

Village of Marvin
Development
Ordinance
(Articles 1-23)

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ARTICLE 1

PURPOSE AND AUTHORITY, OFFICIAL ZONING MAP

1.1 Short Title

This Ordinance shall be known and may be cited as the "Marvin Development Ordinance" or "MDO".

1.2 Enactment and Repeal

1.2-1 Enactment. This Ordinance, together with its' twenty-three articles and Technical Standards and Specifications Manual, is hereby enacted and shall be the Development Ordinance for the Village of Marvin, hereinafter "the Village" and its planning and development regulation jurisdiction, including any extraterritorial jurisdiction. This ordinance supersedes the "Marvin Unified Development Ordinance" adopted February 13, 1996 and the Marvin Heritage District Form-Based Code" adopted January 11, 2022, together with amendments thereto, which are hereby repealed in their entirety; and the "Marvin Flood Damage Prevention Ordinance", together with amendments thereto, which is each hereby repealed to the extent stated in Article 18 herein.

ADOPTED on this the 14th day of May 2024.

s/ _____
Joseph E. Pollino Jr., Mayor

s/ _____
Austin W. Yow, Village Clerk

1.2-2 Effective Date. This Ordinance shall become effective 12:01 A.M. Eastern Daylight Savings Time on **May 15, 2024.**

1.3 Purpose

- 1.3-1 General Purpose. It is the purpose of this Ordinance to promote the health, safety, and the general welfare of the residents of the Village of Marvin jurisdiction through the stated regulations of this Ordinance which include provisions to regulate use of buildings and land, land development, planned developments, manufactured housing, development of subdivisions, signs, off-street parking and loading, planting yards, watershed protection, and flood damage prevention.
- 1.3-2 Implementation of Comprehensive, Land Use and Master Plans. This Ordinance shall be used to implement the “2020 Land Use Plan” herein after referred to as “**the Plan**”, adopted in accordance with G.S. 160D-501 on October 11, 2020, including subsequent amendments adopted by the Village Council of the Village of Marvin. See Section 1.5 of this Article.

1.4 Guiding Principles

The guiding principles reflected in this ordinance are founded in the “**the Plan**”, adopted in accordance with G.S. 160D-501 on October 11, 2020, including subsequent amendments adopted by the Village Council of the Village of Marvin.

1.5 Relationship to Comprehensive, Land Use and Master Plans

The administration, enforcement, and amendment of the Marvin Development Ordinance shall be carried out consistently with plans and documents comprising the “**the Plan**”, adopted in accordance with G.S. 160D-501 on October 11, 2020, including subsequent amendments adopted by the Village Council of the Village of Marvin. New planning documents or small area plans adopted by the Village Council are incorporated into this Ordinance upon adoption. See Section 1.3-2 of this Article.

1.6 Jurisdiction

The provisions of this Ordinance shall apply to all the territory encompassed in the Village of Marvin, North Carolina, and its planning and development regulation jurisdiction, including any extraterritorial jurisdiction as now or hereafter fixed, as depicted on the Village’s Official Zoning Map on file at the Marvin Village Hall. This map is hereby incorporated and made a part of this ordinance. This Ordinance shall govern the development and use of all land and structures within the Village as provided for by Chapter 160D, except for bona fide farms in accordance with G.S.160D-903(c)-(e). Local Planning and Development Regulation, of the North Carolina General Statutes (G.S.)

1.7 Authority

This ordinance is adopted pursuant to portions of one or more of the following authorities established by General Statute (G.S.): Chapter 160D (Local Planning and Development Regulation), Chapter 160A (Cities and Towns), Chapter 113A (Pollution Control and Environment), Chapter 121 (Archives & History), Chapter 130A (Public Health), Chapter 133 (Public Works), and Chapter 136 (Roads and Highways). This Ordinance may be amended from time to time as required or allowed by subsequent legislative enactments.

1.8 Conflict or Inconsistency with Other Laws, Covenants, Deed Restrictions, or Agreements

- 1.8-1 Relation of this Ordinance to Other Regulations. This Ordinance is not intended to abrogate any other law, ordinance, or regulation. However, where conditions, standards, or requirements imposed by any provision of this Ordinance are either more restrictive or less restrictive than standards imposed by any other law, ordinance or regulation, the provisions which are more restrictive or which impose higher standards or requirements shall govern. In cases where reference is made to the North Carolina General Statutes, or any provision thereof, said reference shall be to the current language of said statute or provision. Whenever a process is prescribed by this Ordinance, and said process contains requirements in addition to those prescribed by state law, the process prescribed in this Ordinance shall be deemed supplemental; state law shall control.
- 1.8-2 Conflicting Provisions of this Ordinance. In the event of any conflict between the limitations, requirements, or standards contained in different provisions of this Ordinance in applying them to an individual use or structure, the more restrictive provision shall apply. However, the regulations for overlay districts set forth in Article 8 of this Ordinance shall control in the event of any conflict between those regulations and regulations which are set forth in Article 8 of this Ordinance for the underlying district. In the event of a conflict or inconsistency between the text of this Ordinance and any caption, figure, illustration, or map contained herein, the text shall control.
- 1.8-3 Conflicts with Covenants, Deed Restrictions, etc. This Ordinance is not intended to abrogate any easement, covenant, or other private agreement. However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this Ordinance shall govern.
- 1.8-4 Effect on Existing Agreements. This Ordinance is not intended to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, vested rights, or permits previously adopted or issued pursuant to law.

1.9 Severability

If any section or specific provision or standard of this ordinance or any regulating district boundary arising from it is found by a court to be invalid or unenforceable for any reason, the decision of the court shall not affect the validity or enforceability of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect, impair, or invalidate the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

1.10 Interpretation of Ordinance

- 1.10-1 Minimum Requirements; Greater Restrictions Govern. In the interpretation and application of this Ordinance, all provisions shall be considered to be minimum requirements unless specifically stated otherwise. If any federal or state law or other ordinance or regulation allows lesser regulation, this Ordinance shall govern so that, in all cases, the more restrictive limitation or requirement shall govern. Whenever regulations imposed by this Ordinance are less restrictive than regulations imposed by any governmental authority, the regulations imposed by that authority shall govern.

1.11 Rules of Construction

1.11-1 Word Interpretation.

- (A.) Words not defined in this Ordinance shall be given their ordinary and common meaning.
- (B.) Words used in the present tense include the future tense.
- (C.) Words used in the singular number include the plural number and the plural number includes the singular number unless the context of the particular usage clearly indicates otherwise.
- (D.) Words used in the male gender include the female gender.
- (E.) The words "shall," "will," and "must" are mandatory in nature implying an obligation or duty to comply with the particular provision.
- (F.) Any act authorized by this Ordinance to be carried out by a specific official of the Village is, by implication, authorized to be carried out by a designee of that official.

- 1.11-2 Relationship of this Ordinance to Any Pending Action. The adoption of this Ordinance shall not affect any action, suit, notice of violation, citation, or proceeding that may be pending at the date this ordinance becomes effective. All rights and liabilities that have been received or created and any violation that has occurred under any previous

provisions of the Code of Ordinances of the Village of Marvin that have been superseded by this Ordinance are still valid and may be preserved and enforced.

1.12 Compliance

No building, premises, or structure shall be constructed, erected, modified, converted, occupied, placed, maintained or moved, and no land use shall be commenced, maintained, or modified except as authorized by this Ordinance.

No applicable permit shall be issued or granted that does not conform to the requirements of this Ordinance. Developments that have received staff approval, Enforcement Officer approval, or a building permit before the effective date of this Ordinance may proceed in accordance with such approval or permit while such approval or permit remains in effect.

1.13 Establishment of Official Zoning Map

1.13-1 Official Zoning Map. The Village and its planning and development regulation jurisdiction, including any extraterritorial jurisdiction, as now or hereafter fixed, is hereby divided into districts, as established in Article 8 (Zoning Districts) and as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map is on file with the Village Clerk and maintained by the *Planning, Zoning & Subdivision Administrator* at the Marvin Village Hall in accordance with G.S. 160A-77 and G.S. 160A-78.

1.13-2 Map Certification and Changes. The Official Zoning Map shall be attested by the Village Clerk and shall bear the seal of the Village together with the effective date of the adoption of this Ordinance. If changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map.

1.14 Interpretation of District Boundaries

1.14-1 Boundary Interpretation. Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the following rules shall apply in the interpretation of area boundaries and the location of lines shown on the map:

- (A.) Centerline: Where a boundary line lies within and follows a street or *alley* right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or *alley* right-of-way, railroad right-of-way, or utility easement. If such a street or *alley* right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is *abandoned* or removed from dedication, the district boundaries shall be construed as following the centerline of the *abandoned* or vacated road bed or utility easement.

- (B.) Lot Line: Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located. Split zoning of lots should be avoided to the extent possible, with zoning boundaries following lot lines where feasible.
- (C.) Village Limits: Boundaries indicated as approximately following the Village limits shall be construed as following the Village limits boundary lines.
- (D.) Waterbodies and Watercourses: Boundaries indicated as approximately following the edges and/or centerlines of oceans, bays, sounds, streams, rivers, canals, ponds, lakes, or other bodies of water shall be construed to follow such edges and/or center lines and shall be construed to reflect the naturally occurring changes to the location of the waterbody and/or watercourse which may occur over time.
- (E.) Extensions: Boundaries indicated as parallel to or extensions of street or *alley* rights-of-way, channelized waterways, railroad rights-of-way, utility easements, lot lines, Village limits, or county lines shall be so construed.
- (F.) Scaling: In a case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map. In the case of Flood Hazard Area, Corps of Engineering maps available through the [FRIS](#) website, if available, shall be used for scaling.
- (G.) Other: Where the actual location of existing physical or natural features vary with those shown on the Official Zoning Map, or in other circumstances not addressed in this section, the Board of Adjustment shall have the authority to interpret the district boundaries.

1.15 State of Emergency

The requirements of this Ordinance may be temporarily suspended during federal disaster “state of emergency” declarations by the Executive Office of the President and/or Federal Emergency Management Administration (FEMA) and/or during “Imminent Threat Alert” declared by the U.S. Department of Homeland Security and/or during a state of emergency declared by the Governor of the State of North Carolina and/or by resolution adopted by the Village Council during a regular, continued, special or emergency meeting of the Village Council.

Upon authorization by resolution of the Village Council, the Planning, Zoning & Subdivision Administrator may suspend the application of all or part of the requirements

of this Ordinance as necessary to facilitate public health, safety and welfare during a declared state of emergency whether directly or indirectly affecting the Village of Marvin.

During the period of declaration and for any period of response and/or recovery thereafter authorized by the Village Council, all or part of the provisions of this Ordinance may be stayed and activities conducted, including but not limited to temporary housing, emergency response operations and/or command facilities, temporary medical facilities, mobile and/or temporary hospitals, motor/mobile/modular homes for hosting emergency personnel and/or victims, motor/mobile/modular units providing specialized services for healthcare and/or housing, and any other purpose for the provision of relief from the impacts of an emergency affecting all or part of the Village of Marvin.

A state of emergency resolution shall establish criteria for its expiration and establish guidelines for waiving the provisions of this Ordinance.

Upon the conclusion, lifting, and/or rescinding of the declared “state of emergency” by the authorized federal and/or state official, these rules are reinstated without further action by the Village and shall be in full force and effect unless specified in the resolution adopted by the Village Council.

Activities not directly associated with the response and/or recovery of the impacts of such reason for declaration of the state of emergency shall meet and comply with the standards and specifications of this Ordinance.

Recommended by Planning Board 16 April 2024

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ARTICLE 2

GENERAL STANDARDS & SPECIFICATIONS

2.1 General Requirements

Upon the adoption of this Ordinance, no structure shall be erected nor use established in conflict with this article nor the provisions of:

- (A.) the district standards & specifications of Article 8, and Article 10 if applicable;
- (B.) the building and lot standards & specifications of Article 9;
- (C.) the landscape standards & specifications of Article 11;
- (D.) the off-street parking standards & specifications of Article 12;
- (E.) the street standards & specifications of Article 13;
- (F.) the sign standards & specifications of Article 17;
- (G.) the flood damage prevention standards & specifications of Article 18;
- (H.) the watershed protection standards & specifications of Article 19; and/or
- (I.) the open space standards & specifications of Article 21.

2.2 Street Frontage Required

Any lot on which a building (or buildings) is to be erected or use is to be established shall abut a public street with the following exceptions:

- (A.) Any lot for which a residential use has been legally established prior to the effective date of this Ordinance provided the lot is served by a private and exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be used as if it abutted a street, provided that it is served by a driveway located on said easement. A driveway accessible by emergency equipment must be located on said easement. Lots created under these provisions shall be known as “easement-access lots.”
- (B.) Any lot for which a non-residential use has been legally established prior to the effective date of this Ordinance, provided the lot is served by a private, exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be construed in the same manner as a lot abutting a street provided that it is served with a driveway built to appropriate standards located on the permanent, recorded easement.

- (C.) Residential lots may be served by a private street meeting the standards for public streets set forth in the Village of Marvin Technical Standards & Specifications Manual with an approved Development Agreement in accordance with Section 7.15 of this Ordinance.
- (D.) A site specific development plan may be considered for approval in the Heritage (HD) District, and Traditional Neighborhood Development Overlay (TNDO) District where residential and/or non-residential lots and/or structures front upon a private courtyard, carriageway, mid-block private alleyway with courtyard, or pedestrian way, or urban open space as defined in Article 3, where adequate access by emergency vehicles is maintained by way of a street or *alley* and where the off-street placement of uses does not diminish the orientation of building fronts to the public street.
- (E.) A site-specific development plan may be considered for approval in the Rural Residential (RR) District, Mixed-Use (MU) Districts, NC Highway 16 Commercial (C-16) District, Vehicle Service and Repair (VSR) District, Mixed Use (MU) Districts, Civic (CIV) District, or Industrial (IND) District to permit interior lot access by private drives so long as business and emergency access is furnished to all interior building sites and proposed buildings at the perimeter of the development front upon a public street or are buffered in accordance with this Ordinance. Non-residential subdivisions should be primarily served by public streets and use of private drives should be minimal. Private drives may be appropriate where property configuration or environmental constraints make their use a practical alternative. Private drives serving uses in the Heritage (HD) District, Mixed-Use (MU) Districts, NC Highway 16 Commercial (C-16) District, Vehicle Service and Repair (VSR) District, Mixed Use (MU) Districts, Civic (CIV) District, or Industrial (IND) District shall be constructed in accordance with the standards for streets as found in the Village of Marvin Standards and Specifications Manual and sidewalks shall be provided on at least one side of the private drive.
- (F.) To access a lot or lots in the Heritage (HD) District, Mixed-Use (MU) Districts, NC Highway 16 Commercial (C-16) District, Vehicle Service and Repair (VSR) District, Mixed Use (MU) Districts, Civic (CIV) District, or Industrial (IND) District, where factors beyond developer control, such as a “limited access” highway along the divided cross-sections, an existing development, or the location of an existing intersection, prohibit completing a street connection, a private drive may be substituted for the interior street which cannot be connected to the public network.

2.3 One Principal Building on a Lot; Exceptions

Only one principal building and its customary *accessory building(s)* may be erected on any lot, except that multiple buildings which, taken together, compose a single principal use may be erected on a single lot as permitted by the district regulations and described by building and lot type.

2.4 Lot Size

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size such that the requirements for building and lot type cannot be met, or the standards for spacing of structures and street frontage cannot be respected. This prohibition shall not be construed to prevent the purchase, dedication, or condemnation of narrow strips of land for public utilities and/or street and/or sidewalk right-of-way purposes.

2.5 Lot Width

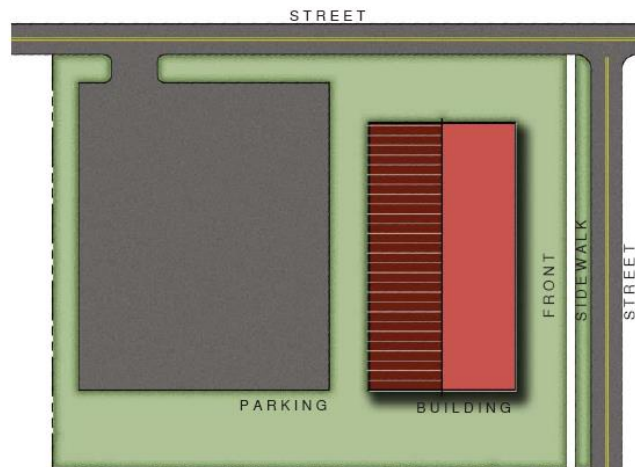
The required width of a lot, as set forth in Article 8 of this Ordinance, shall be measured at the required front setback line.

2.6 Yard Designation

- 2.6-1 Lots Abutting More Than One Street. On lots that abut more than one street, the building and lot shall generally front upon the more pedestrian oriented street, given the arrangement of existing and proposed streets and drives, and the orientation of buildings on adjoining lots.

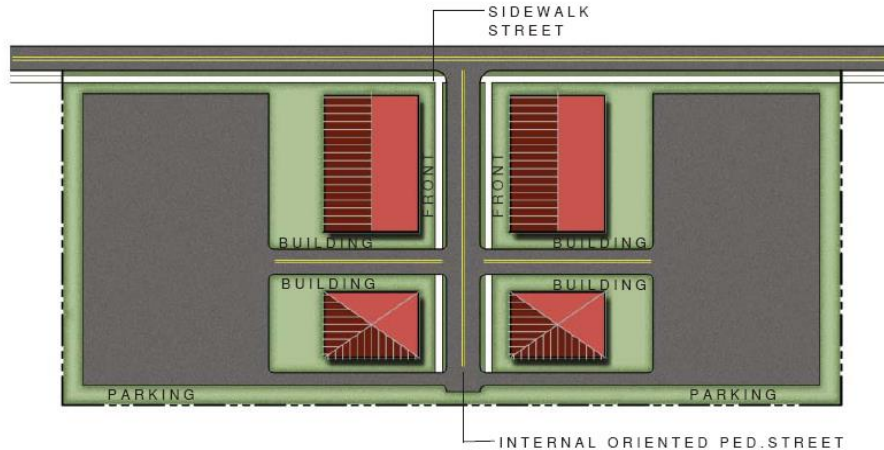
LOTS ABUTTING MORE THAN ONE STREET

One Building Lot



2.6-2 Multiple Buildings on a Lot. Where multiple buildings are permitted on a single platted lot, each building shall generally front upon a pedestrian oriented street, external or internal to the development; side and rear yard designations shall be determined on the basis of building orientation.

Multiple Buildings on a Lot



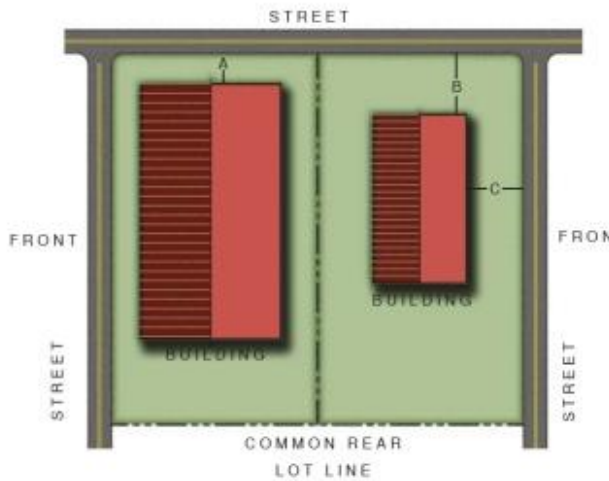
2.6-3 Irregularly Shaped Lots. On irregularly shaped lots, the location of required front, side, and rear yards will be determined by the *Planning, Zoning & Subdivision Administrator*. The determination will be based on the spirit and intent of this Ordinance to achieve an appropriate spacing of buildings and orientation to the street(s).

2.7 Yard Dimensions for Corner Lots

2.7-1 Two Corner Lots Abutting at Rear. If two corner lots are separated by a common rear lot line, the common side yards of the lots on the street must be at least 50 percent of the greater of the two front setbacks, existing or required.

Two corner lots abutting:

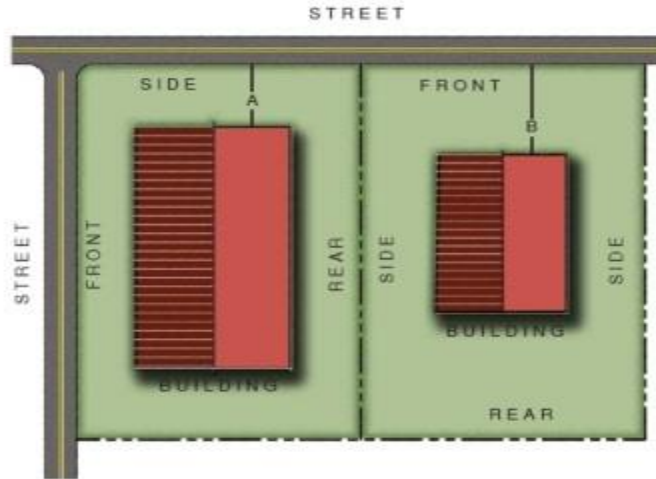
Common side yards on the street (A & B) must be at least 50% of the greater of the two front setbacks (C)



- 2.7-2 Side Lot Line a Continuation of Adjacent Lot Front Lot Line. In any district, where the side lot line of a corner lot is substantially a continuation of the front lot line of the lot to its rear, the required side yard of the corner lot shall (a) be at least 50 percent of the established front setback of the adjacent lot or (b) establish a transition between existing buildings by stepping toward the street or back from the street a distance equal to the lesser building setback + one-half of the difference between the setbacks of the adjoining buildings.

Side Lot Line a Continuation of Adjacent Front Lot Line:

Side-yard setback of a corner lot (A) shall be at least 50% of established setback of adjacent lot (B)



- 2.7-3 Buildings on Corner Lots. Buildings on corner lots shall be positioned on the corner as required by the building and lot type standards for the zoning district in which the lot is located.

2.8 Through Lots

If both the front and rear yards of a lot abut public streets, then the rear building line shall respect the alignment of buildings on the back street while the front building line shall respect the alignment of buildings on the fronting street.

2.9 Height Limitation

- 2.9-1 Building Type Controls. The height of habitable buildings and components is controlled by building type (see Article 9).

- 2.9-2 Building Components Exceeding Height Limitation. Structures and structural components not intended for human occupancy (including bell/clock towers, steeples, flagpoles, chimneys, water tanks or similar structures) may exceed the height limit of buildings. Components of civic buildings which extend above the height limit shall follow the standards for the civic building type (see Article 9). When adjacent to a lot or lots located in a residential district, any part of a non-civic structure that extends

above the height limit must be separated from the residential lot by a distance equal to its height measured from the ground.

- 2.9-3 Exceptions to Height Limitation. The height limitations of this section shall not apply to public utility poles and lines, skylights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, solar panels appurtenant to the principle structure, or similar equipment for the operation and maintenance of a building, and any device used to screen such structures and equipment.
- 2.9-4 Height of Communication Towers. Commercial communication towers, where permitted, may exceed the height limit for structures when the standards for these towers, as set forth in Article 10, are met.

2.10 Structures and Uses Limited in Yards

- 2.10-1 No Principal Structure in Setback. No principal building or structure shall be located within any required setback or yard, forward of the build-to line for a principal structure, within any setback or yard established by a recorded plat, nor in any required buffer or screen.
- 2.10-2 No Accessory Structure in Setback. Except as otherwise provided in either Article 8 or this article, no accessory structure shall be located within an established setback or required side yard, nor within five (5) feet of a side or rear lot line. Where permitted, accessory dwellings may be located no closer than four (4) feet to the right-of-way or easement of an abutting mid-block *alley*, nor closer than five (5) feet to an abutting rear property line. Fences, walls, security gates, paths, walkways, mailboxes, utility poles, lighting fixtures, patios at grade, and similar features may be located in an established setback or required yard, so long as the sight triangle on corner lots is protected according to the provisions of section 2.11 of this Ordinance.
- 2.10-3 Fences and walls (walls not associated with buildings). Fences and walls may be located in any yard, established or required, according to the standards of section 2.13-2 of this Ordinance except that fences and/or walls extending within the minimum required front yard shall be of decorative material either concealing or in lieu of wire fencing (strand or fabric) when located within any Single Family Residential (SFR-1, 2, or 3) District, Rural Residential (RR) District, Mixed-Use (MU) districts, or Traditional Neighborhood Development Overlay (TNDO) District.
- 2.10-4 Signs. Signs may be located in an established front setback or a side-yard abutting a public street as permitted by the provisions of Article 17, Sign Regulations.
- 2.10-5 Public Transit Shelters. Public transit shelters may be located in any setback or yard which abuts a street provided the sight triangle on corner lots is protected according to the provisions of section 2.11 of this Ordinance.

