (90) days; or

(2) If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within ninety (90) days.

(B) This ordinance shall be recorded in the Johnston County Register of Deeds and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the Inspector shall effectuate the purpose of the ordinance.

ALTERNATIVE AND SUPPLEMENTAL REMEDIES.

(A) Neither 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 abatement by summary action or otherwise, or to enforce this chapter by criminal process as authorized by G.S. § 14-4.

(C) The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

(D) If any occupant fails to comply with an order to vacate a dwelling, the Inspector, with authorization from the Town Council, may file a civil action in the name of the town to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. The Johnston County Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten (10)

days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the Inspector produces a certified copy of an ordinance adopted by the Town Council pursuant to this chapter authorizing the Inspector to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of such judgment may be stayed as provided in G.S. § 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least thirty (30) days before the filing of the summary ejectment proceeding that the Town Council has ordered the Inspector to proceed to exercise his or her duties pursuant to this chapter to vacate and close or remove and demolish the dwelling.

APPEALS.

(A) An appeal from any decision or order of the Inspector may be taken to the Zoning Board of Adjustment by any person aggrieved thereby or by any officer, board or Council of the town. Any appeal from the Inspector shall be taken within thirty (30) days from the rendering of the decision or service of the order by filing a notice of appeal with the Inspector, which notice shall specify the grounds upon which the appeal is based.

(B) Upon the filing of any notice of appeal, the Inspector shall promptly transmit to the Zoning Board of Adjustment all the papers, photographs and other documents constituting the record upon which the decision appealed from was made.

(C) When an appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, his or her decision shall remain in force until modified or reversed. When any appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Zoning Board of Adjustment, unless the Inspector certifies to the board, after the notice of appeal is filed with him or her, that because of facts stated in the certificate (a copy of which shall be furnished to the appellant), a suspension of his or her requirement would cause imminent peril to life or property. In that case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one (1) day's written notice to the Inspector, by the board, or by a court of record upon petition.

(D) The Zoning Board of Adjustment shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector, but the concurring vote of a majority of the members of the board shall be necessary to reverse or modify any decision or order of the Inspector. The board shall have power also in

passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(E) Every decision of the Zoning Board of Adjustment shall be subject to review by proceedings in the nature of certiorari instituted in the Johnston County Superior Court within fifteen (15) days of the decision of the board, but not otherwise.

(F) Any person aggrieved by an order issued by the Inspector, or a decision rendered by the Zoning Board of Adjustment may petition the Johnston County Superior Court for an injunction restraining the Inspector from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the Inspector pending a final disposition of the cause. The petition shall be filed within thirty (30) days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within twenty (20) days and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this subsection.

CONFLICT WITH OTHER PROVISIONS.

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.

VIOLATIONS.

(A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in the order, and each day that any failure, neglect or refusal to comply with the order continues shall constitute a separate and distinct offense.

(B) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to this chapter, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration or improvement or its vacation and closing, and each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.

PENALTY AND ENFORCEMENT.

(A) In addition to the other remedies provided here in, any provision of this chapter may be enforced by any remedy, including but not limited to civil penalties as provided in Code Section 10.99 and G.S. § 160D-1203.

Adopted by the Town of Archer Lodge Council the _____ day of _____
20____.