2.10-6 Off-street Parking. Off-street parking areas, maneuvering areas for parking, and loading areas are prohibited in the established front building setback, which shall be landscaped, and in any established side yard abutting a street, which shall also be landscaped, and in any required buffer or screen. This restriction shall not apply to:

- (A.) a driveway which crosses a front yard to provide access from the street to a parking area.
- (B.) an individual driveway, including conventional appurtenances thereto such as basketball goals, designed to also serve as a parking area for a detached or duplex dwelling, provided such area is not counted as the minimum required parking.
- (C.) plazas associated with civic buildings that have been designed and approved for occasional use as secondary parking areas.
- (D.) the frontage along a Village street for which a specific streetscape plan and section have been adopted by the Council to include limited parking and access in a series of fronting yards.
- (E.) maneuvering areas for loading or delivery activities in the established setbacks and yards of buildings in non-residential zoning districts where the location of buildings that were legally constructed without the provision of these areas preclude them from being located out of established setbacks and yards. Maneuvering areas for parking, loading, or delivery activities are prohibited in the public right-of-way in residential and commercial districts.

2.10-7 Outdoor Storage. Neither outdoor storage of goods and materials or refuse containers shall be located in any established setback or established side yard abutting a street, nor in any required buffer or screen, except for the temporary placement of refuse for scheduled curb side collection.

2.10-8 Architectural Features. Notwithstanding other provisions of this section, architectural features such as cornices, eaves, bays, *awnings*, steps, gutters, and fire escapes may project up to three (3) feet into an established or required yard; additional encroachment is permitted for certain building and lot types established in Article 9.

2.10-9 Subordinate Structures. Subordinate structures attached to single family homes, such as decks, garages, porches, utility rooms, and similar features may extend into the required rear yard up to 25% of the rear yard's depth, provided the minimum requirements of Section 2.10-2 are met, and may consume up to 20% of the rear yard's area. Attached rear loading garages accessed from rear *alleys* may extend into the required rear yard to within eighteen (18) feet of the *alley* right-of-way or easement; however, side loading garages accessed from rear *alleys* may extend into the required rear yard to within three (3) feet of the *alley* right-of-way or easement

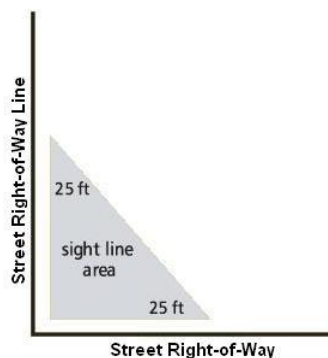
and may consume up to 50% of the rear yard's area. Such extensions may not exceed 50% of the width of the dwelling at the rear building line except in attached residential structures.

2.10-10 Backflow Preventers. Above ground backflow preventers are expressly prohibited in the established front yards of buildings where underground backflow preventers or a location outside of the established front yard is technically feasible according to the standards and requirements of Union County Water Department. Where there is no reasonable alternative to locating an above ground backflow preventer in the established front yard, the structure housing the device shall be covered in a non-reflective material and shall be surrounded, on all sides visible from public streets and abutting properties, by a landscaped opaque screen that matches that architectural style of the primary building.

2.11 Clear Sight Triangle at Street Intersection

2.11-1 Sight Triangle Required. Unless provided otherwise, a clear view at each corner of an intersection shall be maintained by establishing an unobstructed "sight triangle". The extent of the required sight triangle varies according to the speed limit of streets forming the intersection. For streets signed for greater than 35 MPH, the area to be clear of view obstructions at un-signalized intersections is the triangular area formed by the point of intersection of street right-of-way lines and a point located along each right-of-way line at a distance of 25 feet from the point of intersection. For intersecting streets signed for 35 MPH or less, the area to be clear of view obstructions at un-signalized intersections is the triangular area formed by the point of intersection of street right-of-way lines and a point located along each right-of-way line at a distance of 15 feet from the point of intersection.

Site Triangle Illustration for Streets Signed for greater than 35 MPH:



2.11-2 No Obstruction in Sight Triangle. No planting, structure, sign, fence, wall, manmade berm, or other obstruction to vision shall be installed, constructed, set out, or maintained so as to obstruct cross-visibility in the sight triangle between 30 inches

and 96 inches above the level of the center of the street intersection.

2.11-3 Modifications to Limitations. The limitations of this section may be modified in the instances noted below, so long as adequate visibility is maintained relative to intended speed limit:

- (A.) existing natural grades;
- (B.) trees trimmed such that no limbs or foliage extend into the area between 30 and 96 inches above the level of the adjacent intersection;
- (C.) fire hydrants, public utility poles, street markers, government signs, electrical junction boxes, and traffic control devices;
- (D.) buildings located in the mixed-use center of the Traditional Neighborhood Overlay (TNDO) District;
- (E.) the approved and intentional use of traffic calming techniques to reduce speed; these include but are not limited to: a series of hill crests, neck-downs, intersection diverters, and curb bulbs.

2.12 Building Separation

All detached principal structures in all districts shall preserve a minimum building separation of 10 feet, except for Urban Workplace, Shop-front Commercial, and Attached House Lot/Building Types in the Mixed-Use (MU) Districts, or the mixed-use center of the Traditional Neighborhood Overlay (TNDO) District. All detached accessory structures in all districts shall maintain a minimum building separation of eight (8) feet. All separations are as measured from the closest point(s) of roof overhang.

2.13 Permitted Accessory Uses and Fixtures in All Districts

2.13-1 Accessory uses and Structures. *Accessory uses* and *structures* related and incidental to residential principal structure(s) on the lot shall be setback a minimum of 7.5 feet beyond the front and/or side street facing façade(s) of the conditioned space, and setback a minimum of four (4) feet from interior side and rear lot line(s). If the accessory structure exceeds the height of the principal structure, it must meet the minimum setback for principle structures on interior side and/or rear lot line(s).

2.13-2 Fences and Walls. Fences and walls meeting the requirements of sections 2.10-2 and 2.10-3 are permitted in all districts in accordance with the following specifications:

- (A.) A zoning permit issued by the *Planning, Zoning & Subdivision Administrator* shall be required for all fences and walls. The process for obtaining a zoning permit is set forth in Article 7 of this Ordinance.

- (B.) In a residential, mixed use, or commercial district, a fence or wall in the established front yard, side yard, and rear yard of a building abutting a street shall be a maximum of 5 feet in height, unless otherwise regulated by the building or lot type standards (Article 9) of this Ordinance. Fences along interior side property lines in a residential, mixed use, or commercial district shall not exceed 5 feet in height in front of a line parallel to the front of the principal structure on the lot. Decorative caps or spires that extend above the highest horizontal member of the fence shall not be included in the measurement of height. Chain link, welded wire, or similar fencing materials, if used, shall be placed on the interior side of a masonry wall, solid wood fence, or decorative wood or vinyl fence that is equal to or greater in height than the secure fencing and demonstrates effective screening capability. (For example, a 4' high welded wire fence attached to the interior of a decorative split rail fence or board farm fence of equal height or greater would perform to the standards of this section).
- (C.) In a residential or mixed-use district (SFR, RR, MS, MU, or TNDO), a fence or wall in an established rear yard that abuts an *alley* may not exceed 6 feet in height unless placed 15 or more feet inside property boundary. Within the first 15 feet, fences of chain link or similar material are permitted only if screened on the exterior side by evergreen shrubs planted no farther apart than 6 feet on center, minimum height 3 feet at installation, or if obscured from view by the screening method(s) set out in the paragraph immediately above.
- (D.) In a residential or mixed-use district, a fence or wall in an established rear or side yard that does not abut a street or *alley* may not exceed 8 feet in height, measured as the average over any 100-linear foot run of said fence or wall.
- (E.) In a commercial district, a fence or wall located outside the established front yard, side yard, and rear yard of a building abutting a street may have a height of up to 8 feet, measured as the average over any 100-linear foot run of said fence or wall. Fences of chain link or similar material are permitted in the first 15 feet of an established yard abutting a street or *alley* only if placed on the interior side of a masonry wall or solid wood fence and planted with a semi-opaque vegetative screen between wall or fence and street or *alley*. Beyond the first 15 feet abutting a street or *alley*, such materials may be used if screened on the exterior side by evergreen shrubs planted no farther apart than 6 feet on center, minimum height 2½ feet installed, or if obscured from view by other screening method(s) which perform at the same or a higher level and are approved by the *Planning, Zoning & Subdivision Administrator*.
- (F.) In a commercial or industrial district where the side or rear yard abuts a residential or mixed-use district, chain link, welded wire, or similar fencing materials, if used, shall be placed on the interior side of a masonry wall, solid wood fence, or decorative wood fence that is equal to or greater in height than the secure fencing and

demonstrates effective screening capability. Additionally, a semi-opaque vegetative screen shall be required on the exterior side of the fence.

(G.) Fences shall not be erected over easements such as, but not limited to, access easements, utility easements, drainage easements, or any other public easement, without the explicit approval of the Public Works and Planning Departments. If fences or other barriers are allowed to cross such easements, the Village Engineer may require the installer or landowner to install gates or other access points per standards and specifications set by the Village Engineer to ensure access to such easements in the future as necessary and to minimize damage to private property.

2.13-3 Parking Lots. For parking lots as principal or *accessory uses*, the landscape and buffering standards of Article 11 shall control.

2.13-4 On-site Land Clearing and Inert Debris (LCID) Landfill.

(A.) Any on-site LCID landfill must obtain a permit from and comply with the standards of the Village of Marvin, Union County, and the State of North Carolina per G.S. 130A-301.1.

(B.) Any such landfill must be closed in an approved fashion within six months of completion of construction or within 12 months of cessation of construction if the development project has not been completed.

(C.) The location of any such landfill must be indicated on the sketch site development plan and the final site development plan. Further, any parcel or lot which contains any part of any such landfill must have notification of the existence and extent of the landfill recorded as part of the deed for the lot or parcel.

(D.) No portion of any such landfill may be located within 50 feet of any property line which constitutes the external boundary of the project. This includes structures, equipment storage, parking areas and fill areas, except that access drives may cross this area.

(E.) A surety guarantee or irrevocable letter of credit in an amount to be determined by the consulting engineer must be provided to ensure that any active landfill area will be closed in an approved fashion. The amount of the guarantee will be based upon the maximum acreage expected to be in use at any given time.

2.13-5 Petroleum Storage. Petroleum storage, accessory to a permitted principal use or building, shall comply with the Fire Prevention Code of the National Board of Fire Underwriters.

2.13-6 Temporary Construction-Related Uses. Temporary buildings and storage of materials provided the use is in conjunction with the construction of a building on the same lot

or on an adjacent lot; the temporary uses shall be terminated upon completion of construction.

2.13-7 Swimming Pools. Swimming pools located on any site, including single family residential sites, shall be:

(A.) Located in a side or rear yard only;

(B.) Located a minimum of fifteen feet from any property line;

(C.) Completely enclosed by a fence or wall no less than four feet but no more than eight feet, except when a wall is component to the dwelling or accessory structure, in accordance with the provisions of sub-section 2.13-2 Fences and Walls herein. Height shall be measured above grade on the side of the fence or wall which faces away from the swimming pool. This fence or wall shall enclose the pool itself and may include any other additional portions of the lot. Fence design shall not be climbable or of a ladder pattern. Fences shall not be located in a way that allows any permanent structure, equipment, or similar object to be used for climbing. The fence shall not have any gaps, opening, indentations, protrusions, or structural components that allow a young child aged six (6) years or less to crawl under, squeeze through, or climb over the fence or adjacent barrier. All fence or wall openings into the pool area shall be equipped with a gate that opens outward away from the pool and shall be self-closing and have a self-latching device located on the poolside of the gate and be placed so that a young child aged six (6) years or less cannot reach over the top or through any opening or gap and operate the latch.

2.14 Standards for Construction; Developer Responsibility

Where standards and responsibility for infrastructure construction, including but not limited to streets, sidewalks, and landscaping, are specified in this Ordinance or other Ordinances of the Village of Marvin, those standards shall control. Where standards are not specified, construction shall be in conformance with the standards set forth in the Village of Marvin Technical Standards & Specifications Manual.

2.15 Guarantee in Lieu of Construction of Improvements

2.15-1 Provision of Guarantee. In lieu of completion of construction of the required improvements, including but not limited to streets, sidewalks, landscaping, parking, and utilities, prior to issuance of a Certificate of Occupancy and/or Completion, the property owner or developer may provide to the Village a performance guarantee in accordance with section 16.1-9.

2.15-2 Construction Easement. The Village of Marvin, in its sole discretion, may require a temporary construction easement permitting the Village of Marvin or its designee(s)

to access the property for the purpose of constructing/installing the guaranteed improvements. Such an instrument shall be provided with the performance guarantee. The temporary construction easement shall be valid until all guaranteed improvements have been constructed/installed and approved or accepted by the Village. The temporary construction easement shall pass to all successive owners until the guaranteed improvements have been constructed/installed and approved or accepted by the Village and shall be recorded in the office of the Union County Register of Deeds with recording fees to be paid by the applicant/landowner.

2.15-3 Failure to Perform. Failure to initiate construction of the improvements within one year of the date the performance guarantee was accepted by the Village of Marvin may result in the Village constructing the improvements, with the cost to be paid from the performance guarantee account. The surety or the financial institution holding the escrow account shall, if requested by the Village pay all or any portion of the performance guarantee to the Village up to the amount needed to complete the improvements based on an estimate by the Village, including associated costs to administer and implement the completion of the guaranteed improvements. The Village at its discretion may spend such portion of said funds as deemed necessary to complete all or any portion of the required improvements. The Village shall return to the property owner/developer any funds not spent in completing the improvements. Default on a project does not release the developer from responsibility for the completion of the improvements. The Village may release a portion or all of any security posted as the improvements are completed and approved by the Village. In the event that the amount of the performance guarantee on hand is insufficient to pay for the completion of the improvements, the property owner shall pay to the Village of Marvin the total amount of the insufficiency. If the Village is not paid, the amount of the insufficiency shall constitute a lien on the property in favor of the Village. The provisions of this section shall not invalidate any and all requirements for the guaranteed improvements to be covered by warranty or other form of security against material and workmanship deficiencies.

2.16 Regulation of Nuisances

2.16-1 Noise. No use shall be operated so as to generate recurring noises that are unreasonably loud, cause injury, or create a nuisance to any person of ordinary sensitivities. No nonresidential use shall be operated so as to generate any noise in an adjacent residential or mixed-use district (SFR, RR, MS, MU, or TNDO), as detected in that district without instruments, that is louder than the noise which could be generally expected from uses permitted in that district.

2.16-2 Fumes and Odors. No use shall emit fumes, gasses, or odors in concentrations or amounts that cause injury or create a nuisance to any person of ordinary sensitivities

on another property.

- 2.16-3 Vibration. No use shall be operated so as to generate inherent or recurring ground vibrations detectable at the property line without instruments.

2.17 General Standards for Driveway Permitting

- 2.17-1 Driveway Permit Required. No driveway or other point of access to a street maintained by either the Village of Marvin or the North Carolina Department of Transportation shall be constructed, relocated, or altered unless a driveway permit or other approval is obtained from either the Village of Marvin or the North Carolina Department of Transportation. The applicant shall comply with the standards for driveways established by the jurisdiction maintaining said street and/or roadway. All driveway plans shall be reviewed by the Village of Marvin prior to construction of the driveway. All driveways shall be paved surfaces within the public right-of-way. Driveway connections to a new lot-of-record after July 1, 2024 shall maintain a minimum separation of 47 linear feet, measured at the right-of-way along streets, within the Single-Family Residential (SFR-2, and SFR-3), Mixed Use (MU-1 and MU-2) and Traditional Neighborhood Development Overlay (TNDO) district to reduce traffic conflicts with vehicles operating in reverse and enable adequate on-street parking area between driveways without encroaching into the required clearance for residential driveways.

- 2.17-2 Projects Composed of Multiple Buildings and Lots. For development projects composed of multiple buildings and lots, access to the predevelopment existing public street system shall be determined by the location of proposed intersecting streets. No parcel of land which is a functional part of the overall development, even though it may be removed by the developer from the rest of the project area by subdivision or by metes and bounds description, shall be permitted to have driveway access to the public streets bounding the project area without first having secured the approval in sub-section 2.17-1 above.

- 2.17-3 Access to Subdivision Lots. In a residential major subdivision, access to individual lots from streets constructed as part of the subdivision shall be reviewed and approved at the time each Zoning Compliance Permit is issued.

- 2.17-4 Location and Design of Access. Determination of the location and design of access to the public street system shall be made by the *Planning, Zoning & Subdivision Administrator, Village Engineer* and other regulatory and professional reviewers based on a contextual examination of the site, surrounding development, potential traffic generated on the site, current and future surface transportation system needs, special polices that might exist for the corridor being accessed, and/or state of the practice principles for access management as promulgated by the Institute of

Transportation Engineers and the Transportation Research Board.

2.18 Special Requirements for Lots along Thoroughfares

- 2.18-1 Authorization. Pursuant to North Carolina General Statutes 160A-306 and 153A-326 (which state that cities and counties shall have authority to (1) classify all or a portion of the streets within their jurisdictions according to their size, present and anticipated traffic load, and other characteristics relevant to the achievement of the purposes of this section, and (2) establish by Ordinance minimum distances that buildings and other permanent structures or improvements constructed along each class or type of street shall be set back from the right-of-way line or the center line of an existing or proposed street) the following requirements shall apply.
- 2.18-2 Minimum Setbacks along Thoroughfares. The build-to or set back line for any lot which abuts a thoroughfare classified on the adopted transportation plan for Division 8 shall be measured from the right-of-way line outlined in the table below (Table 2.18-2) if existing right-of-way is of lesser width. The Proposed Right-Of-Way Line established for each classification of thoroughfare is as follows:

Table 2.18-2

<u>Thoroughfare Classification</u>	Distance from Thoroughfare Centerline to " <u>Proposed Right-of-Way Line</u> "
Major Arterial (NC Hwy. 16)	37.5 feet (Class III)
Minor Arterial (All other S.R. numbered roads maintained by the NCDOT)	30 feet (Class IV)

- 2.18-3 Transitional Setback for Lots along Thoroughfares. A transitional setback or yard shall be established for each lot which abuts a thoroughfare that has an existing right-of-way which is not as wide as the Proposed Right-of-Way Line established for that thoroughfare. The transitional setback or yard area established for lots abutting thoroughfares can be used for any purpose allowed by the particular zoning district, except for those permanent uses which are prohibited in the established setbacks or yards. At the time that the Proposed Right-of-Way Line is dedicated or otherwise acquired for roadway purposes, the property owner shall be responsible for the removal of any uses from the transitional setback or yard that are not otherwise permitted in the yard by the district regulations. The property owner shall have one (1) year from the date of right-of-way acquisition to remove any such uses.
- 2.18-4 Exceptions. The standards herein prescribing setback from the proposed right-of-way line will not apply to any development for which a preliminary subdivision plan or a

special use site plan has been approved prior to the effective date of regulations requiring setback from proposed right-of-way lines along thoroughfares. Nor shall they apply to structures in the Mixed-Use (MU), or mixed-use center in a TNDO Districts.

2.18-5 Right to Appeal. An affected property owner shall have the right to appeal transitional yard or setback requirements to the *Board of Adjustment* for variance or modification as they apply to a particular piece of property. The *Board of Adjustment* may vary or modify these requirements upon a showing that:

- (A.) The peculiar nature of the property results in practical difficulties or unnecessary hardships that impede carrying out the strict letter of the requirements, and
- (B.) The property will not be put to reasonable use unless relief is granted, and
- (C.) Balancing the public interest in enforcing the setback requirements and the interest of the owner, the grant of relief is required by considerations of justice and equity.

In granting relief, the *Board of Adjustment* may impose reasonable and appropriate conditions and safeguards to protect the interests of neighboring properties. The *Board of Adjustment's* decision shall be subject to review by the superior court by proceedings in the nature of certiorari in accordance with G.S. 160D-1402.

2.19 Sidewalks for New Development and Expansion/Improvement of Existing Development

2.19-1 Sidewalks Required. Sidewalks shall be required along new and existing streets, in accordance with the provisions of Sub-section 13.2-3, fronting the following new development and expansions of and improvements to existing development.

- (A.) All new commercial development.
- (B.) Expansions to an existing commercial development or use where the gross floor area of the expansion is equal to or greater than 50% of the gross floor area of the pre-expansion development or use.
- (C.) Improvements to an existing commercial development or use when the cost of the improvement is equal to or greater than 50% of the value of the existing development (building) or use as determined by the Union County Tax Office.
- (D.) All residential development with two (2) or more residential units, except in accordance with Sub-section 13.2-3.
- (E.) One single family home on a single lot when the lot being developed is adjacent to a lot on which an existing sidewalk is located and the construction of a sidewalk on the

lot being developed would be a logical extension of the pedestrian network.

2.19-2 Sidewalks Along New Streets. Sidewalks shall be required along both sides of new streets, except streets in the Rural Residential (RR) District, where sidewalks are not required on the new street.

2.19-3 Sidewalks Along Alleys and Lanes. Sidewalks shall not be required along *alleys* and/or *lanes*.

2.19-4 Standards for Sidewalks. Sidewalks shall comply with the design and construction standards set forth in the Village of Marvin *Technical Standards & Specifications Manual*.

2.20 Manufactured Home Parks Prohibited & Standards for Continuation Permits

2.20-1 Prohibition and Exceptions

(A.) The development and/or subdivision of land for the purpose of Manufactured Home Parks/Courts is prohibited in all primary general use districts; including the placement, erection, storage and/or construction of Manufactured Homes in existing non-conforming Manufactured Home Parks. Exception is taken to this regulation where the Manufactured Home Overlay (MHO) District standards and specifications supplement the primary general use district standards and specifications. Manufactured Home Overlay (MHO) standards and specifications are established in Sections 8.5-5 and 10.2-10 of this Ordinance.

(B.) All Non-Conforming Manufactured Home Parks not found in compliance with the requirements of Sections 8.5-5 and 10.2-10 of this Ordinance shall either cease and desist or meet full compliance standards no later than eight (8) years following either the effective date of this Ordinance or its application to newly annexed property, whichever is the latter. Exception is taken where the Non-Conforming Manufactured Home Park satisfies the requirements of section 2.20-2 below.

2.20-2 Standards and Specifications for Non-Conforming Manufactured Home Parks seeking Exception to Section 2.20-1(B) by Issuance of a Continuation Permit

(A.) All Manufactured Home Parks not in conformance with the standards and specifications of Sections 8.5-5 and 10.2-10 of this Ordinance may be reviewed for exception to the conformance requirement of Section 2.20-1(B) upon written request to the *Planning, Zoning & Subdivision Administrator*. The *Planning, Zoning & Subdivision Administrator* shall, upon finding that each and every requirement for exception has been met, issue a special continuation permit in writing to the owner/applicant of a Non-Conforming Manufactured Home Park. Request for review and exception must be received no later than eighteen (18) months following the effective date of this Ordinance or its application to newly annexed property,

whichever is the latter. The standards and specifications for exception set forth in sub-section (c) below are representative of reasonable standards for the continuation of a Non-Conforming Manufactured Home Park assuming that the owner/applicant wishes the continuation of said Manufactured Home Park.

(B.) The expansion, modification and/or rearrangement of excepted Manufactured Home Parks is prohibited unless full compliance with Sections 8.5-5 and 10.2-10 is accomplished in accordance with G.S. 160D-910.

(C.) The minimum site criteria shall be as follows:

(1.) Minimum site area (in acres)	1.5
(2.) Minimum number of Manufactured Home Spaces per park	6
(3.) Maximum number of Manufactured Home spaces per acre	12
(4.) Maximum number of driveways connecting to public streets	0
(5.) Minimum area per Manufactured Home space (square feet)	3500
(6.) Minimum Manufactured Home space width (linear feet)	38
(7.) Minimum separation between each unit (linear feet)	28
(8.) Maximum number of Manufactured Homes per space	1
(9.) Minimum number of parking spaces per Manufactured Home space	2
(10.) Minimum area of landing/patio per Manufactured Home space (sq. ft.)	32
(11.) Minimum width of paved street (linear feet)	16
(12.) Minimum percentage of paved streets	100
(13.) Minimum percentage of Manufactured Home spaces with approved water supply and sewage disposal facilities	100
(14.) Maximum number of Manufactured Home spaces with vehicular access from one-way private streets	4
(15.) Minimum percentage Manufactured Home spaces with garbage collection/disposal services provided by owner/operator	100
(16.) Identification Sign conforming to Article 17 of this Ordinance	Yes
(17.) Vehicle speed and traffic safety control devices/signs	Yes

(D.) Owners/operators of Non-Conforming Manufactured Home Parks requesting exception shall provide a detailed sketch of the site showing exact dimensions, area and layout information required herein above.

2.21 Provision of Potable Water Supply and Wastewater Disposal Infrastructure

All new development shall be connected to an approved potable water supply system and approved wastewater collection and/or treatment system in accordance with Village of Marvin adopted policies. Extensions to serve development shall be in accordance with the Policy for Managing Utility Allocations and Extensions.

Every principal use and every lot within a subdivision not served by a public wastewater collection, transport and treatment system shall be served by an accepted wastewater system, in accordance with NCGS 130A-335, that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations. Definitions of terms appearing in this Development Ordinance including: 'maintenance', 'repair', 'septic tank system', 'sewage', 'wastewater', and 'wastewater system' shall be determined in accordance with North Carolina G.S. 130A-334.

Plats, as defined by G.S. 130A-334, for new lots and/or parcels shall be submitted for review, whether subject to subdivision approval or not. Each plat shall identify the location of an accepted wastewater system and if an on-site wastewater system, then identify the location of the repair field and/or area. Plats shall identify off-site wastewater system locations and show easements where any portion of said off-site wastewater system and/or utility line providing service to the lot extends over any portion of a lot other than the lot for which said off-site wastewater system and/or utility serves. Plats representing locations of on-site and/or off-site wastewater system, utility line and requisite repair areas shall be submitted with all Exempt, Minor Subdivision and Major Subdivision Preliminary Plats and appear on all Final Plats approved for recording in the Union County Register of Deeds.

2.22 Murals and Works of Art in Outdoor Public View

Murals and Works of Art of any size displayed outdoors in public view shall be subject to the following standards and specifications:

- 1) No murals may be painted on a wall facing streets within the HD District(s), but removable applications are not prohibited;
- 2) No murals may be painted on any previously unpainted wall;
- 3) Murals must be maintained in good repair by the owner of the building on which they are painted;
- 4) Murals within the Historic District must be approved by the Historic Preservation Commission;
- 5) Any mural in the MS and/or HD District that is not within the Downtown Historic District, must be approved by the Village Council, in consultation with the Village's Appearance Committee, or such other committee as may be designated by the Village Council from time to time.
- 6) Sculptures shall not be placed or erected within a public right-of-way, including public sidewalk, without first obtaining an encroachment permit from the Village on Village maintained right-of-way, and if located within the right-of-way of a public street, road and/or highway route maintained by the NCDOT, then without first obtaining encroachment permits from both the Village and the NCDOT. The

encroachment permit shall specify the duration of the encroachment in the form of a specific date of expiration. In the absence of a specific expiration date, the encroachment shall be deemed unauthorized and in violation of this Ordinance.

2.23 Short-term Rentals Limited

Short-term rental of rooms in residential properties shall be subject to the following designations, limitations, standards, and specifications:

- 1) Properties providing the short-term rental of rooms within residential properties shall be designated as a “Tourist/temporary residence” in Marvin.
- 2) In addition to the provisions of sub-section 2.23-4 appearing below, a Tourist/temporary residence located within *Single-Family Residential (SFR)* and *Rural Residential (RR)* Districts is subject to the following additional limitation(s): No signs or demarcations promoting or identifying short-term rentals visible from the street or adjacent properties are permitted within the SFR or RR Districts.
- 3) Signage in all districts other than those listed in 2.23-2 above shall comply with the provisions of Article 17 pertaining to *Non-residential Pole* type permanent signs requiring a permit.
- 4) Properties and Tourist/temporary residences not meeting the provisions of this section shall be deemed to be either in violation of this Ordinance, or functionally operating as either a “Bed & Breakfast” or a “Hotel or Motel” and subject to the provisions applicable to such uses as contained in this Ordinance.
- 5) Tourist/temporary residence.
 - a. *Definitions.* The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
 - i. *Residential property.* An apartment, studio, condominium, single family home, townhouse, cottage or other property devoted to residential use or occupancy by one or more persons for a definite or indefinite period.
 - ii. *Tourist/temporary residence.* A residential property or any portion thereof, being rented by the owner of said residential property or their agents for vacation, leisure or recreation purposes for periods of fewer than 30 days.
 - b. *Tourist/temporary residences* are permitted in *residential property* in all Districts.
 - c. Notwithstanding any authorized agency, the owner of the tourist/temporary residence shall be responsible for complying with the provisions of this chapter such that the failure of an authorized agent to comply therewith shall be deemed to constitute non-compliance on the part of the owner of the tourist/temporary residence.
 - d. *Permit conditions.* All permits issued under this chapter are expressly subject to the following conditions:
 - i. Overnight occupancy shall not exceed two occupants per bedroom plus two additional occupants. The number of "bedrooms" used in calculating occupancy limits shall be taken from the Union County Revenue

Department property tax records. For example: a two-bedroom tourist/temporary residence would have an occupancy limit of six (2×2 bedrooms = 4 + 2 additional = 6 total). Rentals of a tourist/temporary residence within the SFR-1 and SFR-2 District shall be required to have a two-night minimum stay per rental. Tourist/temporary residence rentals not located within the SFR-1 and SFR-2 District shall have no minimum stay requirements.

- ii. The permitted use shall not change the residential character of the dwelling or constitute or create a public nuisance as defined within the Code of Ordinances.
- iii. All parking shall occur in a garage, driveway, or designated parking space. There should be no more than two cars per bedroom on premise at any time. No on street parking is allowed.
- iv. Trash containers shall be maintained in the side or rear yard and shall be screened from street view. The owner and their agents shall ensure that trash pickup occurs at least once a week at the residence and as otherwise needed for additional trash.
- v. If the tourist/temporary residence is served by a septic system, a statement attesting to the adequacy of the system to accommodate the number of bedrooms intended for occupancy pursuant to these regulations shall be obtained. This requirement shall be satisfied by providing a copy of the applicable septic permit issued by the Union County Health Department for the subject property. In the event a septic permit exists, the number of bedrooms listed on the Union County Health Department permit shall determine the occupancy limits established by paragraph (i) above. If no such permit exists, the applicant shall provide a statement from a qualified licensed professional attesting to the adequacy of the system to accommodate the maximum number of guests permissible under these regulations or provide evidence that the septic system has been pumped out within one year prior to the date of application.
- vi. Owners and their agents shall make all reasonable efforts to minimize outside noise after 10 p.m. Further, all occupants shall comply with Section 30-565 Noise of the Village of Marvin, Code of Ordinances.
- vii. Owners and their agents shall expressly provide in their rental agreements that the residence shall not be used by occupants to engage in commercial activities including, without limitation, wedding receptions, and large parties.
- viii. Owners and their agents shall expressly provide in their rental agreements that occupants shall not violate federal, state, or local laws, ordinances, rules, or regulations; engage in disorderly or illegal conduct; engage in activities or conduct creating or resulting in unreasonable noise, disturbances, and public nuisances; allow an unreasonable amount of garbage, refuse, and rubbish to accumulate on the property; illegally park vehicles in conjunction with their use of the tourist/temporary residence; and overcrowd the residence premises.

- ix. Owners and their agents shall take reasonable steps to ensure the occupants' compliance with the express provisions required under subsections “a” - “d” above. As used herein, the term "reasonable steps" shall be construed to include, without limitation, the following:
 - 1. promptly contacting occupants when notified of violations of the permit conditions and requesting the occupants to cease and desist from such violations;
 - 2. contacting law enforcement when a reasonable person would deem the assistance of law enforcement to be necessary under conditions then prevailing on the premises; and
 - 3. when applicable and reasonable, commencing expedited eviction procedures against the occupants as provided for in G.S. Ch. 42A, art. 4, Vacation Rental Act.
- e. Owners and their agents shall expressly provide in the rental agreements that a material breach of the express provisions required under these sections shall result in a termination of the rental agreement.

Recommended by Planning Board 16 April 2024

ARTICLE 3

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Recommended by Planning Board 16 April 2024

ARTICLE 3

DEFINITIONS, ABBREVIATIONS & SYMBOLS

Words and terms defined for the purpose of use in this Ordinance appear in italics from time to time to assist with identifying such words and terms with special definitions. Italic fonts are for convenience and do not limit the application of the definition. Words and/or terms specifically defined herein and not appearing in italic font shall also have the meaning ascribed herein. The following words and terms shall have the meaning ascribed to them below.

Additional terms related to flood hazard and other environmental regulations are defined in Article 18.

ABANDONED. Not occupied or in use for 60 or more consecutive days, without regard to reason or intent, except where occupancy is split between two (2) or more primary locations for seasonal residential occupancy.

ACCESSORY BUILDING. A detached subordinate building, the use of which is incidental to that of the principal building and located on the same lot.

ACCESSORY DWELLING UNIT. See *DWELLING, ACCESSORY UNIT.*

ACCESSORY USE. A use incidental to and customarily associated with a specific principal use, located on the same lot or parcel.

ACTIVE RECREATIONAL ELEMENTS. Recreational facilities which provide opportunities for more than passive enjoyment of open space and natural areas, including but not limited to parks, playgrounds, *athletic fields*, basketball or tennis courts, swimming pools, clubhouses, covered decks or pavilions, and sheltered picnic facilities.

ADAPTIVE REUSE. The conversion of an existing building built for one use to another use, typically to address some aspect of physical or functional obsolescence.

ADDITION (TO AN EXISTING BUILDING). An extension or increase in the floor area or height of a building or structure.

ADULT ESTABLISHMENT/USES. The definition of "*adult establishment*" for purposes of this ordinance shall be consistent with Chapter 14, Article 26A of the N.C. General Statutes as currently written or hereafter amended. *Adult establishments* include adult bookstores, adult motion picture and mini motion picture theaters, adult video sales and rentals, adult live entertainment business and massage businesses as those terms are defined by G.S.14-202.10, and adult motels and adult cabarets. The following separate definitions individually and collectively define this term.

“Adult Bookstore” is defined as a bookstore which:

- (A.) receives a majority of its gross income during any calendar year from the sale of publications (including books, magazines and other periodicals) which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities or anatomical area; or
- (B.) has a preponderance of its publications, books, magazines and other periodicals distinguished or characterized by their emphasis on matter depicting or relating to sexual activities or anatomical areas.

"Adult Cabaret" is defined as a nightclub, bar, restaurant or other commercial establishment that regularly features, exhibits or displays as one of its principal business purposes:

- (A.) persons who appear nude or semi-nude, or
- (B.) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or
- (C.) films, motion pictures, video cassettes, slides or other photographic reproductions which depict or describe "specified anatomical areas."

"Adult Motel" is defined as a hotel, motel or similar commercial establishment that:

- (A.) offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions that depict or describe "specified sexual activities," or "specified anatomical areas" as one of its principal business purposes; or
- (B.) offers a sleeping room for rent for a period of time that is less than ten hours; or
- (C.) allows a tenant or occupant of a sleeping room to subagent the room for a period of time that is less than ten hours.

“Adult Motion Picture Theater”, as defined in this ordinance and in G.S. 14-202.10, is any building used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical areas.

AGRICULTURAL USE. The use of open field land for agricultural production purposes, including farming, dairying, stock watering, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary *accessory uses* for storing the supplies and products. The term shall include incidental retail sales by the producer of products raised on the farm. Agriculture does include forest management and timber harvesting activities,

provided a management plan for that activity has been prepared by a Professional Forester registered in the State of North Carolina. See definition of Forest Land. Also, as defined in G.S. 106-581.1. See definition of Bona Fide Farm in this Article.

AGRICULTURAL PRODUCTION (CROPS ONLY). See *AGRICULTURAL USE*.

AGRICULTURAL PRODUCTION (CROPS AND LIVESTOCK). See *AGRICULTURAL USE*.

AGRICULTURAL PRODUCTION (WITHIN BUILDINGS). The practice of horticulture, floriculture, and any form of non-animal or livestock agricultural production within buildings, such as greenhouse or hydroponic operation; along with the necessary accessory uses for storing supplies and products.

ALLEY. A roadway which affords only a secondary means of access to abutting property.

ALONG DRAINAGE. The area parallel to and within fifty (50) feet of the drainage channel.

ALTERATION. See *SIGN ALTERATION*.

ANIMAL UNIT. A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.

APPEAL, FLOODPLAIN. A request for a review of the floodplain administrator's interpretation of any provision of this ordinance. (This definition applies to flood hazard regulations. See Article 18)

APPEAL, ZONING. A request for a review of the *Planning, Zoning and Subdivision Administrator's* interpretation of any provision of this land development ordinance.

APPRAISED VALUE. The value assigned to a structure by the Union County Tax Assessor or by an MAI-certified real estate appraiser whichever is greater for purposes of interpreting this ordinance.

AREA OF SHALLOW FLOODING. A designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD. See "Special Flood Hazard Area (SFHA)". (This definition applies to flood hazard regulations. See Article 18)

ASSEMBLY. A joining together of completely fabricated parts to create a finished product.

ATHLETIC FIELD. Outdoor sites, often requiring equipment, designed for formal athletic competition in field sports (e.g. softball, soccer, football).

AUTO WRECKING. An activity that provides open storage, disassembling, or salvaging for more than two junked motor vehicles.

AUTOMOBILE REPAIR SERVICES, MAJOR. An establishment primarily engaged in one or more of the following activities: 1) general repair or service, 2) engine repair, 3) installation or repair of transmissions, 4) installation or repair of automotive glass, 5) installation or repair of exhaust systems, 6) repair of tops, bodies and interiors, and 7) automotive painting and refinishing.

AUTOMOTIVE REPAIR SERVICES, MINOR. An establishment primarily engaged in one or more of the following activities: 1) diagnostic service and tune-ups, 2) installation or repair of air conditioners, brakes, carburetors, electrical systems, fuel systems, generators and starters, and radiators, 3) lubricating service, and 4) front end and wheel alignment.

AVERAGE SLOPE. Shall mean the maximum inclination of the land surface from the horizontal as measured in percentage slope. The average slope shall be determined for the entire lot, tract, or subdivision before development.

AWNING. A cloth, plastic, or other nonstructural covering permanently attached to a building that may be raised or retracted to a position against the building when not in use.

BALLOON, ACCENT. A small balloon (or group of small balloons) displayed at heights of less than eight feet.

BALLOON, TETHERED. A large balloon (or group of balloons of any size) intended for commercial promotion and tethered at a business location.

BAR. An establishment primarily engaged in the retail sale of alcoholic spirits, beer or wine for consumption on the premises. Such establishment must obtain an ABC license for on-premises consumption of alcoholic spirits, beer or wine only. The establishment may also be engaged in the retail sale of prepared food for on-premises consumption.

BASE FLOOD. The flood having a one percent chance of being equaled or exceeded in any given year (a.k.a. "100-year flood").

BASE FLOOD ELEVATION (BFE). The elevation to which structures and uses regulated by this Ordinance are required to be elevated or flood proofed. The determination of the water surface elevations of the base flood is published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation."

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides. (This definition applies only with respect to flood hazard regulations.)

BED-AND-BREAKFAST INN. A private residence that offers sleeping accommodations to lodgers in 14 or fewer rooms for rent, is the innkeeper's (owner or operator) principal residence while renting rooms to lodgers, and may or may not serve breakfast to its lodgers. For the purpose of this definition, a lodger means a person who rents a room in a bed-and-breakfast inn for fewer than 30 consecutive days. See *TOURIST HOME*.

BERM, EROSION CONTROL. A mound of material and/or ditch the purpose of which is to divert the flow of run-off water.

BEST MANAGEMENT PRACTICES (BMP). Conservation practices or systems of practices and management measures that: (a) control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment; (b) minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of surface water bodies and wetlands; and (c) properly manage use and storage of fertilizers/pesticides. May use a structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

BLOCK. The land lying within an area bounded on all sides by streets.

BLOCKFACE. That portion of a block or tract of land facing the same side of a single street and lying between the closest intersecting streets.

BOARD OF ADJUSTMENT. A quasi-judicial body, appointed by the Village Council, which is given certain powers under this Ordinance.

BOARDING HOUSE. A dwelling or part thereof, in which lodging is provided by the owner or operator to more than three boarders.

BONA FIDE FARM. As defined in context by G.S.160D-903 bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1.

BOOKSTORE, ADULT. See *ADULT ESTABLISHMENT*.

BORROW. Fill material which is required for on-site construction and is obtained from other locations.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation

system.

BREW PUB. A facility that prepares handcrafted natural beer with consumption on the premises.

BUFFER. An area of land planted or constructed to separate uses. Also, an area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured from the normal pool elevation of impounded structures and from the top of bank of each side of streams or river.

BUFFER. An area of land planted or constructed to separate uses.

BUFFER EASEMENT. An easement intended to permanently maintain an area of land, including landscaping, berms, walls, fences, and building setbacks, that is located between land uses of different character and is intended to mitigate negative impacts of the more intense use on a residential or vacant parcel.

BUFFER ZONE. The strip of land adjacent to a lake or natural watercourse, the width of which is measured from the edge of the water to the nearest edge of the disturbed area, with the 25% percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

BUILDABLE OR ZONING LOT. One or more lots of record in one undivided ownership with sufficient total area, exclusive of easement, flood hazards, well and septic tank fields, total dimensions, and street access to permit construction thereon of a principal building together with its required parking and planting yards. See *TRACT*.

BUILDING. Any structure having a roof supported by walls or columns constructed or used for residence, business, industry or other public or private purposes. See also *STRUCTURE*.

BUILDING ENVELOPE. The interior area of a lot established by the minimum front, side and rear yard area requirements of this Ordinance.

BUILDING LINE. A line perpendicular to the lot depth which establishes the horizontal distance between the structure and the front property line excluding the outermost steps, uncovered porches, gutters, and similar fixtures.

BUILDING SEPARATION. The minimum required horizontal distance between buildings.

BUILD-TO LINE. An alignment establishing a specific distance from the curb line to where the principal structure shall be built.

BUILT-UPON AREA. That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel (for pedestrian or vehicular use), recreation facilities (e.g., tennis courts), etc. Slatted decks and the water area of a

swimming pool are not considered Built-Upon Area.

BYPASS. See definition of Highway.

CALIPER INCHES. Quantity, in inches, of the diameter of trees measured at the height of six (6) inches above the ground for trees four (4) inches or less in trunk diameter, and if greater than four (4) inches, then measurement is taken twelve (12) inches above the ground.

CAMPGROUND. See RECREATIONAL VEHICLE PARK

CANOPY. A permanent, unattached roofed structure that shelters a use or activity from the weather.

CELLULAR COMMUNICATIONS. SEE WIRELESS TELECOMMUNICATIONS FACILITIES.

CERTIFICATE OF COMPLIANCE/OCCUPANCY. A statement, signed by the Enforcement Officer, setting forth either that a building or structure complies with the provisions of this Ordinance, or that building, structure, or parcel of land may lawfully be employed for specified uses, or both.

CHANNEL LETTERING. A sign design technique involving the installation of three-dimensional lettering against a background, typically a sign face or building façade.



Example of Channel Lettering

CHANNELIZATION. Any improvements or other construction activity which occurs within or in the vicinity of an existing natural drainage-way or perennial stream which directs or relocates said waterway along some desired course, by increasing its depth or by the use of piping or any other manmade storm drainage structures.

CHEMICAL STORAGE FACILITY. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products (applicable in Flood Hazard regulations).

CHEMICAL BULK STORAGE STRUCTURE OR AREA. A building, portion of a building, or exterior area adjacent to a building used for the bulk storage of any chemical or chemically

reactive products, hazardous or toxic materials.

CHICANE. An artificial feature creating extra turns in a roadway, used on Village streets to slow the speed of traffic, by creating a horizontal deflection causing vehicles to slow as they would for a curve.

CLUSTER DEVELOPMENT. A development design technique that concentrates buildings on a portion of the site to allow the remaining land to be used for recreation, open space, or preservation of environmentally-sensitive land areas. Buildings are grouped together in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family subdivisions and multi-family developments that may or may not involve the subdivision of land.

COLLECTOR STREET PLAN. A plan, adopted by the local governing body, for streets not shown on the Thoroughfare Plan and showing collector and, if appropriate, lower classification streets in the planning area.

COMMON AREA(S). All areas, including private streets, conveyed to an owners' association within a development or owned on a proportional undivided basis in a condominium development.

COMMON OPEN SPACE. Open space that is (1) owned in common and maintained by the owners of lots in a subdivision (i. e., a homeowner's association), or (2) owned by a private individual or entity but managed and maintained for common use by residents, occupants or customers of the development.

COMPLETED. Work has progressed to the point that, in the opinion of the *Planning, Zoning & Subdivision Administrator*, it is sufficiently completed in accordance with the approved plans and specifications that the work can be utilized for its intended purposes. For permanent runoff control structures this generally means that the following have been accomplished:

- (1.) The dam has been constructed to the approved lines and grades;
- (2.) all slopes have been fine graded, seeded, mulched, fertilized, and tacked to establish permanent ground cover;
- (3.) principal and emergency spillways have been installed at the approved elevations and dimensions; and
- (4.) permanent velocity controls on the inlet and outlet pipes and channels have been

COMPOSTING FACILITY. A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations are deposited

CONDITIONED SPACE. Building space completely enclosed and protected from outside

elements and typically provided with heating and ventilation as opposed to carports and open-air venues.

CONDOMINIUM. Real estate that is developed pursuant to the North Carolina Condominium Act, North Carolina General Statute Chapter 47C.

CONGREGATE CARE FACILITY. A facility providing shelter and services for ambulatory individuals at least fifty-five (55) years of age who by reason of their age, functional impairment, or infirmity may require meals housekeeping and personal care assistance. Congregate care facilities do not include nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable.

CONSERVATION EASEMENT. A non-possessory interest of a holder in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic, or open space values of real property, assuring its availability for agricultural, recreational, or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving historical, architectural, archaeological, or cultural aspects of real property.

CONSERVATION SUBDIVISION. A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located, in return for the provision of permanent open space.

CONTRACTORS, GENERAL. The office of a business which contracts for and assumes responsibility for completing a construction project and hires, supervises, and pays all subcontractors and service contractors.

CONTRACTORS, SERVICE. The office of a business providing a specific trade or service, including but not exclusive of plumbing, electricity, carpentry, flooring, pest control, cleaning, restoration, painting and other trades predominately conducted at the customers premises.

COTTAGE DEVELOPMENT. A cluster of small detached single-family residences constructed to specific design standards and arranged around common open space, generally at higher density than the underlying zoning would allow for traditional detached single family residential development.

COTTAGE HOME. A small detached single-family residence constructed to specific design standards and arranged around common open space as part of a cottage development.

COUNTRY CLUB. A club with both social and sporting facilities, set in a suburban area.

COUNTY. Refers to governing authority of Union County, North Carolina.

CRITICAL AREA. The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is

defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

CRITICAL ROOT ZONE. The rooting area of a tree established to limit root disturbance, generally defined as a circle with a radius extending from a tree's trunk to the furthest point of the crown drip-line.

CUL-DE-SAC. A short local street having one end open to traffic and the other end permanently terminated by a vehicular turnaround.

CURB BULB. An extension of the curb into the street, beyond the standard edge of the curb, which narrows the width of the roadway and is used to slow the speed of traffic on Village streets. The curb bulb may be used for landscaping, pedestrian crosswalk, or for a combination of uses. Sometimes referred to as a “bulb out.”

DAY CARE CENTER. A facility licensed by the State of North Carolina for the care of children or adults for periods of less than 24 hours per day.

DENSITY CREDIT. Allocation of the density from within exacted land areas to other developable portions of a parcel. Gross density calculation includes this allocation.

DETENTION POND. A wet or dry stormwater holding area, either natural or manmade, which filters and releases stormwater to nearby or adjoining water bodies in a gradual fashion, also means a pond which collects stormwater runoff, filters the water, and releases it slowly over a period of hours or days. It does not have a permanent pool and is sometimes referred to as a dry pond. Also see definition of Best Management Practices.

DETENTION POND, WET. Means a pond that has a permanent pool and also collects stormwater runoff, filters the water, and releases it slowly over a period of days.

DEVELOPER. A person engaging in development.

DEVELOPMENT. Any of the following:

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. The excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in G.S. 160D-802.
- d. The initiation or substantial change in the use of land or the intensity of use of land.

DEVELOPMENT ADMINISTRATOR. The Planning, Zoning & Subdivision Administrator or other staff appointed by the Village Manager having authority to interpret, administer, and enforce the Marvin Development Ordinance.

DEVELOPMENT AGREEMENT. An agreement between the Village of Marvin and a developer pursuant to Article 10 of G.S. 160D for a large-scale development with a lengthy build-out period and having a public-private partnership component involving mutual financial interests.

DEVELOPMENT, DENSITY OF. The density of development shall be determined using a gross acreage system. The total area of the tract, including areas to be used for new streets, rights-of-way, drives, parking, structures, recreation areas, dedicated areas, and required setbacks shall be used for density calculations.

DISCHARGING LANDFILL. A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

DISPERSED DRAINAGE. Means spread out, as opposed to collecting the runoff in channels, so as to affect increased sheet flow and overland flow.

DISPOSAL. As defined in G.S. 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including ground-waters.

DISPOSAL OF HAZARDOUS OR TOXIC SUBSTANCE(S). The destruction, discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste or toxic substance into or on any air, land, or water.

DISPOSAL FACILITY. A facility or part of a facility at which hazardous waste or toxic substance is intentionally placed into or on any land or water, and at which hazardous waste or toxic substance will remain after closure.

DIVERTER. A constructed feature designed to prevent left turns or through movements into a residential area, used as method to calm traffic on Village streets.

DOMESTIC WASTEWATER DISCHARGE. The discharge of sewage, non-process industrial wastewater, other domestic wastewater, or any combination of these items. It includes liquid waste generated by domestic water-using fixtures and appliances from any residence, place of business, or place of public assembly even if it contains no sewage. Examples of domestic wastewater include once-through noncontact cooling water, seafood packing facility discharges, and wastewater from restaurants.

DOWN-ZONING. Means a zoning ordinance that affects an area of land in one of the following ways:

(1) by decreasing the development density of the land to be less dense than was allowed under its previous usage.

(2) by reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

DRAINAGE, DISPERSED. Drainage spread out, as opposed to collected in channels, so as to effect increased sheet flow and overland flow.

DRAINAGE, ENHANCED. Drainage carried by existing natural drainage-ways which have been enhanced to resist soil erosion and stream bank degradation. An enhanced natural drainage-way is achieved with the installation of an engineered measure (i.e., netting, riprap) which will resist soil erosion and allow infiltration within the natural drainage-way.

DRAINAGEWAY. Any natural or man-made channel that carries surface runoff from precipitation.

DRAINAGEWAY AND OPEN SPACE AREA, DEDICATED. The area designated for floodplain and open space purposes on a recorded subdivision plat and thereby dedicated to the public for such purposes and, where approved by the Village, for utilities.

DRAINAGEWAY, IMPROVED. Drainage channeled by impervious surfaces such as curb and gutter or concrete channels.

DRAINAGEWAY, PROTECTED. Drainage channeled by pervious devices such as sod waterways, berms, channels, or swales which have been stabilized with vegetation, rip-rap, or a combination of these, to resist soil erosion.

DRILLING OPERATION PETROLEUM, NATURAL GAS. The extraction of petroleum, natural gas, and related energy resources through mining, drilling and other related extraction techniques, including fracking. See *FRACKING*.

DRIPLINE. A vertical line extending from the outermost portion of a tree's canopy to the ground.

DRY DETENTION POND. A pond which collects stormwater runoff, holds the water, and releases it slowly over a period of hours or days. It does not have a permanent pool and is sometimes referred to as a dry pond or wet weather pond.

DUPLEX. A structure having two (2) dwelling units within a single structure.

DWELLING UNIT. One or more rooms, designed, occupied or intended for occupancy as separate living quarters for one family, with a separate entrance and cooking, sleeping and sanitary facilities provided therein. Units in dormitories, hotels, motels, shelters for the homeless or other structures designed for transient residents are not dwelling units. (see G.S.160D-706(b))

DWELLING, ACCESSORY UNIT. A dwelling that exists either as part of a principal dwelling or as an *accessory building* that is secondary and incidental to the use of the property as single family residential.

DWELLING, ATTACHED HOUSE (TOWNHOUSE). A dwelling unit located within a building and attached to other similar dwelling units in which each unit is located on an individually owned parcel, generally within a development containing facilities and areas owned in common.

DWELLING, MANUFACTURED/MOBILE HOME. For manufactured/mobile homes built before June 15, 1976, "manufactured/mobile home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over seven feet in width.

DWELLING, MANUFACTURED HOME – TYPE 1. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein.

DWELLING, MANUFACTURED HOME – TYPE 2. A double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width. The term "manufactured home" does not include a recreational vehicle.

DWELLING, MULTIFAMILY. A building or portion thereof used or designed for three or more dwelling units; the term includes apartments, and condominiums.

DWELLING PARK, MANUFACTURED HOME. Any place, area, lot, parcel, or space of land maintained, offered or used for the placement of two (2) or more manufactured homes; said space may be used or intended for use as a residential dwelling whether or not compensation is paid for any or all accommodation; and said space may be occupied under various ownership or lease arrangements. The term manufactured home park/court shall include the term mobile home park/court.

DWELLING, MODULAR. A dwelling constructed in accordance with the standards set forth in the N.C. State Residential Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final *assembly* on a permanent foundation.

EASEMENT. A grant of one or more of the property rights, such as right of access, by the property owner to, or for use by the public, a corporation, or other entity.

ELECTRICAL ENERGY PRODUCTION (FOSSIL FUEL-BASED). Electricity-generating facility operated by Duke Power, or other utilities company authorized and licensed by the State of North Carolina utilizing coal, oil, or other fossil fuel as the source of power generation.

ELECTRICAL ENERGY PRODUCTION (ALTERNATIVE SOURCES). Electricity-generating activities operated a power generation facility by a licensed utilities company. The term does not include appurtenant panels as an accessory activity to a principal use of a property utilizing solar, wind, or other non-fossil fuel source of power.

ELECTRONIC GAMING OPERATION. Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including, but not limited to computers and gaming terminals to conduct games including but not limited to sweepstakes, lotteries, games, and/or games of chance, and where cash or merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds, which have a finite pool of winners. The term includes, but is not limited to internet sweepstakes, video sweepstakes, or cybercafés. This definition does not include any lottery endorsed, approved, or sponsored by the State of North Carolina, or arcade games of skill.

ELEVATED BUILDING. A non-basement building which had its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

ENCROACHMENT. The advance or infringement of uses, fills, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain. (This definition applies only with respect to flood hazard regulations.)

ENFORCEMENT, COMPLAINT-BASED. Enforcement action initiated on the basis of information provided by a third-party complainant.

ENFORCEMENT OFFICER. The Village *Planning, Zoning & Subdivision Administrator* or their designee.

ENFORCEMENT, PROACTIVE. Enforcement action initiated at the discretion of the *Planning, Zoning & Subdivision Administrator* independent of any third-party complaint.

ENHANCED DRAINAGE-WAY. Means carried by existing natural drainageways which have been enhanced to resist soil erosion, including stream bank degradation.

EQUESTRIAN USE. Paddocks, fields, stables, barns, riding ring, and other facilities provided for *the care and use of horses.*

EROSION. The wearing of land surface by the action of wind, water, gravity or any combination thereof.

EROSION, ACCELERATED. Any increase over the rate of natural (i.e. undisturbed by human intervention) erosion as a result of land-disturbing activities.

EXISTING DEVELOPMENT. Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning based on at least one (1) of the following criteria:

- (A.) Substantial expenditure of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or
- (B.) Having a valid outstanding building permit; or
- (C.) Having an approved site specific or phased development plan in compliance with North Carolina General Statute 160D-108.

EXISTING LOT OF RECORD. A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this Ordinance or a lot described by metes and bounds, the description of which has been so recorded prior to December 31, 1999.

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community. (This definition applies to Article 18)

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of this Ordinance.

FAMILY. One or more persons related by blood or marriage, or up to three unrelated adults, occupying a dwelling unit and living as a single household.

FAMILY CARE HOME. A home meeting the North Carolina Residential Building Code with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for six or fewer resident handicapped persons, pursuant to G.S. 160D-907.

FARM. See Agricultural Use.

FARMER'S MARKET. An open-air market at a regularly scheduled venue, includes seasonal and year-round markets.

FEDERAL LAW REFERENCE. National pollutant discharge elimination system (NPDES) permits (applies to watershed standards only).

FENCE. A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material used as a boundary or means of protection or confinement, but not including a hedge or other vegetation.

FIXTURE, FULL CUT-OFF. An outdoor light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below the horizontal plane as determined by photometric test or certified by the manufacturer.

FIXTURE, PARTIAL CUT-OFF. An outdoor light fixture shielded in such a manner that more than zero (0) but less than ten (10) percent of the light emitted directly from the lamp or indirectly from the fixture is projected at angles above the horizontal plane, as determined by photometric test or certified by the manufacturer.

FLOOD AND FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD INSURANCE. The insurance coverage provided under the National Flood Insurance Program.

FLOOD INSURANCE RATE MAP (FIRM). An official map of the Village of Marvin on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the Village of Marvin and its ETJ.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency (FEMA). The report contains flood profiles, as well as the Flood Boundary/Floodway Map and the water surface elevation of the base flood.

FLOOD PLAIN. The relatively flat area or low land adjacent to the channel of a river, stream, or watercourse, lake, or other body of standing water, which has been or may be covered by flood water and which is susceptible to being inundated by water from any source.

FLOODPLAIN ADMINISTRATOR. The individual appointed to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT. Any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS. This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purposed ordinances, and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

FLOOD PRONE AREA. See *FLOOD PLAIN*.

FLOODPROOFING. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduces or eliminates flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

FLOODWAY FRINGE. The land area located between the floodway and maximum elevation subject to inundation by the base flood as defined in these Definitions.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOOD ZONE. A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

FLOOR AREA, GROSS. The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles or any space where the floor-to-ceiling height is less than six feet. Additionally, gross floor area includes areas covered by canopies and like structures under which an active use is occurring such as drive-through service, gasoline pumping, loading and/or storage of materials, and similar activities.

FLOOR. The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

FOOD TRUCK. See *MARKET, TAILGATE*.

FOREST LAND. Land that is a part of a forest unit that is actively engaged in the commercial growing of trees under a sound management program. Forestland includes wasteland that is a part of the forest unit, but the wasteland included in the unit must be appraised under the use-

value schedules as wasteland. A forest unit may consist of more than one tract of forestland, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(3), and each tract must be under a sound management program.

FRACKING. The production of natural gas from prehistoric shale rock formations by means of horizontal drilling and hydraulic fracturing.

FREEBOARD. The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The Base Flood Elevation plus the freeboard establishes the “Regulatory Flood Protection Elevation.”

FULLY SHIELDED LIGHTING FIXTURE. A light fixture that is shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities. This definition applies only to the Flood Damage Prevention standards.

FURNITURE AND FIXTURES. An industrial process that involves the assembling of furniture utilizing parts that are pre-made and fabricated elsewhere.

GATED COMMUNITY. A subdivision, neighborhood, or residential development to which entry is restricted to residents and their guests. Often includes barriers such as gates, security personnel, fences and/or walls.

GIFT SHOP. A retail space in which miscellaneous articles that are appropriate as gifts are sold.

GRADE. A reference plane representing the average of finished ground level adjacent to any structure.

GRADING. Any operation or occurrence by which the existing site elevations are changed, or where any ground cover, natural or man-made, is removed, or any buildings or other structures are removed, or any water course or body of water, either natural or man-made, is relocated on any site, thereby creating an unprotected area. The term "grading" is interchangeable with "land-disturbing activity.”

GRADING PLAN. The graphic plan, including narrative where appropriate, required by this Ordinance as a prerequisite for a grading permit, the purpose of which is to explain existing

conditions and proposed grading of land including any development and to describe the activities and measures to be undertaken to control accelerated soil erosion and sedimentation.

GRANDFATHERED. Not affected by a change in this Ordinance absent physical modification or abandonment. Buildings, land uses, and lots or parcels of property that do not meet the standards of this Ordinance but legally existed prior to the effective date of this Ordinance, and complied with prior ordinances, regulations, and or standards, shall not be affected by this ordinance absent physical modification or abandonment.

GRAND OPENING. A promotional activity not exceeding 30 calendar days used by newly established businesses, within 60 calendar days after initial occupancy, to inform the public of their location and services available to the community.

GRAVEL. A clean or washed, loose aggregation of small, rounded, water-worn or pounded stones ranging in size from .08” to 3.0” in size. Gravel is not crushed stone or rock.

GREENWAY. A linear open space along either a natural corridor such as a riverfront, stream valley or ridge line, or along a railroad right-of-way converted to recreational use, a canal, scenic road, or other route managed for public use that has been designated on an officially adopted greenway plan. Greenways typically link parks, nature preserves, cultural features or historic sites with each other and/or with neighborhoods, schools, and commercial districts.

GROUP CARE FACILITY. A facility licensed by the State of North Carolina, (by whatever name it is called, other than "Family Care Home" as defined by this Ordinance), with support and supervisory personnel that provides room and board, personal care or habilitation services in a family environment.

HAZARDOUS AND/OR RADIOACTIVE WASTE (TRANSPORTATION, STORAGE AND/OR INCINERATION). An industrial operation that transports, stores, and /or incinerates or otherwise disposes of hazardous materials and/or hazardous or toxic materials as defined in this ordinance. The term includes a hazardous waste management facility and hazardous waste treatment facility as defined in this ordinance.

HAZARDOUS INDUSTRY. An industrial operation that receives, stores, incorporates into its industrial processes, and/or generates through its industrial processes either as part of its intended product or as part of its waste stream by-product, hazardous materials and/or hazardous or toxic materials as defined in this ordinance. The term includes a hazardous waste generator as defined in this ordinance.

HAZARDOUS MATERIAL. Any material listed as such in: Superfund Amendments and Reauthorization Act (SARA) section 302 Extremely Hazardous Substances (42 USC 1100 et seq.); Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Hazardous Substances (42 USC 9601 et seq.); or section 311 of the Clean Water Act, as

amended (CWA) (33 USC 1251 et seq.; oil and hazardous substances) hereby incorporated by reference including any subsequent amendments and editions.

HAZARDOUS OR TOXIC SUBSTANCE. Any solid waste as defined in G.S. 130A-290, or any substance regulated under the Federal Toxic Substance Control Act of 1976, (PL 94.476), as amended from time to time, which because of its quantity, concentration, or physical chemical or infectious characteristic(s) may: 1) cause or significantly contribute to an increase in serious irreversible or incapacitating illness, or; 2) pose a substantial present or potential threat to the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

HAZARDOUS WASTE GENERATOR. Any person whose act or process produces hazardous waste or toxic substance identified or listed in Part 261 of the North Carolina Hazardous Waste Management Rules or whose act first causes a hazardous waste or toxic substance to become subject to regulation provided that, "generator" does not include a facility which accepts hazardous waste or toxic substances for the purpose of treatment, storage, or disposal, and in that process, creates a different hazardous waste or toxic substance.

HAZARDOUS WASTE MANAGEMENT FACILITY. As defined in G.S.130A-290, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

HAZARDOUS WASTE TREATMENT FACILITY. A facility established and operated for the recovery, recycling, treatment, storage during collection and prior to treatment, short-term storage after treatment, collection, processing, volume reduction, source separation, or transportation used exclusively in connection with the facility, of hazardous waste; and which includes several of the following equipment or processes: incinerators, rotary kilns, drum handling, washing and crushing facilities, raw waste tank storage, reduction, neutralization, detoxification, wastewater treatment facilities including settling systems, aerobic digester, anaerobic digester, clarifiers, neutralization facilities, solidifying facilities, evaporators, reactions to facilitate recycling, analytical capabilities, and other similar technologies, and processes as may now exist or be developed in the future.

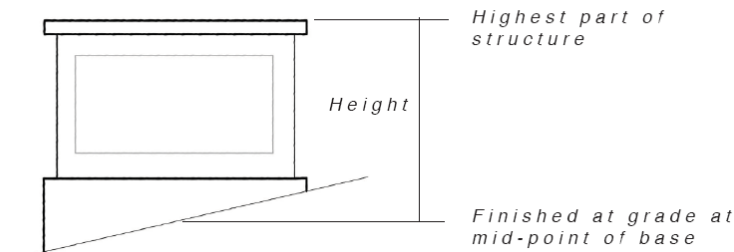
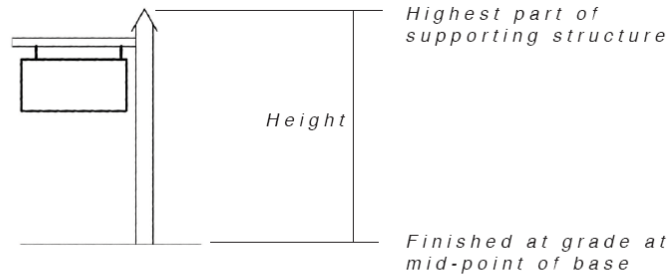
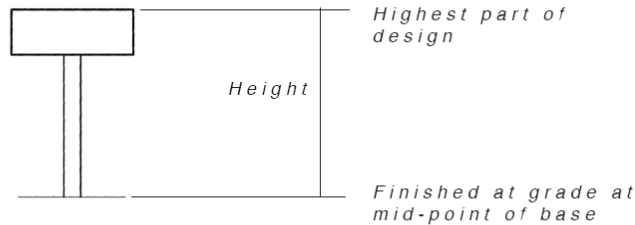
HIGHEST ADJACENT GRADE (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

HIGHWAY. U.S. and/or N.C designated highway. Also see Streets.

HEIGHT, BUILDING. For buildings with flat roofs, the vertical distance from the mean elevation of the finished grade to the highest finished roof surface. For buildings with pitched roofs, the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights. (See definition below for freestanding sign height.)

HEIGHT, FREESTANDING SIGN. The vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and finished grade at the midpoint of the base of the sign.

HEIGHT / SIGN



HEIGHT, OTHER STRUCTURE. The vertical distance from the existing grade to the highest point of the structure above such existing grade.

HOME OCCUPATION. Any *business* use conducted entirely within a dwelling and carried on by the occupants thereof, which use is incidental and secondary to the use of the dwelling for residential purposes and does not change the character of the dwelling or the neighborhood.

ILLICIT CONNECTION. Any unlawful connection which allows the discharge of non-stormwater to the stormwater conveyance system or waters of the state in violation of this ordinance.

ILLICIT DISCHARGE. Any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, emission, or other discharge of any substance other than stormwater into a stormwater conveyance, the water of the state, or upon the land in such proximity to the same, such that the substance is likely to reach a stormwater conveyance or the waters of the state.

IMPACT. The effect of one land use upon another as measured by traffic or noise generation, site activity, hours of operation, site lighting, vibration, smoke or odor emissions, or similar factors.

IMPERVIOUS SURFACE. Improvements including street pavement, driveways, gravel areas, buildings, and other structures which cover the soil surface and prevent infiltration of water into the soil.

IMPERVIOUS SURFACE COVERAGE. That portion of a lot covered by buildings, structures, paving or other impervious surface materials.

IMPROVED DRAINAGE-WAY. Means channeled by impervious surfaces such as curb and gutter or concrete (gunnite, bituminous, etc.) channels.

INDUSTRIAL DEVELOPMENT. Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

INDUSTRIAL DISCHARGE. The discharge of industrial process treated wastewater or wastewater other than sewage and including:

- (A.) Wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
- (B.) Wastewater resulting from processes of trade or business, including wastewater from laundry-mats and car washes, but not wastewater from restaurants;
- (C.) Stormwater contaminated with industrial wastewater; and
- (D.) Wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

INDUSTRY, LIGHT. Research and development activities, the manufacturing, compounding, processing, packaging, storage, *assembly*, and /or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building. Light industry typically involves land uses operated in such a manner as to control external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc.

INDUSTRY, HEAVY. A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

INTEGRATED MULTIPLE USE DEVELOPMENT (IMUD). A development containing three or more stores, service establishments, offices, or other permitted uses planned, organized, and managed to function as a unified whole and featuring all of the following: 1) common driveways, 2) common parking, 3) common signage plan, and 4) common landscaping plan. Examples are shopping centers and office parks having the characteristics listed above. Such integrated developments may include outparcels for lease or for sale. Any such integrated development may be organized as a condominium or in a manner analogous to that of a City-house development (with ownership parcels beneath the building units and with parking and driveways being in common elements owned and maintained by an Owners' Association).

JUNK/SALVAGE YARD. Any land or area used, in whole or in part, for the storage, keeping, or accumulation of material, including scrap metals, waste paper, rags, or other scrap materials, or used building materials, for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

JUNKED AUTOMOBILE. See MOTOR VEHICLE, JUNKED

LAND-DISTURBING ACTIVITY. Any use of land in residential, industrial, educational, institutional, or commercial development, highway or road construction or maintenance, that results in a change in natural cover or topography that causes or contributes to sedimentation.

LANDFILL. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the N.C. General Statutes. For the purpose of these watershed provisions, this term does not include composting facilities.

LANDFILL, DEMOLITION AND CONSTRUCTION DEBRIS (MAJOR). A disposal site other than minor demolition and construction debris landfill as defined in this ordinance for stumps, limbs, leaves, concrete, brick, wood and uncontaminated earth. Disposal of any other types of wastes must be approved by the State Division of Health Services.

LANDFILL, DEMOLITION AND CONSTRUCTION DEBRIS (MINOR). A disposal site for stumps, limbs, leaves, concrete, brick, wood and uncontaminated earth which is less than three acres in size and is in operation for less than one year.

LANDFILL, SANITARY/SOLID WASTE. A site for solid waste disposal from residential, industrial or commercial activities.

LIGHTING, ACCENT. Lighting intended to accentuate an architectural feature such as a window, roofline, or other vertical or horizontal element and consisting of small, non-flashing

white lights.

LIVESTOCK. Animals, poultry or aquatic life bred and/or raised for the purpose of human and/or animal consumption.

LOT. A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership or for development or both. The word "lot" includes "plot", "parcel," or "tract."

LOT, CORNER. A lot abutting two or more streets at their intersection.

LOT, DEPTH. The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot.

LOT, EASEMENT-ACCESS. An *Existing Lot of Record* recorded in the Office of the Register of Deeds with an established residential use not abutting a public street where an access easement of at least fifteen (15) feet in width for the entire length of said easement has also been recorded in the Office of the Register of Deeds.

LOT OF RECORD. A lot, plot, parcel or tract recorded in the Office of the Register of Deeds in conformance with the ordinance(s) in effect at the time of recordation. (*see "Existing Lot of Record"*)

LOT, REVERSE FRONTAGE. A through lot which is not accessible from one of the parallel or nonintersecting streets upon which it fronts.

LOT, THROUGH. A lot abutting two streets that do not intersect at the corner of the lot.

LOT WIDTH. The mean width measured at right angles to its depth at the building front setback line.

LOWEST ADJACENT GRADE (LAG). The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

LOWEST FLOOR. Lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

MAINTENANCE (OF A SIGN). Cleaning, painting, repairing, or replacing defective parts in such a manner that does not alter the basic structure of a sign. This definition includes the changing of the copy or listings on a changeable copy, civic event, sandwich board, or directory sign and the replacement of sign copy with other sign copy of the same or smaller size on other permitted signs.

MAJOR WATERSHED VARIANCE. A variance from the minimum statewide watershed protection rules that results in the relaxation by a factor greater than five (5) percent of any buffer, density or built-upon area requirement under the high density option; any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system; or relaxation by a factor greater than ten (10) percent of any management requirement under the low density option.

MANUFACTURED HOME. See *DWELLING, MANUFACTURED HOME.*

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include “recreational vehicle.” (This definition applies to flood hazard regulations. See Article 18)

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MANUFACTURED HOME PARK/COURT. See *DWELLING PARK, MANUFACTURED HOME.*

MANUFACTURED HOME SUBDIVISION. See *SUBDIVISION, MANUFACTURED HOME.*

MANUFACTURED HOUSING AND WOOD BUILDINGS. An industrial process that involves the production and assembling manufactured housing and other wooden buildings utilizing parts that are pre-made and fabricated elsewhere.

MARKET, TAILGATE. The periodic offering for sale of fresh agricultural and/or prepared food products directly to the consumer at an open-air venue, including the term “Food Truck”.

MARKET VALUE. The building value, not including the land value, and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

MAXIMUM RUNOFF CONTROL. Means approximately one hundred (100%) percent of Built-Upon Area runoff must pass through permanent wet detention pond(s).

MEAN SEA LEVEL. For purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as correct in 1929, the North American Vertical Datum (NAVD) as correct in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

MILLWORK, PLYWOOD, VENEER. An industrial process involving millwork and creation of wooden parts for furniture, housing, and other uses that are assembled elsewhere.

MINING AND/OR EXTRACTION (INCLUDING QUARRY). The long-term removal of soil, gravel, minerals, and/or other resources of a site for offsite manufacturing or industrial purposes. This term does not include grading, site clearance, or temporary stockpiling of soil associated with development of a site.

MINOR WATERSHED VARIANCE. A variance from the minimum statewide watershed protection rules that results in the relaxation by a factor of up to five percent of any buffer, density or built-upon area requirements under the high-density option; or relaxation by a factor of ten (10) percent of any management requirement under the low-density option.

MIXED DEVELOPMENT. A mixture of residential, office, commercial, and/or institutional uses.

MIXED-USE DEVELOPMENT. The combination of complementary land uses in an integrated fashion through the development of a tract of land, building or structure.

MOBILE HOME. See *DWELLING, MANUFACTURED HOME.*

MODERATE RUNOFF CONTROL. Means at least seventy-five (75%) percent of Built-Upon Area runoff must pass through permanent wet detention pond(s).

MODULAR HOUSING. See, *DWELLING, MODULAR.*

MOTOR VEHICLE, JUNKED OR ABANDONED. A motor vehicle that is not currently registered and does not display a current license plate and one or more of the following applies: 1) the vehicle is partially dismantled or wrecked; or 2) the vehicle cannot be self-propelled or moved in the manner in which it originally was intended to move; or 3) the vehicle is more than five years old and appears to be worth less than five hundred dollars (\$500.00).

MULTIFAMILY DWELLING. See *DWELLING, MULTIFAMILY.*

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). A stormwater conveyance or unified stormwater conveyance system (including without limitation: roads with drainage systems, municipal streets, catch basins, stormwater detention facilities, curbs, gutters, ditches, natural or man-made channels, or storm drains), that:

- (1.) is located within the corporate limits of the Village of Marvin, North Carolina.
- (2.) is owned or operated by the State, County, the Village, or other public body; and
- (3.) discharges to waters of the state, excluding publicly owned treatment works, and lawful connections thereto, which in turn discharge into the waters of the State.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM. A permitting system established pursuant to 402 of the Clean Water Act.

NECKDOWN. Constructed features designed and placed to narrow the width of traffic lanes in order to slow the speed of traffic on Village streets. Curb bulbs and chicanes may be used for this purpose.

NEIGHBORHOOD. An area of the Village with characteristics which distinguish it from others including distinct economic bases, housing types, schools, development styles or patterns, or boundaries defined by distinct physical barriers such as railroads, arterial streets, rivers, or major water bodies.

NEIGHBORHOOD PLAN. The plan officially adopted by the Marvin Village Council for a particular neighborhood or district that provides specific design standards and guidelines regulating the development and use of the property.

NEW CONSTRUCTION. Structures for which the “start of construction” commenced on or after the effective date of the original version of the community’s Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures. (This definition applies only with respect to flood hazard regulations.)

NEW DEVELOPMENT. Any land-disturbing activity which adds to or changes the amount of built-upon area. (This definition applies only with respect to watershed protection regulations.)

NONCONFORMING USE. Any current legal use of property not otherwise permitted under current zoning regulations. This may include, without limitation 1) a use legally established under requirements at the time of installation or construction but not now permitted in the zoning district in which it is located or 2) a use conditionally allowed in the zoning districts in which it is located but for which no special use permit has been obtained. See *GRANDFATHERED*.

NONCONFORMITY, DIMENSIONAL. Any current legally constructed improvement on property not otherwise permitted under current zoning regulations, involving a dimensional or numerical development requirement. This definition does not include Signs, Nonconforming, which are defined herein and addressed in Article 17. Dimensional nonconformities may include, without limitation, nonconformities associated with density, landscaping, buffering, lot size, lot width, lot depth, setbacks, height, structure size standards, impervious surface standards, open space, number of parking spaces, or separation requirements between particular uses or zoning districts. See *GRANDFATHERED*.

NONCONFORMITY, LAWFUL. Any current legal lot, structure, or use of property not otherwise permitted under current zoning regulations constructed or established in conformity with the then-applicable development requirements of the Village, but subsequently not permitted by action of the Village through a zoning map or unified development code text amendment. See *GRANDFATHERED*.

NONENCROACHMENT AREA. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

NONPROCESS DISCHARGE. Industrial effluent not directly resulting from the manufacturing process. An example is noncontact cooling water from a compressor.

NURSING HOME. An establishment which provides full-time convalescent and/or chronic care, including food, shelter, and caregiver or nursing care, for persons who are not related by blood or marriage to the operator or who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. This term includes assisted care facility, convalescent home, home for the aging, sanitarium, rest home, or any similar facility.

OCCUPANCY. A separately leased or owned area within a building having ground level frontage on a right-of-way or parking facility.

OFF-PREMISES. Not located on the property to which it pertains.

OFFICE, PROFESSIONAL. The office of a member of a recognized profession maintained for the conduct of that profession, including, but not limited to, the offices of doctors, lawyers, dentists, landscape architects, architects, stockbrokers and financial analysts, chiropractors, engineers, surveyors, or Village planners.

OFFICE-WAREHOUSE. A land use that includes offices that support showroom or warehouse uses.

ON-PREMISES. Located on the property to which it pertains.

OPEN SPACE. Any publicly dedicated or privately-owned area of land or water that is permanently preserved and maintained. Such an area may be predominately in a natural condition or modified for uses such as recreation, education, aesthetics, cultural or natural resource management or public health and safety.

PASSIVE RECREATION ELEMENT. Trails, open space, uncovered picnic areas, and similar facilities provided for recreational use.

PERENNIAL AND INTERMITTANT STREAMS. Those streams (and rivers), with associated lakes and ponds as indicated on the following:

- (A.) On the most recent version of the United States Geological Survey 1:24,000 scale (7.5-minute quadrangle) topographical map;
- (B.) On the most recent version of the Soil Survey of Union County developed by the United States Department of Agriculture (USDA) Natural Resource Conservation

Service (formerly the USDA Soil Conservation Service);

(C.) By other site-specific evidence that indicates to the North Carolina Division of Water Quality (DWQ) the presence of such waters not shown on either of these two (2) maps or evidence that no actual stream or water-body exists; or

(D.) Upon determination following field inspection by a qualified professional.

PLAN, SKETCH. A rough sketch map of a proposed subdivision or site showing streets, lots, and any other information required by the Village of sufficient accuracy used for discussion of the street system and the proposed development pattern.

PLANNED COMMUNITY. Real estate with respect to which any person, by virtue of that person's ownership of a lot, is expressly obligated by a declaration to pay real property taxes, insurance premiums, or other expenses to maintain, improve, or benefit other lots or other real estate described in the declaration. For purposes of this act, neither a cooperative nor a condominium is a planned community, but real estate comprising a condominium or cooperative may be part of a planned community. "Ownership of a lot" does not include holding a leasehold interest of less than 20 years in a lot, including renewal options.

PLANNED UNIT DEVELOPMENT. An area of land under unified ownership or control to be developed and improved as a single entity under a Unified Development Plan in accordance with and subject to the requirements of this Ordinance.

PLANNING, ZONING AND SUBDIVISION ADMINISTRATOR. The Planning, Zoning & Subdivision Administrator or other staff appointed by the Village Manager having authority to interpret, administer, and enforce the Marvin Development Ordinance.

PLAT. A surveyed map or plan of a parcel of land which is to be or has been subdivided.

PLAT, FINAL. The final map of all or a portion of a subdivision or site plan, showing the boundaries and location of lots, streets, easements and other improvements required by the Village, which is presented for approval by the Village and subsequent recorded in the Union County Register of Deeds Office.

PLAT, PRELIMINARY. A map indicating the proposed layout of the subdivision or site showing lots, streets, water, sewer, storm drainage and any other improvements required by of the Village, which is presented for preliminary approval.

POLLUTION. Man-made or man induced *alteration* of the chemical, physical, biological, thermal, and/or radiological integrity of water.

PORTABLE STORAGE UNIT (POD). A transportable unit designed and used for the temporary storage of household goods, personal items and other materials which is placed on a site for the use of occupants of a dwelling or building on a limited basis. Such containers are uniquely

designed for their ease of loading to and from a transport vehicle.

POST-FIRM. Construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

POWELL BILL MAP. A map showing the length, width and surface improvement type (pavement, dirt, gravel, etc.) of municipal streets submitted annually by North Carolina municipalities to NRDOT for purposes of determining each municipality’s share of N.C. gasoline taxes for street maintenance purposes.

PRE-FIRM. Construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate map for the area.

PRINCIPALLY ABOVE GROUND. That at least 51% of the actual cash value of the structure is above ground.

PRINCIPAL STRUCTURE. A structure (or structures) in which the principal use of the lot or property is conducted.

PRINCIPAL USE. The primary use of any lot or property.

PROFESSIONAL OFFICE. See *OFFICE, PROFESSIONAL.*

PROTECTED DRAINAGEWAY (CHANNEL). Where drainage is channeled by pervious devices such as sod waterways, berms, channels or swales which have been constructed to resist soil erosion by either vegetating, netting, rip-rapping, or a combination of those, and which allows infiltration of water into the soil.

PUBLIC OPEN SPACE. Open space that is accessible to the general public and maintained by the Village.

PUBLIC SAFETY AND/OR NUISANCE. Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin. (This definition applies only to flood hazard regulations.)

RECREATIONAL VEHICLE. A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty vehicle, and designed primarily for use not as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

RECREATIONAL VEHICLE PARK (incl. CAMPGROUND). Any site or tract of land, of contiguous ownership, upon which 15 or more recreational vehicles or tent spaces are provided for occupancy according to the requirements set forth in this ordinance.

REFERENCE LEVEL. The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone AO, AE, or A.

REGULATORY FLOOD PROTECTION ELEVATION. The “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

REGULATING PLAN. A master development plan for a site, parcel, or property, meeting the standards of the Village of Marvin and identifying building, parking, and landscape locations, open spaces, trails, other amenities, and other features as required by the Village. Upon its approval by the Marvin Village Council, the plan becomes the guide for the development of the property and all development activity on the property must comply with the plan.

REMEDY A VIOLATION. To bring the structure or other development into compliance with State and community floodplains management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure of other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development. (This definition applies only with respect to flood hazard regulations.)

RENOVATION. The repairing or remodeling of a structure in which the exterior walls, foundation and roof are maintained structurally intact.

REQUIRED DRAINAGE CHANNEL. The theoretical stream bed section which is required to carry and discharge the runoff from a 100-year storm.

RESEARCH AND TECHNOLOGY PRODUCTION USES. Uses such as medical, optical and scientific research facilities, software production and development, clinics and laboratories, pharmaceutical compounding and photographic processing facilities, and facilities for the *assembly* of electronic components, optical equipment, and precision instruments.

RESIDENTIAL DEVELOPMENT. Buildings for use as residences such as attached and detached single-family dwellings, apartment complexes, condominiums, Village-houses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

RETENTION POND. A stormwater holding area, either natural or manmade, which has a permanent pool and does not release stormwater to nearby or adjoining water bodies. Also means a pond that has a permanent pool and also collects stormwater runoff, filters the water, and releases it slowly over a period of days. Also see Best Management Practices definition.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

ROOF LINE. Either the top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

RUNOFF CONTROL IN EXCESS OF MINIMUM REQUIREMENTS OF EROSION CONTROL ORDINANCE. Means at least fifty (50%) percent of Built-Up Area runoff must pass through permanent wet detention pond(s).

RUNOFF DETENTION EQUAL TO MINIMUM REQUIREMENTS. Velocity control of runoff.

RURAL MARKET. Place of business serving primarily rural areas and trading in primarily rural products, produce, crafts, and commodities. Does not include convenience stores, gasoline and/or fuel sales.

SALVAGE YARD. Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

SALVAGE YARD, AUTO PARTS. Any establishment listed in the Standard Industrial Classification manual under Industry Number 5015. Also, any land or area used, in whole or part, for the storage, keeping, accumulation, dismantling, demolition, or abandonment of inoperable vehicles or parts thereof.

SALVAGE YARD, SCRAP PROCESSING. Any establishment listed in the Standard Industrial Classification Manual under Industry Number 5093. Also, any land or area used, in whole or part, for the storage, keeping, accumulation of scrap or waste materials, including scrap metals, waste paper, rags, building materials, machinery, or other scrap materials.

SCENIC CORRIDOR. An area providing scenic vistas visible from a highway or roadway that is designated by the Village of Marvin as having special importance to the character of the Village and meriting special protection and preservation measures.

SCHOOL, PRIVATE, CHARTER, OR PAROCHIAL. An educational institution operated by an entity other than a public school district that offers a program of high school, middle school (or junior high school), and/or elementary school (including kindergarten or pre-kindergarten) instruction meeting State requirements for a school. Such uses may include classrooms, laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

SCHOOL, PUBLIC. An educational institution operated by a public school district that offers a program of high school, middle school (or junior high school), and elementary school (including kindergarten or pre-kindergarten) instruction meeting state requirements for a school. Such uses may include classrooms, laboratories, auditoriums, libraries, cafeterias, after school care, athletic

facilities, dormitories, and other facilities that further the educational mission of the institution.

SCHOOL, TECHNICAL OR TRADE. A public or private school offering vocational or trade instruction—such as teaching of trade or industrial skills, cosmetology, clerical or data processing, barbering or hair dressing, computer or electronic technology, or artistic skills to students and that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes, and meets the state requirements for a vocational training facility. Such uses include classrooms, laboratories, auditoriums, libraries, cafeterias, and other facilities that further the educational mission of the institution. The school does not provide lodging for students or faculty, such is deemed a Dormitory.

SEARCHLIGHT. A device that emits an upwardly-directed beam of light to attract commercial attention.

SEDIMENT. Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

SEDIMENTATION. The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

SETBACK. The minimum required horizontal distance between a structure and the lesser of either the lot line or the line that marks the beginning of street right-of-way maintenance by the Village of Marvin or the North Carolina Department of Transportation, as determined by the Village of Marvin.

SETBACK, REAR. A setback from an interior property line lying on opposite side of the lot from the front street setback.

SETBACK, SIDE. Any interior property line setback other than a rear setback.

SETBACK, STREET. Any setback from a street, road or lane right-of-way line.

SETBACK, ZERO SIDE. An alternate form of dimensional requirements that allows a dwelling unit to have one side setback of zero feet from a side property line. This definition does not include Village-houses.

SHOPPING CENTER. A group of retail and other commercial establishments that are planned, developed, owned and managed as a single property. On-site parking is provided. The center's size and orientation are generally determined by the market characteristics of the trade area served by the center.

SHEAR WALL. Walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.

SIGN. A communications medium, method, device, structure, or fixture that incorporates motion, lighting, graphics, symbols, or written copy intended to promote the sale of a product, commodity, or service, or to provide direction to or identification of a neighborhood, premises, event or facility.

SIGN ALTERATION. Any change to the size, shape, illumination, position, location, or construction of a sign or the supporting structure of a sign. Maintenance or change of copy which does not entail replacement of the sign face is not included in this definition.

SIGN AREA. The size of a sign in square feet as computed by the area of not more than two standard geometric shapes (specifically circles, squares, rectangles, or triangles) that encompass the shape of the sign exclusive of the supporting structure.



Example Illustrating Measurement of the Area of an Irregularly Shaped Sign

SIGN COPY. Any graphic design, letter, numeral, symbol, figure, device or other media used separately or in combination that is intended to advertise, identify or notify, including the panel or background on which such media is placed.

SIGN FACE. The side or sides of a sign on which a message is placed.

SIGN ILLUMINATION, TYPES OF.

- (A.) **AMBIENT.** Illumination of a sign by light from the sign's general surroundings, such as daylight or nearby street lights.
- (B.) **EXTERNAL.** Illumination of a sign by a source of light located exterior to the sign, such as a floodlight.
- (C.) **INTERNAL.** Illumination of a sign by a source of light contained within the sign itself

SIGN, NONCONFORMING. A sign legally consistent with the standards in place at the time of installation but which now does not meet one or more current standards.

SIGN TYPES.

- (A.) *SIGN, AWNING.* A sign incorporated into or attached to an *awning*.
- (B.) *SIGN, BLADE (OR PROJECTING).* A sign attached to and projecting from the building façade, typically at right angles to the building.
- (C.) *SIGN, CANOPY.* A sign incorporated into or attached to a canopy.
- (D.) *SIGN, CHANGEABLE COPY.* A sign or portion thereof designed to accommodate frequent copy changes through manual, mechanical or digital means.
- (E.) *SIGN, DIRECTIONAL.* An on-premises sign whose message is exclusively limited to guiding the circulation of motorists or pedestrians entering, exiting, or on a site, including signs marking entrances and exits, parking areas, loading zones, or circulation patterns.
- (F.) *SIGN, DIRECTORY.* A sign listing the names, uses, or locations of the discrete uses or activities conducted within a building or group of buildings that is intended to provide on-site directions.
- (G.) *SIGN, EXEMPT.* A sign identified in Article 17, section 6 that is exempt from the requirements of this ordinance, either conditionally or unconditionally.
- (H.) *SIGN, FLAT (OR WALL).* A sign attached directly to and generally parallel with the façade of a building.
- (I.) *SIGN, GOVERNMENT.* A sign installed by an active domestic unit of government, or by a contracted installer on behalf of the unit of government.
- (J.) *SIGN, INCIDENTAL.* A sign, generally informational, whose purpose is secondary to the use of the premises on which it is located, such as the date of building erection, the building address, the hours of operation, the open or closed status of the operation, the credit cards honored, and similar incidental information, and containing no commercial message.
- (K.) *SIGN, MACHINE.* A sign attached to a machine such as a gasoline pump, a drive-through menu kiosk, a soft drink dispensing machine, or an ATM.
- (L.) *SIGN, MONUMENT (OR GROUND).* A freestanding sign supported by a structure that is at least as wide as the sign to which it is attached.
- (M.) *SIGN, OUTDOOR ADVERTISING (OR BILLBOARD).* A type of off-premises sign that contains a commercial message.
- (N.) *SIGN, PERMANENT.* A sign intended, designed and/or constructed for permanent

display and permitted as such.

- (E.) *SIGN, POLE.* A freestanding sign supported by a structure consisting of not more than two poles.
- (O.) *SIGN, SANDWICH BOARD (OR A-FRAME).* A temporary freestanding sign designed and displayed to provide information to pedestrians.
- (P.) *SIGN, SNIPE.* A temporary sign not otherwise defined in this Article that is tacked, nailed posted, glazed, or otherwise affixed to a light fixture, utility pole, public building, fence, railing, public telephone pole, traffic control device, or tree.
- (Q.) *SIGN, TEMPORARY.* A sign not intended, designed and/or constructed for permanent display and permitted as such.
- (R.) *SIGN, TIME AND TEMPERATURE.* A sign that displays time and temperature information as its only message.
- (S.) *SIGN, V-TYPE.* An attached sign consisting of two separate faces arranged in a “V” pattern and having an angle of 120 degrees or less as measured from the side attached to the building.
- (T.) *SIGN, WINDOW.* A sign attached to a display window or door window that is intended to be viewed from the exterior. This definition shall include signs attached to the interior of a display window or door window.

SILTATION. Sediment resulting from accelerated erosion which is separable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity, and which has been deposited, or is in suspension in water.

SINGLE FAMILY RESIDENTIAL. Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit, except for the permitted accessory dwelling unit.

SITE PLAN. A plan, drawn to scale, showing uses and structures proposed for *a tract or buildable or zoning lot* as required by the regulations, such as lot lines, streets, building sites, reserved open space, buildings, major landscape features both natural and manmade and the locations of proposed utility lines.

SITE SPECIFIC DEVELOPMENT PLAN. A plan that has been submitted to the Village by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property and which establishes vested rights for a specific period of time, per North Carolina General Statutes. Such plan may be in the form of, but not limited to, any of the

following plans or approvals: A subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation as may be utilized by the Village. Such a plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings, structures and other improvements; the approximate dimensions, including height, of the proposed building and other structures; the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways; and any other information required by the Village for the type of plan or approval requested by the landowner. A variance shall not constitute a site-specific development plan. Neither a sketch plan nor any other document which fails to describe with reasonable certainty the type and intensity of use for a specific parcel or parcels of property may constitute a site-specific development plan.

SLUDGE. Any solid or semisolid waste generated from a wastewater treatment plant, water treatment plant, or air pollution control facility permitted under authority of the North Carolina Environmental Management Commission.

SOLID WASTE DISPOSAL FACILITY. Any facility involved in the disposal of solid waste as defined in G.S. 130A-290(a)(35).

SOLID WASTE DISPOSAL SITE. As defined in G.S. 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a one (1%) or greater chance of being flooded in any given year, as determined in Section 18.3(B) of this ordinance.

STABILIZING VEGETATION. Any vegetation that prevents accelerated soil erosion. Also means any vegetation that protects the soil against erosion.

STABILIZING VEGETATION. Any vegetation that prevents accelerated soil erosion. Also means any vegetation that protects the soil against erosion.

START OF CONSTRUCTION. Includes substantial improvement, and means the date of the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property *accessory buildings*, such as garages or sheds not

occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first *alteration* of any wall, ceiling, floor, or other structural part of the building, whether or not that *alteration* affects the external dimensions of the building. (This definition applies only with respect to flood hazard regulations.)

STORM, 100-YEAR. The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 100 years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

STORM, 10-YEAR. The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 10 years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

STORM DRAINAGE FACILITIES. The system of inlets, conduits, channels, ditches, and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

STORMWATER RUNOFF. The direct runoff of water resulting from precipitation in any form.

STREAM. A watercourse that collects surface runoff.

STREAM BUFFER. A natural, or vegetated, area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer width is measured landward from the normal pool elevation of impoundments and from the bank of each side of streams or rivers.

STREET, LOCAL. A street whose primary function is to provide access to abutting properties.

STREET, MAJOR THOROUGHFARE. Major thoroughfares consist of interstate, other freeway, expressway, or parkway links, and major streets that provide for the expeditious movement of high volumes of traffic within and through urban areas. Such roadways are designated on transportation plans adopted by the Village of Marvin.

STREET, MINOR THOROUGHFARE. Minor thoroughfares collect traffic from collector, sub-collector, and local streets and carry it to the major thoroughfare system. Minor thoroughfares may be used to supplement the major thoroughfare system by facilitating movement of moderate volumes of traffic within and through urban areas and may also serve abutting property. Such roadways are designated on transportation plans adopted by the Village of Marvin.

STREET, PRIVATE. A vehicular travel-way not dedicated or offered for dedication as a public street but resembling a cul-de-sac or a local street by carrying traffic from a series of driveways to the public street system.

STREET, PUBLIC. A dedicated public right-of-way for vehicular traffic which: (1) has been accepted by NRDOT for maintenance, or (2) is not yet accepted, but in which the roadway design and construction have been approved under public standards for vehicular traffic. *Alleys* are specifically excluded from this definition.

STREET, RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by a travel-way for vehicles and also available, with the consent of the appropriate governmental agency, for installation and maintenance of sidewalks, traffic control devices, traffic signs, street name signs, historical marker signs, water lines, sanitary sewer lines, storm sewer lines, gas lines, power lines, communication lines, and other infrastructure as approved by the Village.

STREET, SUBCOLLECTOR. A street whose principal function is to provide access to abutting properties, but which is also designed to be used or is used to connect local streets with collector or higher classification streets.

STORMWATER. Any flow resulting from, and occurring during or following, any form of natural precipitation.

STORMWATER CONVEYANCE OR STORMWATER CONVEYANCE SYSTEM. Any feature, natural or man-made, that collects and transports stormwater, including but not limited to roads with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made or natural channels, pipes, culverts, and storm drains and any other natural or man-made feature or structure designed or used for collecting or conveying stormwater.

STRUCTURE. A walled and roofed building, including manufactured homes; or with respect to flood Hazard Regulations of Article 18, a gas, liquid, or liquefied gas storage tank that is principally above ground. Trailers designed for over-the-road use are not a *structure*.

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or change in existing streets; except as exempted by G.S. 160D-802(a) listed in Article 16 of this Ordinance.

SUBDIVISION, ADMINISTRATIVE. A category of subdivision established under North Carolina State Statutes requiring expedited administrative approval.

SUBDIVISION ADMINISTRATOR. See *DEVELOPMENT ADMINISTRATOR*.

SUBDIVISION, MAJOR. Any non-residential subdivision; or a residential subdivision establishing more than three new lots, or requiring new public street(s) for access to interior property, or requiring extension of public sewerage and/or water line, or requiring a waiver or variance from any requirement of this Ordinance.

SUBDIVISION, MANUFACTURED HOME. A residential subdivision with manufactured homes on individual lots.

SUBDIVISION, MINOR. A residential subdivision involving three or fewer lots fronting on an existing approved public street(s), not requiring any new public or private street(s) for access to interior property, not requiring extension of public sewage or water line and not requiring a waiver, modification, or variance from any requirement of this Ordinance provided all of the following criteria are met:

- (1) The tract or parcel to be divided is not exempted under sub-section 16.1-2(A)(2) of Article 16 of this Ordinance.
- (2) No part of the tract or parcel to be divided has been divided under this definition in the 10 years prior to division.
- (3) The entire area of the tract or parcel to be divided is greater than 2 acres.
- (4) After division, no more than three lots result from the division.
- (5) After division, all resultant lots comply with all of the following:
 - a. All lot dimension size requirements of the applicable land-use regulations, if any.
 - b. The use of the lots is in conformity with the applicable zoning requirements, if any.
 - c. A permanent means of ingress and egress is recorded for each lot.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. (This definition applies only with respect to flood hazard regulations.)

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (A.) Any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement officials and which are the minimum necessary to assure safe living conditions; or,
- (B.) Any *alteration* of a historic structure, provided that the *alteration* will not preclude the structure’s continued designation as a historic structure.

SUBSTANTIALLY SIMILAR. The same or significantly the same as a prior plan or application as determined by the associated land area, the intensity of development proposed, the range of proposed uses, the type, variety and scale of signage, and other relevant factors.

SUBURBAN OPEN SPACE AMENITIES. Land available for and containing active and passive recreational elements, including parks, trails, clubhouses, playgrounds, *athletic fields* and courts, picnic facilities, benches, community gardens, and pools. It can include natural areas including floodplains, water bodies, wetlands, woodlands, land used for stormwater retention, and slopes over 15%.

SURFACE WATER BUFFER. A natural, vegetated, or re-vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer width is measured landward from the normal pool elevation of impoundments and from the bank of each side of streams or rivers. (This definition applies only with respect to Watershed Protection regulations.)

TELECOMMUNICATIONS TOWER. A tower, pole, or similar structure that supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, freestanding, guyed, or on a building or other structure.

THOROUGHFARE PLAN. A plan adopted the Village of Marvin and other governments in the regions for the planning and development of major transportation improvements in the region in an efficient and cost-effective manner.

TOURIST HOME. A private residence in which accommodations are provided for lodging and may include meals for overnight guests for a fee. This term includes “Bed & Breakfast” and “Air Bed & Breakfast” a.k.a. “Air B&B”.

TOWNHOUSE. See *DWELLING, ATTACHED HOUSE (TOWNHOUSE)*.

TOWNHOUSE LOT. A parcel of land intended as a unit for transfer of ownership and lying underneath, or underneath and around, a Village-house, patio home, or unit in nonresidential group development.

TOXIC SUBSTANCE. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off spring or other adverse health effects.

TRACT. All contiguous land and bodies of water in one ownership, or contiguous land and bodies of water in diverse ownership being developed as a unit, although not necessarily all at

one time. See *BUILDABLE OR ZONING LOT*.

TREE, CANOPY. A tree which normally grows to a mature height of 40 feet or more with a minimum mature crown of 30 feet.

TREE, RARE. A rare tree is:

- a. Any healthy living pine tree that has a trunk diameter of thirty-six (36) inches or more, or any other species that:
- b. Has a trunk diameter at breast height (DBH) of twenty-four (24) inches or more; or
- c. Has a trunk DBH of twelve (12) inches or more in the case of North Carolina native species from the list of genera in this section; or
- d. Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association; or
- e. Provides unique habitat for any endangered or threatened wildlife species protected by federal law; or
- f. Has been cited by the Village council as being historically significant; or
- g. Represents an uncommon species, such as Long Leaf Pine, Live Oak, or Sequoia Redwood, that the Village Planning, Zoning & Subdivision Administrator considers to be desirable and not to pose a threat to the local ecological balance.

TREE, SPECIMEN. A specimen tree is:

- a. Any healthy living pine tree that has a trunk diameter of eighteen (18) inches or more, or any other species that:
- b. Has a trunk diameter at breast height (DBH) of twelve (12) inches or more; or
- c. A trunk DBH of six (6) inches or more in the case of the North Carolina native species from a following list of genera:

North Carolina Native Genera: Aesculus (Buckeye), Amelanchier (Serviceberry), Asimina (Pawpaw), Carpinus (Hornbeam), Cercis (Redbud), Chionanthus (Fringetree), Cornus (Dogwood), Crataegus (Hawthorn), Diospyros (Persimmon), Fagus (Beech), Halesia (Silverbell), Hamamelis (Witch-hazel), Ilex (Holly), Juniperus (Cedar), Ostrya (Hophornbeam), Oxydendrum (Sourwood), Sassafras (Sassafras), Tsuga (Hemlock)

TREE, UNDERSTORY. A tree which normally grows to a mature height of 15 to 35 feet in height.

TYPICAL REQUIRED DRAINAGE CHANNEL SECTION. A cross-sectional view of a required drainage channel.

UNDISTURBED AREA. That portion of a lot, tract, or subdivision which has not and will not be occupied and which has not and will not be graded to change land contours or to destroy existing vegetation. Only areas that are wooded or reforested are considered undisturbed for the purposes

of watershed protection score sheet evaluation. (This definition applies only with respect to watershed protection regulations.)

URBAN OPEN SPACE AMENITIES. Facilities for active and passive recreational use located in urban areas that include sidewalks widened beyond what is required by code, plazas, street furniture, outdoor eating or gathering areas, fountains, rooftop gardens, areas featuring public art, or other urban-related amenities.

USE, LISTED. A use identified in the Table of Uses in this ordinance and shown as allowed within one or more of the zoning districts provided the basic standards and requirements of the zoning district and the required provisions of this Ordinance are met.

USE, LISTED WITH ADDITIONAL STANDARDS. A listed use requiring additional standards be met to ensure that the use fits the intent of the zoning districts within which it is permitted and that the use is compatible with other development permitted within the zoning district.

USE, SPECIAL. A use which is generally compatible with other land uses allowed in a zoning district but which, because of its unique characteristics or potential impacts on the surrounding neighborhood and the Village of Marvin, requires individual consideration of its location, design, configuration, and/or operation at the particular location proposed.

VARIANCE. Official permission from the *Board of Adjustment* to depart from the dimensional requirements of this ordinance.

VEGETATIVE BUFFER. An area meeting regulatory buffer requirements consisting entirely of plant materials that form a screen.

VELOCITY. The average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overland flows are not to be included for the purpose of computing velocity of flow.

VESTED RIGHT. A right pursuant to G.S. 160D-108 to undertake and complete the development and use of property under the terms and conditions of an approved site development plan.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certificates, or other evidence of compliance required in Article 18 is presumed to be in violation until such time as that documentation is provided. (This definition applies only with respect to flood hazard regulations.)

WATER DEPENDENT STRUCTURES. Structures for which the use requires access or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses,

docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

WATER QUALITY CONSERVATION EASEMENT. See Easements.

WATER SURFACE ELEVATION (WSE). The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

WATERCOURSE. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

WATERS OF THE STATE. Surface waters within or flowing through the boundaries of the state including the following: any intermittent or perennial stream, river, creek, brook, swamp, lake, sound, tidal estuary, bay, reservoir, wetland, or any other surface water or any portion thereof that is mapped as solid or dashed blue lines on United States Department of the Interior Geological Survey 7.5-minute series topographic maps. Treatment systems, consisting of man-made bodies of water, which were not originally created in waters of the state, which are not the result of impoundment of waters of the state, are not waters of the state.

WATERSHED AREA. That portion of the watershed within the basin of the water supply as delineated in Article 19.

WET DETENTION POND. A natural or man-made water body that provides for the storage and gradual release of stormwater runoff by means of a permanent pool of water having an outfall to another water body, and which has a permanent pool that utilizes both settling and biological process to remove both particulate and soluble particulates. See Best Management Practices definition.

WET RETENTION POND. A natural or man-made water body that provides for the storage of stormwater runoff by means of a permanent pool of water. See Best Management Practices definition.

WETLANDS. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support under normal circumstances a prevalence of vegetation typically adapted for life in saturated soil conditions.

WHOLESALE TRADE. An establishment primarily engaged in selling durable and nondurable goods to retailers; to industrial, commercial, institutional, farm, construction contractors, or professional business uses; or to other wholesalers. Merchandise may be stored inside enclosed buildings or outside. On-site activities include physically assembling, sorting, and grading goods in large lots and breaking bulk for redistribution in smaller lots.

WIRELESS FACILITY. See G.S. 160D-931(22)

YARD SALE (OR GARAGE SALE). The sale of items outdoors, or from a vehicle, or from a garage or other *accessory building*, belonging to one or more sponsors of the sale.

ZONING DISTRICT. An area defined by this Ordinance and delineated on the Official Zoning Maps in which the requirements for the use of land and building and development standards are prescribed.

ZONING PERMIT (OR ZONING COMPLIANCE PERMIT). A written document approved by the administrator of this Ordinance, or their authorized designee, indicating compliance with the provisions of this Ordinance and entitling the applicant to proceed with subsequent activities authorized by said permit provided all requisite approvals have also be secured in accordance with this Ordinance and/or all other applicable requirements.

ZONING VESTED RIGHT. See *VESTED RIGHT*.

ABBREVIATIONS

ABC - Alcoholic Beverage Commission

ADA – Americans with Disabilities Act

ANSI – American National Standards Institute.

ATM – Automatic Teller Machine.

BFE – Base Flood Elevation.

BMP – Best Management Practices.

BOCA – Building Officials and Code Administrators.

C-16 – NC Highway 16 Commercial District

CERCLA- Comprehensive Environmental Response, Compensation and Liability Act.

CIV – Civic District.

CLG – Certified Local Government.

CO – Certificate of Occupancy.

CRZ – Critical Root Zone.

CWA – Clean Water Act.

DBH - Diameter at Breast Height.

DFIRM – Digital Flood Insurance Rate Map.

DWQ – Division of Water Quality.

EA – Environmental Assessment.

EIS – Environmental Impact Statement.

EPA – Environmental Protection Agency.

EPCRA – Emergency Planning and Community Right-to-know Act.

ETJ – Extraterritorial Jurisdiction

FAA – Federal Aviation Authority.

FBFM – Flood Boundary and Floodway Map.

FCC – Federal Communication Commission.

FEMA – Federal Emergency Management Agency.

FHBM – Flood Hazard Boundary Map.

FIRM – Flood Insurance Rate Map.

G.S. – General Statutes.

HIO – Heavy Industry Overlay District.

HD – *Heritage District*

HUD – Housing and Urban Development.

HVAC – Heating, Ventilation and Air Conditioning.

IND – Industrial District.

ISA – International Society of Arboriculture.

LCID – Land Clearing Inert Debris.

LEPC – Local Emergency Planning Committee.

LOMA – Letter of Map Amendment.

LOMC – Letter of Map Change.

MAX – Maximum.

MDO – Marvin Development Ordinance.

MHO – Manufactured Home Overlay District.

MIN – Minimum.

MLS – Multiple Listing Service.

MPH – Miles Per Hour.

MSDS – Material Safety Data Sheets.

MU – Mixed Use District.

NAVD – North American Vertical Datum.

NCAC – North Carolina Administrative Code.

NCDEQ – North Carolina Department of Environmental Quality.

NCDOT – North Carolina Department of Transportation

NCGS – North Carolina General Statutes.

OPA - An Otherwise Protected Area.

OSHA – Occupational Safety and Health Administration.

PEV – Plug-in Electric Vehicles.

PIN – Property Identification Number.

PZ&SA – Planning, Zoning & Subdivision Administrator.

POD – Portable Storage Unit.

ROW – Right of Way.

RR – Rural Residential District

RV – Recreational Vehicle.

SARA – Superfund Amendment and Reauthorization Act.

SCO – Scenic Corridor Overlay District.

SERC – Smithsonian Environmental Research Center.

SFHA – Special Flood Hazard Area.

SFR – Single Family Residential District.

TCA – Tree Conservation Area.

TNDO – Traditional Neighborhood Development Overlay District.

TRI – Toxic Release Inventory.

USDA – US Department of Agriculture.

VSR – Vehicle Service and Repair District.

VUA – Vehicular Use Area.

WSE – Water Surface Elevation.

SYMBOLS

(Symbols Used in the Text)

Ac. - Acre

a.k.a. - Also Known As

@ - At

= - Equals

‘ - Foot

Ft. - Foot

“ - Inch

Incl. – including

lf or LF – Linear feet

% - Percent

r/w – Right-of-Way

Sq. - Square

w/ - with

ARTICLE 4

PLANNING BOARD & BOARD OF ADJUSTMENT

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Recommended by Planning Board 16 April 2024

ARTICLE 4

PLANNING BOARD & BOARD OF ADJUSTMENT

4.1 Boards Established

The following boards are hereby established to carry out the duties and responsibilities set forth in this Ordinance and in fulfillment of the goals and purposes of this Ordinance:

- (A.) Planning Board
- (B.) Board of Adjustment

4.2 Planning Board

4.2-1 Authority. There is hereby created a planning agency, pursuant to G.S. 160D-301 to be known as the Village of Marvin *Planning Board*.

4.2-2 Membership by Appointment. The *Planning Board* shall consist of seven (7) members, who shall reside within the Village Limits, in accordance with G.S. 160D-307. Members shall be appointed by the Village Council in accordance with G.S.160D-310. All members shall have equal rights, privileges and duties; except as defined for officers by adopted Rules of Procedure. All members shall be appointed for three (3) year terms except in making the original appointments.

(A.) Seating Members. In making the original appointment three (3) members shall be appointed for a three (3) year term; two (2) members shall be appointed for a two (2) year term; and two (2) members shall be appointed for a one (1) year term.

(B.) Alternates. The Village Council may, in its discretion, appoint alternate members to serve on the *Planning Board* in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving on behalf of any regular member, shall have and may exercise all the powers and duties of a regular member. (G.S. 160D-301(a))

4.2-3 Oath of Office. Any person appointed to the board shall take and subscribe the oath of office prescribed in Article VI, § 7 of the Constitution as stipulated in G.S.160A-61.

4.2-4 Powers and Duties. The *Planning Board* shall have the following powers and duties:

(A.) To provide recommendations to the Village Council with regard to map amendments (rezoning), text amendments, and other matters on which the Village Council seeks advice;

(B.) To develop and update a Comprehensive Land Use and/or Master Plan for the planning and development regulation jurisdiction, subject to specific direction from the Village Council;

(C.) To render opinions and make recommendations on all issues, requests, and petitions related to the Marvin Development Ordinance and the Comprehensive Land Use and/or Master Plan that may be adopted and/or amended from time to time and that require approval by the Village Council; and

(D.) To make such other studies and plans and review such other related matters as directed by the Village Council.

4.2-5 Voting. A simple majority of the Board membership shall be required to affirm any decision, recommendation or statement of the Board.

4.2-6 Conflicts & Violations of Due Process. A member of the *Planning Board* shall not participate in or vote on any matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. A member shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable impact on the member. A member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship with an affected person. If an objection is raised to a member's participation and that member does not recuse themselves, the remaining members shall by majority vote rule on the objection. (G.S. 160D-109).

4.3 Board of Adjustment

4.3-1 Authority. Pursuant to G.S. 160D-302, there is hereby created a *Board of Adjustment*.

4.3-2 Membership by Appointment. The Board of Adjustment shall consist of five (5) members who shall reside within the Village Limits in accordance with G.S. 160D-307. Members shall be appointed by the Village Council in accordance with G.S.160D-310. All members shall have equal rights, privileges and duties; except as defined for officers by adopted Rules of Procedure. All members shall be appointed for three (3) year terms except in making the original appointments.

(A.) Seating Members. In making the original appointment two (2) members shall be appointed for a three (3) year term; two (2) members shall be appointed for a two (2) year term; and one (1) member shall be appointed for a one (1) year term.

(B.) Alternates. The Village Council shall appoint alternate members to serve on the *Board of Adjustment* in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving on behalf of any regular member, shall have and may exercise all the powers and duties of a regular member. (G.S. 160D-302(a))

4.3-3 Oath of Office. Any person appointed to the Board shall take and subscribe the oath of office prescribed in Article VI, § 7 of the Constitution as stipulated in G.S.160A-61.

4.3-4 Powers and Duties. The *Board of Adjustment* shall have the following powers and duties:

(A.) To hear and decide appeals from an order, denial of a permit or other written decision made by an administrative official charged with enforcing this Ordinance;

(B.) To hear and decide requests for variances from the zoning provisions of this Ordinance in cases where special conditions would make strict and literal interpretation result in a loss of privileges shared by other properties within the same zoning district;

(C.) To hear and decide appeals from any decision or determination made by the *Village Engineer* in the administration and/or enforcement of Articles 19 and 20 of this Ordinance;

(D.) To hear and decide appeals and requests for variances from the requirements of

the *Flood Damage Prevention* provisions of this Ordinance, as set forth in Article 18; and

(E.) To hear and decide all matters referred to it or upon which it is required to pass under this Ordinance and/or any ordinance duly adopted wherein the Board of Adjustment is designated to hear appeals or other duties.

4.3-5 Voting. A four-fifths vote of the members shall be required to grant a variance; otherwise, a simple majority of the Board membership shall be required to affirm, reverse or modify any written order, decision, or interpretation of the Enforcement Officer charged with enforcing this Ordinance; to decide in favor of the applicant on a matter [other than variances] upon which the Board is required to pass; Vacant positions on the *Board of Adjustment* and members who are disqualified from voting on a matter before the *Board of Adjustment* shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

4.3-6 Conflicts & Violations of Due Process. A member of the *Board of Adjustment* shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection. (G. S. 160D-109).

4.3-7 Proceedings. All meetings of the Board of Adjustment shall be open to the public. The Board shall keep minutes showing the vote of each member on each question and the absence or failure of any member to vote. The final disposition of each matter decided by the Board of Adjustment shall be by recorded resolution indicating the reasons for the decision, based on findings of fact obtained by testimony under oath or affirmation and conclusions of law which shall be public record. On all appeals, applications and other matters brought before the Board of Adjustment, the Board shall inform in writing all the parties involved of its decision and the reasons for that decision.

4.4 Meetings, Hearings, and Procedures of all Boards

All meetings and hearings shall be open to the public and shall be conducted in accordance with the procedures set forth in these regulations and with the rules of procedure adopted for the *Planning Board*, and *Board of Adjustment*. The rules of procedure may be amended by the respective board membership; however, such amendment shall be approved by the Village Council to become effective.

The rules of procedure shall be kept on file at the office of the *Planning, Zoning & Subdivision Administrator* and shall be made available to the public both online at the Village's website and at any meeting or hearing. No rules or procedures shall conflict with this Ordinance; if conflicts occur this Ordinance shall take precedence.

Members shall take the oath of office administered by the Village Clerk prior to taking part in any agenda items before the board upon which a member is appointed in accordance with G.S.160D-309 and G.S.160A-61.

4.5 Staff

The *Planning, Zoning & Subdivision Administrator* shall serve as staff to the *Planning Board*, and *Board of Adjustment*; and shall provide technical assistance to the *Planning Board*, and *Board of Adjustment*, as requested.

Recommended by Planning Board

ARTICLE 5

AMENDMENTS TO DEVELOPMENT ORDINANCE AND ZONING MAP

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Recommended by Planning Board 16 April 2024

ARTICLE 5

AMENDMENTS TO DEVELOPMENT ORDINANCE AND ZONING MAP

5.1 General

The *Marvin Village Council* may amend, supplement, modify, or repeal any provision of this ordinance or amend the zoning maps according to the procedure established by G.S.160D-601 through G.S. 160D-605. Such amendments shall be evaluated for compliance with the “The Plan” referenced in Article 1, Sections 1.3, 1.4, and 1.5 of this Ordinance, including subsequent amendments adopted by the Village Council of the Village of Marvin and other applicable adopted plans, and may require a land use plan and/or comprehensive master plan amendment to ensure compatibility between the plan(s) and the amendment. Amendments and modifications shall be acted upon by the *Village Council*, after recommendation from the *Planning Board*.

5.2 Initiation of Amendments

Proposed changes or amendments to either the text of this Ordinance or the Official Zoning Map may be initiated by the *Marvin Village Council*, the *Marvin Planning Board*, the *Marvin Planning, Zoning & Subdivision Administrator*, any owner of a legal or equitable interest in land located in the Village’s jurisdiction, or any resident of the Village’s jurisdiction having a legal or equitable interest in land affected by the proposed amendment. See Section 5.3-1(D) of this Article for content of an application for amendment(s).

No amendment to zoning regulations or a zoning map that down-zones property shall be initiated, nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Village.

The following changes to this Ordinance are authorized and may be carried out by either the *Village Clerk* or the *Planning, Zoning, & Subdivision Administrator* or their designee, without processing a formal amendment:

1. Corrections to the Official Zoning Map to reflect updated information on property boundaries, street alignments, natural stream alignments, etc. shall not be considered amendments;
2. Edits to the text of this Ordinance and/or the Official Zoning Map to update a table of amendments, add information to the legend of the Official Zoning Map, correct typographical errors, add and/or correct geographical information, and/or insert notations representing amended text in an article, section, subsection or

- provision;
- 3. Modifications directed by legislative action of the North Carolina legislature; and
- 4. Deletions of provisions stricken down by a court of competent jurisdiction.

5.3 Amendment Process

5.3-1 Initial Application Process.

(A.) Pre-filing meeting. Before filing an application for an amendment an applicant shall meet with the *Planning, Zoning & Subdivision Administrator* to discuss the proposed amendment and to become more familiar with the applicable requirements and approval procedures.

(B.) Neighborhood meeting. It is required that the applicant for a zoning map amendment (rezoning) meet with representatives and/or landowners of the neighborhood in which the property for which the proposed map amendment (rezoning) is located as authorized by G.S. 160D-602(e), with mailed notice to all property owners within 1,300 linear feet of the subject property at least ten (10) days before the meeting date. The applicant shall coordinate the time and date of the meeting to enable the *Planning, Zoning & Subdivision Administrator* to attend and address procedural questions that arise. The neighborhood meeting shall be conducted prior to the date of the legislative hearing at which comments on the application will be heard. This meeting may be held either before or after, but not on, the date of the meeting at which the Planning Board review and recommendation is scheduled.

(C.) Filing.

- (1.) An application requesting an amendment shall be filed with the *Planning, Zoning & Subdivision Administrator*.
- (2.) Applicable fees shall be payable as set forth by the *Marvin Village Council*.
- (3.) Completed applications submitted by 12:00 noon on the 25th day, or next business day in the event of closure, of any calendar month will be considered at the meeting of the *Marvin Planning Board* scheduled for the following month.

(D.) Content and valid authorization of applications.

- (1.) Each application shall contain or be accompanied by all information required on the application form provided by the *Planning, Zoning & Subdivision Administrator*.
- (2.) Every amendment proposing to change the district boundary lines shall be accompanied by metes and bounds description, a survey of the area involved, or reference to existing lots, sufficient in the estimation of the *Planning, Zoning &*

Subdivision Administrator to plot or otherwise identify the amendment on the Official Zoning Map of the Village of Marvin.

- (3.) Any person designated by the owner(s) of the property included in the petition to serve as agent for the owner shall submit such authorization in writing with the application. See Section 5.2 of this Article.
- (4.) Applications for Conditional Zoning of property within the jurisdiction of the Village of Marvin shall follow the procedures appearing in Section 5.4 of this Ordinance.

5.3-2 Review by the Marvin Planning Board.

General. Upon submission of a request for amendment of the Marvin Development Ordinance or an Official Zoning Map amendment, the request shall be scheduled for review by the Marvin Planning Board in a public meeting in accordance with Section 5.3-1(C)(3) of this Article.

- (A.) Review – General. The *Planning Board* shall make recommendations to the Marvin Village Council regarding whether to approve or deny each proposed amendment. When considering an amendment, the *Planning Board* shall consider both the consistency and reasonableness of the amendment with the “The Plan” referenced in Article 1 of this Ordinance, including subsequent amendments adopted by the Village Council of the Village of Marvin and other applicable adopted plans for the area affected by the proposed amendment.
- (B.) Recommendation by the Marvin *Planning Board*. Following a recommendation by the Marvin *Planning Board* on the proposed amendment(s), the action shall be reported to the Marvin Village Council for a legislative hearing and final action according to the process set forth in Section 5.3-3 of this Ordinance. The legislative hearing will be scheduled as provided by the rules of procedure of the Village Council for calling legislative hearings.
- (C.) Continuance by the Marvin *Planning Board*. In those cases where, upon hearing the request, the *Planning Board* feels that more information is needed, questions have arisen, or other circumstances occur in which additional time is needed to enable the Board to make a decision, the *Planning Board* may continue their meeting for up to sixty-four (64) days. The Board shall direct the appropriate person(s) to obtain the needed information, provide answers to questions, and/or conduct other investigations during this time to enable the Board to decide at the reconvening of the continued meeting. The *Planning Board* shall act upon either an affirmative or negative recommendation on continued items at the continued meeting.
- (D.) Content of recommendation and statement of consistency. Any recommendation made by the Marvin *Planning Board* to the Marvin Village Council pursuant to this

section shall be in writing. In addition, the Marvin *Planning Board* shall approve a statement in accordance with G.S. 160D-605(a) describing whether or not the proposed amendment is consistent with the “The Plan” referenced in Article 1 of this Ordinance, including subsequent amendments adopted by the Village Council of the Village of Marvin and other applicable adopted plans.

- (E.) Conflict of Interest. A member of the *Planning Board* shall not participate in or vote on any matter in a manner that would violate affected persons’ constitutional rights to an impartial decision maker. A member shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable impact on the member. A member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship with an affected person. If an objection is raised to a member’s participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection. (G.S. 160D-109).

5.3-3 Review by the Marvin Village Council.

- (A.) Review and Legislative Hearing. Before adopting, amending, or repealing any ordinance authorized by this Article, the Village Council shall hold a legislative hearing on it. Following receipt of either a recommendation, or receipt of the petitioner's request for an amendment, the Marvin *Village Council* shall hold a legislative hearing on the proposed amendment to obtain public comment(s). The legislative hearing shall be scheduled and conducted as provided by the Village Council’ rules of procedure.
- (B.) Notification. The *Village Clerk* or authorized designee shall prepare a public notice for the legislative hearing as required below: (G.S. 160D-601 and G.S. 160D-602).
- (1.) Method of procedure for publishing notice of all amendments per G.S. 160D-601.
A notice of the legislative hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- (2.) Method of procedure for mailed notice of Zoning Map Amendments per G.S. 160D-602.
- (a) In addition to the publication requirements for notices of legislative hearings required in Section 5.3-3(B)(1), the procedures adopted pursuant to this

section provide that whenever there is a zoning map amendment the owner of that parcel of land as shown on the county tax listing and the owners of all parcels of land abutting that parcel of land including those separated by a street, railroad, or other transportation corridor as shown on the county tax listing shall be mailed a notice of a legislative hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the legislative hearing. Except for a Village-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the Village Council that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of legislative hearing. The person or persons required to provide notice shall certify to the Village Council that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud.

- (b) The first-class mail notice required under subsection (a) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the Village elects to use the expanded published notice provided for in this subsection. In this instance, the Village may elect to either make the mailed notice provided for in subsection (a) of this section or may as an alternative elect to publish notice of the hearing as required by G.S. 160D-601, but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (a) of this section.
- (c) When a zoning map amendment is proposed, the Village shall prominently post a notice of the legislative hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way during the same time period as stated in Sub-section 5.3-3(B)(2)(a). When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Village shall post sufficient notices to provide reasonable notice to interested persons.

(C.) Upon receipt of the recommendations from the Planning Board, the Village Council shall hold a legislative hearing on the application for an amendment. Notice of the legislative hearing shall be provided in accordance with the provisions for legislative hearings for amendments as set forth in section 5.3-3(B) of this Ordinance and the North Carolina General Statutes. (ref. G.S. 160D-601 through G.S. 160D-603)

(D.) Action.

- (1.) Before acting on any proposed amendment, the *Marvin Village Council* shall consider any recommendation made by the *Marvin Planning Board*, the recommendation submitted by the *Planning, Zoning & Subdivision Administrator* to the *Planning Board*, the comments made at the legislative hearing, and may consider any other relevant additional information available.
- (2.) When considering a proposed amendment, the *Marvin Village Council* shall not evaluate the petition based on any specific proposal for the use or development of the property unless explicitly required by this Ordinance. The petitioner shall not use any graphic materials or descriptions of the proposed development except for those that would apply to all uses permitted by the requested classification including applications for an overlay district Zoning Map Amendment (TNDO & HIO) where the use is highly pertinent to the facts during consideration of the amendment and/or where a development agreement is to be made a part of the project.
- (3.) Upon reviewing all pertinent information, the *Marvin Village Council* may take whatever action it may deem appropriate, including tabling the application for the purpose of additional neighborhood meeting(s) as required by Section 5.3-1(B) of this Article.

(E.) Statements of Consistency and Reasonableness. Prior to adopting or rejecting any amendment, the *Village Council* shall approve a statement in accordance with G.S. 160D-605(a) describing whether or not the proposed amendment is consistent with the “The Plan” referenced in Article 1 of this Ordinance, including subsequent amendments adopted by the Village Council of the Village of Marvin and other applicable adopted plans. When either adopting or rejecting a zoning map amendment the *Marvin Village Council* shall approve a statement analyzing the reasonableness of the proposed amendment in accordance with G.S. 160D-605(b). The statement of reasonableness may consider, among other factors:

- (1.) The size, physical conditions, and other attributes of the area proposed to be rezoned;
- (2.) The benefits and detriments to the landowners, the neighbors, and the surrounding community;

- (3.) The relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;
- (4.) Why the action taken is in the public interest; and
- (5.) Any changed conditions warranting the amendment.

Such statements may be combined into a single statement per G.S. 160D-605(c) and incorporated into ordinances amending either the text of an ordinance established under the authority of G.S. 160D or, the Official Zoning Map established under the authority of G.S. 160D-105(a) reflecting the division of territorial jurisdiction established under authority of G.S. 160D-703.

- (F.) Conflict of Interest. A *Village Council* member shall not vote on any matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. A member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable impact on the member. A *Village Council* member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship with an affected person. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection. (G.S. 160D-109).

5.3-4 Waiting period for subsequent applications.

- (A.) Waiting period - general. When an application for a zoning map amendment has been approved or denied by the Marvin *Village Council*, no application including the same property shall be accepted or considered within four (4) months after the date of the approval or denial. This restriction shall apply regardless of whether or not the new application is for a zoning classification different from the original application.
- (B.) Waiting period - waiver. The waiting period required by this section may be waived by a three-fourths vote of Marvin *Village Council* if it determines that there have been substantial changes in conditions or circumstances which may relate to the request. A request for a waiver of the waiting period shall be submitted to the *Planning, Zoning & Subdivision Administrator*, who shall review and prepare a recommendation regarding action on the request. Said recommendation shall be considered by the *Village Council* in their review of the request for a waiver. If the request for the waiver is approved, the application shall go through the full review process as set forth above.

5.4 Conditional Zoning

5.4-1 Purpose.

Conditional zoning is established in accordance with G.S. 160D-703(b) to provide for flexibility in the development of property while ensuring that the development is compatible with neighboring uses. Conditional zoning affords a degree of certainty in land use decisions not possible when rezoning to a Primary General Use District. Additional standards and regulations, mutually agreed upon in writing by the Village of Marvin and the petitioner, may be attached to a proposed development to ensure compatibility with the surrounding uses and with applicable adopted plans in accordance with the requirements of this section.

5.4-2 Conditional zoning districts.

Conditional zoning is available for any of the Primary General Use or Overlay District classifications enumerated in Article 8 of this Ordinance, except for those that require a site-specific development plan as part of the application (e.g., Traditional Neighborhood Development (TNDO) Overlay District, Heavy Industry (HIO) Overlay District). The conditional zoning designation shall be indicated on all zoning maps and other official documents with the suffix, "(CZ)" and enumerated to reference the ordinance on record of the approval (e.g. "MU-1(CZ-2021-01), Ord. #2021-99").

5.4-3 General requirements.

The following provisions shall apply in the administration of conditional zoning:

(A) A conditional zoning application shall be considered only upon request of the owner of the affected property or a duly authorized representative of the property owner demonstrated by written, signed and notarized documentation.

(B) Applicant shall meet with representatives of the surrounding property owners and of the surrounding neighborhood(s) to discuss the proposed development, and include a report of any such meetings in accordance with Section 5.3-1(B) of this Article to the *Planning, Zoning & Subdivision Administrator*.

(C) All standards and requirements of the corresponding Primary General Use District shall be met, except to the extent that the conditions imposed by the conditional zoning are more restrictive than the general use standards.

(D) No uses shall be permitted except those enumerated in the ordinance adopting the conditional zoning.

(E) The conditions agreed upon pursuant to the Conditional Zoning approval shall be stated in the adopting ordinance and may limit the uses which are permitted on the property. By way of illustration and not limitation, conditions may specify location on the property of the proposed structure(s), the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways, and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the height of structures, the location and extent of rights-of-way and other areas to be dedicated for public purposes, and other such matters as may be identified as appropriate for the proposed development.

(F) Minor modifications to the approved Conditional Zoning ordinance may be approved by the *Planning, Zoning & Subdivision Administrator* per authorization under G.S. 160D-703(b). The minor modifications authorized herein are intended to provide relief where conditions established by the Conditional Zoning ordinance create a hardship based upon a unique physical attribute of the property itself or some other factor unique to the property which was not known at the time of ordinance adoption and which has subsequently rendered the property difficult or impossible to use due to the condition(s) imposed by the zoning. The permit holder shall bear the burden of proof to secure the modification(s). Such modifications shall be limited to the following:

1. A deviation of up to ten percent or 24 inches, whichever is greater, from the approved setback, provided that the conditions for approving a deviation from the required setback established by Article 14 (Flexible Development Standards) of this Ordinance are met.
2. A reduction of up to 25 percent in the number of parking spaces required for the use provided that the proposed development is located within ½ mile of either the Heritage District (HD) or the Mixed Use (MU-1 and MU-2) and on-street parking is available.
3. Any other minor modification in accordance with the limitations and procedures prescribed in this Ordinance, unless restricted by G.S. 160D-703(b), or the Conditional Zoning ordinance adopted pursuant to this section specifies otherwise.

Any other modifications must be approved by the Village Council as an amendment to the Conditional Zoning ordinance and may be referred to the Planning Board or *Planning, Zoning & Subdivision Administrator* as appropriate. The *Planning, Zoning & Subdivision Administrator* shall in every case have the discretion to decline to exercise the power to approve or deny modifications as provided for herein, and may require the applicant to seek an amendment to the Conditional Zoning ordinance.

(G) Any violation of a provision of a Conditional Zoning ordinance shall be treated the same as any other violation of this Ordinance and shall be subject to the same remedies and penalties as any other such violation.

(H) If for any reason any provision of a Conditional Zoning ordinance is found to be illegal or invalid, or if the applicant should fail to accept any condition, the entire Conditional Zoning ordinance shall be null and void, and the property shall revert to its previous zoning classification without further action by the Village Council.

(I) If no formal action (e.g. construction plan submittal, permit application, etc.) has been taken to begin the development of the property in accordance with the Conditional Zoning ordinance within 24 months of its approval by Village Council, or no vested right has been obtained, then the property shall revert to its previous zoning classification, or the *Planning, Zoning & Subdivision Administrator* may initiate appropriate action to rezone the affected property to any other classification deemed consistent with “The Plan” referenced in Article 1 of this Ordinance, including subsequent amendments adopted by the Village Council of the Village of Marvin and other applicable adopted plans.

(J) If the use or uses commenced pursuant to a Conditional Zoning ordinance adopted pursuant to this section are abandoned or discontinued or no vested right has been obtained then the property shall revert to its previous zoning classification, or the *Planning, Zoning & Subdivision Administrator* may initiate appropriate action to rezone the affected property to any other classification deemed consistent with “The Plan” referenced in Article 1 of this Ordinance, including subsequent amendments adopted by the Village Council of the Village of Marvin and other applicable adopted plans.

(K) No variances or special use permits may be issued for developments on property that is subject to a Conditional Zoning ordinance.

5.4-4 Application procedure.

When applying for Conditional Zoning, the application shall specify the nature of the proposed development and shall propose conditions to ensure compatibility with the surrounding uses and consistency with adopted plans. Applications for Conditional Zoning shall be processed, considered, and voted upon in accordance with procedures established in Section 5.3 of this Article for zoning map and zoning text amendments, except as provided below:

(A) The application shall include site plans, landscape plans, building elevations, floor plans, and such other information required to provide the approving bodies with a complete and accurate description of the proposed development.

(B) The application and supporting materials shall be reviewed by the *Planning, Zoning & Subdivision Administrator* in accordance with Section 7.8 of this Ordinance prior to the meeting of the Planning Board at which the application is to be considered. The recommendations and comments of the *Planning, Zoning & Subdivision Administrator* shall be reported to the Planning Board. In addition, the *Marvin Planning, Zoning & Subdivision Administrator* shall evaluate Conditional Zoning applications on the basis of the criteria for special use permits set out in Article 7, and shall submit said report at the legislative hearings on said applications.

(C) Following review by the *Planning, Zoning & Subdivision Administrator*, the Planning Board shall review the application and all requisite documents at a regularly scheduled meeting following the procedures defined in Sub-section 5.3-2 of this Article. The Planning Board may recommend approval of the application, including recommending conditions for the zoning; recommend denial of the application; or continue the consideration of the application in order to receive further information regarding the application as authorized by Sub-section 5.3-2(C) of this Article.

(D) Upon receipt of the recommendations from the Planning Board, the Village Council shall hold a legislative hearing on the application for Conditional Zoning. Notice of the legislative hearing shall be provided in accordance with the provisions for legislative hearings for zoning map amendments as set forth in Section 5.3-3(B) of this Ordinance and G.S. 160D-601 and G.S.160D-602.

(E) The Village Council' consideration of an application for Conditional Zoning is legislative in nature, and the Village Council may consider any relevant information in its deliberations, including the criteria for issuing special use permits specified in Article 7. Consideration shall be given to adopted land use plans for the area, small area plans, corridor plans, and other land use policy documents, and to surrounding land uses. The Village Council may adopt or not adopt a Conditional Zoning ordinance in accordance with the procedures defined in Sub-section 5.3-3 of this Article, or may continue its consideration of the application as necessary to conclude consideration and deliberations.

(F) During the adoption of a Conditional Zoning ordinance, specific conditions may be proposed by the petitioner, Village Council, Planning Board, or Village staff, but only those conditions mutually approved by the Village Council and the petitioner in writing may be incorporated into the zoning regulations and permit requirements. Conditions and site-specific standards imposed in a conditional zoning district shall be limited to those that address the conformance of the development and use of the site to Village ordinances, an officially adopted land use, comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

(G) Specific findings of the Village Council are not required for action on an application for Conditional Zoning. However, a statement analyzing the reasonableness of the proposed rezoning shall be prepared for each conditional zoning district as required by Sub-section 5.3-3(E) of this Article.

(H) Upon adoption of a Conditional Zoning ordinance, the Official Zoning Map of the Village of Marvin shall be amended to add the conditional zoning district and denote the reference as required by Sub-section 5.4-2 of this Article. The *Planning, Zoning & Subdivision Administrator* shall maintain a book or file for Conditional Zoning ordinances, and each Conditional Zoning ordinance shall be filed therein. Failure to comply with this provision shall not render the ordinance invalid.

(I) The Conditional Zoning ordinance adopted as provided herein shall be perpetually binding upon the affected property unless subsequently changed or amended as provided for in this Ordinance.

(J) Conditional Zoning ordinances are legislative in nature, and judicial review of Conditional Zoning ordinances shall be as provided by Article 14 of Chapter 160D of the North Carolina General Statutes.

ARTICLE 6

VARIANCES AND ADMINISTRATIVE APPEALS

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Recommended by Planning Board 16 April 2024

ARTICLE 6

VARIANCES AND ADMINISTRATIVE APPEALS

6.1 Variances

6.1-1 Purpose. The variance process fulfilled by the *Board of Adjustment* is intended to provide limited relief from the requirements of this Ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this Ordinance in accordance with G.S.160D-705(d). It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this Ordinance may impose on property owners in general or to increase the profitability of a proposed development. Rather, it is intended to provide relief where the requirements of this Ordinance render the land difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the variance is requested.

6.1-2 Provisions That May Not Be Varied By the Board of Adjustment. In no event shall the *Board of Adjustment* grant a variance:

- (A) With respect to any *Conditional Zoning* district or *special use* zoning permit adopted pursuant to this Ordinance, Modifications applicable to Conditional Zoning Districts and/or Special Use Permits may be considered in accordance with the provisions of either Section 5.4-3(F) of this Ordinance for Conditional Zoning districts or Section 7.8-14 of this Ordinance for Special Use Permits respectively.
- (B) To the flood protection provisions within a designated floodway district that would result in any increase in the flood levels during the regulatory flood discharge.
- (C) Which would permit uses of land or densities not otherwise permitted in the district in which the property is located.
- (D) Which would conflict with the North Carolina State Building Code, the North Carolina Fire Prevention Code, or any other codes of the State of North Carolina unless otherwise authorized by laws and/or regulations.

6.1-3 Application. The following process shall be followed in applying for a variance:

- (A) An application for a *variance* may be filed by the landowner, a lessee or person holding an option or contract to purchase or lease land, or by an authorized agent of the landowner. Where an agent files the application, the agent shall provide documentation that the owner of the property has authorized the filing of the application. The application for a *variance* shall be filed with the *Planning, Zoning & Subdivision Administrator* on a form provided by the *Planning, Zoning & Subdivision Administrator*.
- (B) Before filing the application, the applicant shall meet with the *Planning, Zoning & Subdivision Administrator* to discuss the proposed variance and to become more familiar with the applicable requirements and the variance

process. Modifications applicable to Conditional Zoning districts and/or Special Use Permits may be considered in accordance with the provisions of either Section 5.4-3(F) of this Ordinance for Conditional Zoning districts or Section 7.8-14 of this Ordinance for Special Use Permits respectively.

- (C) An application for a variance shall be filed with the *Planning, Zoning & Subdivision Administrator* on a form provided by the *Planning, Zoning & Subdivision Administrator* and contain the information and plans required on the application form.
- (D) The application shall be accompanied by a fee as required by the Village of Marvin.
- (E) Once the application is accepted as complete by the *Planning, Zoning & Subdivision Administrator*, the request shall be scheduled for consideration at an evidentiary hearing by the *Board of Adjustment* in accordance with G.S.160D-406.

6.1-4 Action by The Board of Adjustment. The following action shall be taken by the *Board of Adjustment* upon receipt of the completed application in accordance with G.S.160D-406:

- (A) An evidentiary hearing shall be held on the requested variance within thirty-six (36) days of receipt of a complete application.
- (B) Notice of the hearing in accordance with G.S.160D-406(b) and any administrative materials to be presented in accordance with G.S.160D-406(c) shall be deposited in the mail at least ten (10) days but not more than twenty-five (25) days prior to the date of the hearing to:
 - (1) The person or entity whose variance application or request is the subject of the hearing;
 - (2) The owner of the property that is the subject of the hearing if the owner did not initiate the hearing;
 - (3) Owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and,
 - (4) To any other person who makes a written request for such notice at least ten (10) days prior to the date of the hearing.
- (C) A sign stating the purpose, time, date and place shall be prominently posted on the subject property or an adjacent street or highway right-of-way at least ten (10) but not greater than twenty-five (25) days prior to the date of the hearing.
- (D) In considering the application, the *Board of Adjustment* shall review the application materials, the staff recommendation, the general purpose and standards set forth in this Article for the granting of variances, and all testimony and evidence received by the Board at the evidentiary hearing.
- (E) After conducting the evidentiary hearing, the *Board of Adjustment* may:
 - 1. Continue the evidentiary hearing that has been convened without further advertisement;
 - 2. Deny the request; or
 - 3. Grant the request upon the concurring vote of four-fifths (4/5) of the

members of the *Board of Adjustment* necessary to grant a variance per G.S.160D-406(i). Any approval or denial of the request shall be accompanied by written findings that the variance meets or does not meet each of the standards set forth in subsection 6.1-6 below or, for flood protection regulation variances, as set forth in Article 18 of this Ordinance. For purposes of this section, vacant positions and members of the Board who are disqualified from voting on the hearing decision shall not be considered “Board members” for calculation of the majority if there are no qualified alternate Board members available to take the place of such members.

6.1-5 Conditions Appropriate conditions, other than a change in the listed use, may be imposed on any variance, provided that the conditions are reasonably related to the variance. (G.S.160D-705(d))

6.1-6 Standards of Review. *The Board of Adjustment’s decision shall be based on competent, material and substantial evidence in the record. All persons providing evidence shall be sworn or affirmed by the Chairman or the Clerk to the Board. The Board of Adjustment shall not grant a variance until it makes each of the following findings per G.S.160D-705(d):*

- (A) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate, in the absence of a variance, that no reasonable use can be made of the property.;
- (B) The hardship results from conditions that are peculiar to the property such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, shall not be the basis for granting a variance.;
- (C) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.;
- (D) The requested variance is consistent with the spirit, purpose and intent of the ordinance; such that public safety is secured and substantial justice is achieved.

6.1-7 Effective Date of Decision. Any decision made by the Board of Adjustment regarding a variance shall be reduced to writing and reflect the Board’s determination of contested facts and their application to the applicable standards. The written decision shall be approved by the Board of Adjustment, signed by the Chair and shall be filed with the Village Clerk. The effective date of the decision shall be upon the date it is filed with the Village Clerk. The decision shall be delivered by the *Planning, Zoning & Subdivision Administrator* or their designee via personal delivery, electronic mail or by first class mail to the applicant, property owner and to any person who has submitted a written request for a copy prior to the close of the evidentiary hearing on the case. The person making such deliveries shall certify in writing to the file that delivery has been made.

Following the effective date of the decision of the *Board of Adjustment*, the following actions may be taken:

- (A) After the *Board of Adjustment* approves a variance, the applicant shall follow all appropriate procedures set forth in this Ordinance for the receipt of permits, certificates, and other approvals necessary in order to proceed with development.
- (B) After the denial of the variance request, the applicant may make application for a rehearing in accordance with *Board of Adjustment's* rules of procedure and this Ordinance.

6.1-8 Duration. The variance may be issued for a limited duration only. Unless otherwise specified, construction and/or operation shall be commenced within twenty-four (24) months of the date of issuance of a variance, or the variance shall become void.

6.1-9 Appeals. An appeal from any decision of the *Board of Adjustment* may be made by an aggrieved party and shall be made to the Superior Court of the county in which the subject property is located in the nature of certiorari. Per G.S.160D-1405(d), any such petition to the Superior Court shall be filed by the later of thirty (30) days after a written copy of the decision is delivered to the applicant, property owner, and to any other person who, prior to the date the decision becomes effective, has submitted a written request for a copy of the decision. Said decision shall be delivered by personal delivery, electronic mail, or by first class mail. When first class mail is used to deliver the notice, three (3) days shall be added to the time to file the petition.

6.2 Appeals of Administrative Decisions

6.2-1 Purpose. Appeals to the *Board of Adjustment* from the determinations of the *Planning, Zoning & Subdivision Administrator* of the Village of Marvin are permitted as provided for in this section and in accordance with G.S.160D-705(b). Additionally, G.S.160D-1403(b) provides for separate and original civil actions without filing an appeal under this section.

6.2-2 Decisions that may be appealed. Any final and binding order, requirement, or determination made in writing by an administrative officer charged with administering and/or enforcing the provisions of this Ordinance may be appealed to the *Board of Adjustment*. Any such determination shall be given to the owner of the property that is subject to the determination and to the party who sought the determination, if different than the property owner. Said notice shall be delivered by personal delivery, electronic mail or by first-class mail.

6.2-3 Standing - parties who may file an appeal. Any person who has standing under G.S.160D-1402(c) may bring an appeal to the *Board of Adjustment*.

6.2-4 Period to File an Appeal. A person with standing shall have thirty (30) days from the date of receipt of the written determination within which to file an appeal. Any person or entity with standing to appeal shall have thirty (30) days from receipt from any source of actual or constructive notice of the decision within which to appeal.

6.2-5 Constructive Notice. Per G.S.160D-403(b) persons with standing to appeal shall have constructive notice of a determination from the date a sign providing notice a determination has been made is prominently posted on the property. A sign containing the words “Zoning Decision”, “Subdivision Decision” or similar language for other determinations in letters at least six inches high and identifying a means to contact a Village of Marvin official for information about the determination, with said sign being posted for a minimum of ten days. Posting of the sign shall be the responsibility of the landowner or applicant and verification to the Village is required.

6.2-6 Filing of Appeal.

- (A) The appeal shall be filed with the *Planning, Zoning & Subdivision Administrator* in writing and shall contain information identifying the property, the owner and the purpose for the request.
- (B) The appeal shall be accompanied by a fee as established by the Village.
- (C) Upon acceptance of the appeal application by the *Planning, Zoning & Subdivision Administrator*, a hearing shall be scheduled for the *Board of Adjustment* within thirty-six (36) days of the date of submittal of a complete application. Notwithstanding, the appellant can apply for an expedited hearing to occur within fifteen (15) days of such filing as provided in Subsection D below.
- (D) The filing of an appeal per G.S.160D-405 shall stay the enforcement of the action appealed unless the *Planning, Zoning & Subdivision Administrator* certifies to the *Board of Adjustment* after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life and property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of this Ordinance. In such case, enforcement proceedings shall not be stayed except by a restraining order granted by the Superior Court of Union County on notice to the administrative official from whom the appeal is taken, with due cause shown. If enforcement proceedings are not stayed, the appellant may file for an expedited hearing of the appeal to occur within fifteen (15) days after such request is filed.

6.2-7 Action by the Board of Adjustment.

- (A) Upon receiving the appeal application, the *Board of Adjustment* shall hold an evidentiary hearing on the appeal. Notice of the hearing shall be as provided in Section 6.1-4. The person whose decision is being appealed shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is being taken. Said information shall also be provided to the applicant and to the owner of the property that is subject to the appeal, if such person(s) is not the applicant.
- (B) The evidentiary hearing shall be conducted in accordance with rules of procedure of the *Board of Adjustment* and in accordance with the G.S.160D-406. All persons providing evidence at the hearing shall be sworn or affirmed by either the Chair or the Clerk to the Board. The official who made the decision that is being appealed shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Village would be unduly prejudiced by the presentation of matters not presented

in the notice of appeal, the Board shall continue the evidentiary hearing.

- (C) Either after the evidentiary hearing or at a subsequent or continuation meeting to be held within 30 days of the close of the evidentiary hearing, the *Board of Adjustment* shall adopt an order reversing, affirming, wholly or partly, or modifying the contested action. The *Board of Adjustment's* decision shall be based upon competent, material and substantial evidence.
- (D) The *Board of Adjustment* shall not reverse or modify the contested action unless it finds that the administrative officer erred in the application or interpretation of the requirements of this Ordinance.
- (E) The *Board of Adjustment* shall not reverse or modify the contested action unless there is a concurring vote of a majority of the Board's members. For purposes of this section, vacant positions and members of the Board who are disqualified from voting on the hearing decision shall not be considered "Board members" for calculation of the majority if there are no qualified alternate Board members available to take the place of such members.
- (F) The parties to an appeal may agree to mediation or other forms of alternative dispute resolution.
- (G) Any decision made by the Board of Adjustment regarding an appeal shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be approved by the Board of Adjustment, signed by the Chair and shall be filed with the Village Clerk. The effective date of the decision shall be upon the date it is filed with the Village Clerk. The decision shall be delivered by the *Planning, Zoning & Subdivision Administrator* or their designee via personal delivery, electronic mail or by first class mail to the applicant, property owner and to any person who has submitted a written request for a copy prior to the close of the evidentiary hearing on the case. The person making such deliveries shall certify in writing to the file that delivery has been made.

6.2-8 Effect of reversal or modification. In the event that the *Board of Adjustment* reverses or modifies the contested action, all subsequent actions taken by administrative officers with regard to the subject matter shall be in accordance with the reversal or modification granted by the *Board of Adjustment* unless an appeal is taken on the Board's decision.

6.2-9 Appeal from Board of Adjustment. An appeal from any decision of the *Board of Adjustment* may be made by an aggrieved party and shall be made to the Superior Court of the county in which the subject property is located in the nature of certiorari. Per G.S.160D-1405(d), any such petition to the Superior Court shall be filed by the later of thirty (30) days after a written copy of the decision is delivered to the applicant, property owner, and to any other person who, prior to the date the decision becomes effective, has submitted a written request for a copy of the decision. Said decision shall be delivered by personal delivery, electronic mail, or by first class mail. When first class mail is used to deliver the notice, three (3) days shall be added to the time to file the petition.

ARTICLE 7

PERMITS AND PROCEDURES

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Certifications for Subdivisions: All Subdivisions

Additional Certifications for *Major Subdivisions*

ARTICLE 7

PERMITS AND PROCEDURES

7.1 Permits and Procedures for New and/or Expanded Use(s) and/or Development

7.1-1 Permit Approval Required. No person shall undertake any land use and/or development activity subject to this Ordinance without first obtaining approval from the Village. Upon approval by the Village, a permit shall be issued for the approved land use and/or development activity. Certain permits associated with land use and/or development are issued by agencies other than the Village of Marvin, as noted below.

In any case where an application is made to operate more than one (1) use on a property, the *Planning, Zoning & Subdivision Administrator* shall determine either which use or uses shall be the principal use or uses, or if there are multiple principal uses, and the type of Zoning Compliance Permit (zoning permit) that is required for the following categories of use(s) appearing in Table 8.1 located in Article 8 of this Ordinance: **Listed Use, Special Use Permit, or Use Listed with Additional Standards**. Upon determination of the use(s) and the type of zoning permit(s) required shall indicate such decision to the applicant.

In accordance with G.S. 160D-108(b) **“Permit Choice”**, if a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

The permits and/or approvals listed below are required, depending upon the type(s) of development proposed:

(A.) **Zoning Compliance Permits** (also known as *Zoning Permits*) are issued by the Village of Marvin for all new or expanded use of property (See Table 8.1, Sections 1-3), building and/or development projects. Types of Zoning Compliance Permits for various types of development required appear in Sections 7.5 through 7.12 of this Article. A *Zoning Compliance Permit* may also be obtained as part of a *Development Agreement* in accordance with Section 7.15 of this Article.

(B.) **Building Permits** – Union County Building Inspections Department issues building permits following issuance of *Zoning permit* by the Village of Marvin.

(C.) **Certificate of Occupancy** – The Union County Building Inspections Department issues upon final building inspections and site plan compliance approval by the

Village.

(D.) ***Environmental Impact and Infrastructure*** – The State of North Carolina and various agencies of the United States require specific permits for the impact of natural resources and/or areas deemed sensitive and/or protected. In addition, the State of North Carolina requires specific permits for the expansion of public infrastructure including streets, potable water, wastewater, and storm water. Professional engineers licensed to perform services in the State of North Carolina shall be consulted by applicants for assistance in preparation of plans and studies required before impacting natural resources and expanding public infrastructure.

7.1-2 **Fees.** The Village Council shall establish a Schedule of Fees, Charges and Expenses, and a collection procedure, for zoning permits and plan approvals issued by the Village. No approval, permit, certificate, variance, etc. shall be processed and/or issued unless or until such charges have been paid in full.

7.2 Periodic Inspections

The *Planning, Zoning & Subdivision Administrator*, or their designee shall have the right, upon presentation of proper credentials to enter on any premises within the Village's jurisdiction at any reasonable hour for the purposes of inspection, determination of plan compliance, or other enforcement action.

7.3 Permit Expiration

7.3-1 **Expiration of Zoning Permits and Approvals.** Permits and approvals, other than those identified in section 7.3-2 below, shall run with the land and expire as set forth in the process for each permit and/or approval based upon permit and approval type detailed in Sections 7.5 through 7.12 of this Article.

7.3-2 **Building Permit Expiration.** The Union County Building Inspections Department may void a building permit for a project within the Village jurisdiction if the authorized work has not begun within six months after issuance of the permit, or work was commenced but was discontinued for a period of 12 months per G.S. 160D-1111.

7.4 Certificates Issued by Union County

The Village of Marvin in conjunction with the Union County Building Inspections Department issues certificates of occupancy, temporary certificates of occupancy, and certificates of floor elevation/flood proofing upon completion or partial completion of a building project.

7.5 Zoning Compliance Permits and Expedited Procedure for Small Projects

7.5-1 Zoning Compliance Permit. A *Zoning Compliance Permit* (*zoning permit*) is required for the construction or development of any new use within the planning and regulation jurisdiction of the Village of Marvin. In addition to new uses, a *zoning permit* shall also be required for expansions of existing uses, as well as for changes of use. The types of zoning compliance Permits below apply based upon the characteristics of the development proposed:

- (A.) *Special Events/Temporary Structures* – See Section 7.6 of this Article.
- (B.) *Site Development and Construction Plan Approval(s)* for development not eligible for Expedited Procedure for Small Projects appearing in Sub-section 7.5-2 of this Article. See Sub-section 7.7 of this Article for required information and procedures.
- (C.) *Special Use Approvals* – See Section 7.8 of this Article for required information and procedures.
- (D.) *Uses Listed with Additional Standards* – See Section 7.9 of this Article for required information and procedures.
- (E.) *Sign Permits* – See Section 7.10 of this Article for required information and procedures.
- (F.) *Subdivision Plat Approval* – See either Sub-section 7.11-1 of this Article for required information and procedures for Major Subdivisions or Sub-section 7.11-2 (page 22) of this Article for required information and procedures for Minor Subdivisions. Additional details for the subdivision of land appear in Article 16 of this Ordinance.
- (G.) *Floodplain Development and Certification Permit* – See Article 18 of this Ordinance, as referenced by Section 7.12 of this Article.

7.5-2 Expedited procedure for Small Projects. An expedited procedure for the following types of projects is set forth below shall be followed to obtain a *Zoning Compliance Permit* for the construction of one single-family or one two-family (duplex) residential structure and expansions of uses and changes of use that do not require approvals described in Section 7.7 of this Ordinance.

(A.) Application for Expedited Procedure for Small Projects.

- (1.) Filing of application. An application for a *zoning permit* may be filed by the landowner, a lessee or person holding an option or contract to purchase or lease land, or by an authorized agent of the landowner. Where an agent files the application, the agent shall provide documentation that the owner of the property

has authorized the filing of the application. The application for a *zoning permit* shall be filed with the *Planning, Zoning & Subdivision Administrator* on a form provided by the *Planning, Zoning & Subdivision Administrator*.

(2.) Information required. Each application for a *zoning permit* shall contain the information required on the application form. Other information necessary to show that the use or structure complies with the standards set forth in this Ordinance shall also be provided to confirm compliance. Such additional information may be a sketch of the property and locations of proposed improvements.

(B.) Staff review. The *Planning, Zoning & Subdivision Administrator* shall review the application and determine whether it is complete within ten (10) working days of its submittal, including the fulfillment of applicable fees duly paid. If the application is found to be incomplete, the *Planning, Zoning & Subdivision Administrator* shall notify the applicant of any deficiencies. No further steps shall be taken to process the application until the applicant corrects the deficiencies. The review of complete applications may vary depending upon the applicability of technical plans and specifications as outlined in this Article. In any event the *Planning, Zoning & Subdivision Administrator* shall issue a *zoning permit* only upon finding that the proposed development, use and/or structure satisfies the requirements set forth in this Ordinance.

(C.) Permit validity. Upon the approval of a *zoning permit* authorized by G.S. 160D-403 the applicant shall have one year to obtain the required building permit(s) if any, unless a greater timeframe is authorized by G.S. 160D-108. Failure to obtain requisite building permit(s) within this time shall render the *zoning permit* void. Upon issuance of a building permit(s), a *zoning permit* for improvements shall remain valid as long as a valid building permit exists for the project. A *zoning permit* issued for the use of a premises in accordance with then current adopted ordinance(s) shall run with the land and remain valid for the duration of said use, or temporary period as stipulated in said permit. Any unapproved change, as determined by the *Planning, Zoning & Subdivision Administrator* in the approved plans shall render the *zoning permit* invalid and in violation of this Ordinance. Violations of this Ordinance are subject to the remedies and penalties pursuant to Article 23 of this Ordinance.

7.6 Special Events/Temporary Structures Zoning Permit

7.6-1 Purpose. To insure that proposed special events and temporary structures comply with the requirements of Article 15 and any other applicable standards and specifications of this Ordinance, no use that is classified as a special event requiring a permit, and/or no structure that is classified as a temporary structure and permitted as

such in the zoning district in which it is located shall be placed or established on the property without first receiving a special event/temporary structure *zoning permit* from the *Planning, Zoning & Subdivision Administrator*.

7.6-2 Plan submittal.

(A.) Filing of application. An application for a special event/temporary structure *zoning permit* may be filed by the landowner, a lessee or person holding an option or contract to purchase or lease land, or by an authorized agent of the landowner. Where an agent, files the application, the agent shall provide the *Planning, Zoning & Subdivision Administrator* with documentation that the owner of the property has authorized the filing of the application. The application for a special event/temporary structure *zoning permit* shall be filed with the *Planning, Zoning & Subdivision Administrator* on a form provided by the *Planning, Zoning & Subdivision Administrator*.

(B.) Information required. Each application for special event/temporary structure *zoning permit* shall contain the information required on the application form. The application shall be accompanied by a *Sketch Plan* showing the boundaries of the property, the use of adjacent properties, the location of the special event or structure on the property, access and parking provisions, restroom facilities, and other information sufficient to show that the special event or structure complies with the standards set forth in Article 15 and any other applicable standards and specifications of this Ordinance. Persons seeking issuance of a special event/temporary structure *zoning permit* for an event shall file an application with a minimum of five (5) days prior to the proposed event date, unless this time frame is reduced in writing by the *Planning, Zoning & Subdivision Administrator*.

7.6-3 Staff review. The *Planning, Zoning & Subdivision Administrator* shall review the application and determine whether it provides the information required. The *Planning, Zoning & Subdivision Administrator* shall issue a special event/temporary structure *zoning permit* only upon finding that the proposed special event or temporary structure satisfies the requirements set forth in Article 15 and any other applicable standards and specifications of this Ordinance.

7.6-4 Permit validity. The special event/temporary structure *zoning permit* shall run with the land and be valid only for the date(s) stated on the permit.

7.6-5 Public emergencies. In the event of a natural disaster, catastrophic event or public emergency the *Planning, Zoning & Subdivision Administrator* or their designee may waive any special event/temporary structure permit procedures and authorize the placement of temporary structures and other facilities that are deemed necessary or desirable in conjunction with the management of the emergency in accordance with Section 1.15.

7.7 Site Development and Construction Plan Approval(s)

7.7-1 Site Development and Construction Plans.

(A.) Purpose. The site development and construction plan review process is required for development projects located within the Village of Marvin in order to prepare for expected impacts upon public services and facilities. This review process is established to ensure that adequate services and facilities can be provided for these developments and to assure that they do not negatively impact the area in which they are proposed to be located or the Village as a whole. Proposed developments involving new construction, additions, renovations, and changes of use which fall into one or more of the following categories are subject to the Site Development Plan review process:

(1.) New construction and changes of use.

(a.) Non-residential buildings, structures, or developments with a gross floor area of more than 100 square feet;

(b.) Any residential development containing more than two (2) individual units; and/or

(c.) Any development where public streets are extended.

(2.) Additions to existing buildings increasing gross floor area by more than 100 square feet of *Floor Area (Gross)*.

(3.) Properties located within 1,500 feet of each other, under the same ownership and/or developed by the same developer over a period of three years or less shall be considered to be one development and reviewed as such.

(B.) Exemptions. Projects within the Village of Marvin involving new construction, additions, renovations, and changes of use which do not meet the minimum size requirements of the *Site Development Plan* review processes as set forth in subsection 7.7-1(A) above shall be reviewed as *Zoning Permit* in accordance with the provisions of Section 7.5 of this Article.

(C.) Pre-application procedure. All applicants for Site Development Plan review are required to schedule a predevelopment conference with the *Planning, Zoning & Subdivision Administrator* prior to the preparation of development plans. This conference allows the applicant and *Planning, Zoning & Subdivision Administrator* an opportunity to discuss the review process, the requirements for completing the review schedule, contact persons for services and permits, and information regarding *Site Development Plans* and development requirements.

(D.) Site Development Plan submittal.

- (1.) Application required. An application shall be required for all Site Development Plan review requests. This application shall contain pertinent information regarding the proposed project and shall be accompanied by a *Site Development Plan*. The *Site Development Plan* shall contain the following:
 - (a.) Property boundaries with dimensions
 - (b.) PIN for property
 - (c.) Location of adjacent streets, right of ways, and utility easements
 - (d.) Dimensioned footprint and setbacks of the existing and proposed structures with gross floor area indicated
 - (e.) Dimensions of existing and proposed impervious surfaces
 - (f.) Location and number of parking spaces
 - (g.) Location and size of buffer and landscape areas
 - (h.) Location of existing and proposed driveways and/or streets
 - (i.) Location of all flood zones
 - (j.) Location of adjoining properties and both the existing zoning designation and use of these properties
 - (k.) Names and addresses of adjoining property owners
 - (l.) Number of stories and overall height of all existing and proposed structures
 - (m.) Location of proposed stormwater facilities
 - (n.) Location of existing and proposed dumpster and recycling containers
 - (o.) Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other water bodies, steep slopes, areas covered by tree canopy, etc., and
 - (p.) Other information determined by the *Planning, Zoning & Subdivision Administrator* as necessary to evaluate the request.
- (2.) Preparation by professional. *Site Development Plans* for developments requiring Site Development Plan review shall be prepared by a registered architect, engineer, landscape architect, or land surveyor licensed in the State of North Carolina for the work in which they are trained and licensed to perform.

(E.) Staff review.

(1.) Planning Department staff review.

Plans for development requiring Site Development Plan review shall be reviewed by the *Planning, Zoning & Subdivision Administrator* for compliance with the requirements of this Article and standards and specifications of this Ordinance and the Technical Standards & Specifications Manual.

(2.) Submittal of plans to Planning, Zoning & Subdivision Administrator.

The *Planning, Zoning & Subdivision Administrator* reviews the *Site Development*

Plans for compliance with the applicable requirements of this Ordinance and other applicable Ordinances and laws, to which their respective jurisdiction applies. This review shall be made by the *Planning, Zoning & Subdivision Administrator* and by any other agencies or officials as requested by the *Planning, Zoning & Subdivision Administrator*.

(F.) Permit validity. Approval of *Site Development Plans* and *zoning permits* authorized by G.S. 160D-403 for developments requiring Site Development Plan review shall run with the land and constitute approval of a site-specific vesting plan in accordance with G.S. 160D-108(d) and be valid for two (2) years from the date of approval unless a greater timeframe is authorized by G.S. 160D-108. Failure to submit construction plans, initiate construction, or otherwise begin the permitted use, within this time shall render the Site Development Plan approval void. The *Planning, Zoning & Subdivision Administrator* may grant a single extension of this time period of up to three (3) years upon submittal by the applicant of sufficient justification for the extension. Multi-phased development containing 25 acres or more remains vested for a period of seven (7) years from the time a site plan approval is granted as authorized in G.S. 160D-108(f).

(G.) Site Construction Plans.

(1.) Site Construction Plan required. A complete and comprehensive set of Site Construction Plans shall be required for all Site Development Plan review requests. This submittal shall contain pertinent information regarding the proposed project and shall be accompanied by the approved *Site Development Plan* per 7.7-1(E.) herein above illustrating any and all deviations from the approved Site Development Plan. The *Site Construction Plan* shall contain the following:

- (a.) Property boundaries with dimensions
- (b.) Location of adjacent streets/roads including existing right-of-way and/or easement(s)
- (c.) Location and design of proposed streets including cross-sections in accordance with the Marvin Technical Standards & Specifications Manual, centerline profile(s), and the proposed right-of-way.
- (d.) Location of existing and proposed utilities, including easements associated with both
- (e.) A grading plan showing existing and proposed contours demonstrating both positive drainage characteristics and smooth grade transitions to avoid abrupt “v” ditches, swales and other disruptions to the landscape, particularly between buildings where open space enhancements for use by persons actively utilizing the landscape and/or yard area. The use of crawl-space construction techniques in detached residential structures and professional

- landscape design is required to meet this characteristic of site development.
- (f.) Location of existing and proposed stormwater detention, retention, collection, and conveyance facilities
 - (g.) Dimensions of existing and proposed impervious surfaces
 - (h.) Location of existing structures and either proposed structures or proposed building envelopes
 - (i.) Location and number of existing and proposed parking spaces, including loading spaces, maneuvering areas, and fire lane(s)
 - (j.) Location and size of buffer and landscape areas
 - (k.) Location of existing and proposed driveways and/or streets
 - (l.) Location of all flood zones
 - (m.) Location of adjoining properties and both the current zoning designation and use of these properties
 - (n.) Names and addresses of adjoining property owners
 - (o.) Number of stories and overall height of all existing and proposed structures
 - (p.) Location of existing and proposed dumpster and recycling container area(s)
 - (q.) Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other water bodies, steep slopes, areas covered by tree canopy, etc., and
 - (r.) Other information determined by the *Planning, Zoning & Subdivision Administrator* as necessary to evaluate the request.
- (2.) Preparation by professional. *Construction Plans* for developments requiring Site Development Plan review shall be prepared by a registered architect, engineer, landscape architect, or land surveyor licensed in the State of North Carolina for the work in which the professional is trained and licensed to perform.

7.7-2 RESERVED

7.8 Special Use Approvals

- 7.8-1 Purpose. Special uses are established to provide for the location of those uses which are generally compatible with other land uses permitted in a zoning district but which, because of their unique characteristics or potential impacts on the surrounding *Neighborhood* and the Village of Marvin as a whole, require individual consideration of their location, design, configuration, and/or operation at the particular location proposed. Such individual consideration may also identify cause(s) for the imposition of individualized conditions in order to ensure that the use is appropriate at a particular location and to ensure protection of the public health, safety, and welfare. Any use identified in Section 10.2 of this Ordinance as a special use in a zoning district shall not be permitted without the approval of the *Board of Adjustment* in

accordance with the requirements and procedures set forth in this section 7.8.

7.8-2 Pre-application conference procedure. Every applicant for a special use *zoning permit* is required to meet with the *Planning, Zoning & Subdivision Administrator* in a pre-application conference prior to the submittal of a request for approval of a special use. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application

7.8-3 Plan submittal.

(A.) Filing of application. An application for a special use *zoning permit* may be filed by the landowner, a lessee or person holding an option or contract to purchase or lease land, or by an authorized agent of the landowner. Where an agent files the application, the agent shall provide documentation that the owner of the property has authorized the filing of the application. The application for a special use *zoning permit* shall be filed with the *Planning, Zoning & Subdivision Administrator* on a form provided by the *Planning, Zoning & Subdivision Administrator*.

(B.) Information required. Each application for a special use *zoning permit* shall contain all information identified as required by the *Planning, Zoning & Subdivision Administrator*. The application shall be accompanied by an electronic file copy plus at least two paper copies of a *Site Development Plan* containing all information required by Section 7.7 of this Ordinance for filing(s) on the subject property.

7.8-4 Staff review.

(A.) Planning, Zoning & Subdivision Administrator review. Following submittal of the application and *Site Development Plans* for the special use, they shall be reviewed by the *Planning, Zoning & Subdivision Administrator* for compliance with the requirements of section 7.8 of this Ordinance.

(B.) Submittal of plans to Planning, Zoning & Subdivision Administrator.

This review shall be made by the *Planning, Zoning & Subdivision Administrator* and by any other agencies or officials as requested by the *Planning, Zoning & Subdivision Administrator*. The *Planning, Zoning & Subdivision Administrator* shall review the *Site Development Plans* for compliance with the applicable requirements of this Ordinance and other applicable Ordinances and laws, to which their respective departmental role applies.

7.8-5 Formal review.

(A.) Evidentiary hearing. Upon receipt of a notice from the *Planning, Zoning & Subdivision Administrator* of the applicant requesting an evidentiary hearing on the application and *Site Development Plan* for a special use *zoning permit*, an evidentiary hearing shall be scheduled. An evidentiary hearing before the *Marvin Board of*

Adjustment shall be held for all special use *zoning permit* applications.

(B.) Action by the Marvin Board of Adjustment.

- (1.) The Marvin *Board of Adjustment* shall consider the request within 35 days of receiving information regarding the special use *zoning permit* application from the *Planning, Zoning & Subdivision Administrator*.
- (2.) The Marvin *Board of Adjustment*, after conducting the quasi-judicial evidentiary hearing, may: (1) deny approval; (2) continue the application pending submittal of additional information; or (3) approve the proposed special use *zoning permit*.
- (3.) The decision on the special use *zoning permit* application shall be by a simple majority vote of those members of the Marvin *Board of Adjustment* present at the meeting at which the action is taken.
- (4.) The minutes of the Marvin *Board of Adjustment* shall state if the proposed special use meets or does not meet each of the conditions set forth in section 7.8-5.(C), the standards set forth in Article 10 of this Ordinance for the proposed special use, and all other requirements set forth by this Ordinance for the proposed special use.

(C.) Findings and Conditions. In granting the *zoning permit*, the *Board of Adjustment* shall find there to be competent, material, and substantial evidence in the record to support these conclusions and the *Board of Adjustment* must find that all the below listed facts exist or the application shall be denied.

- (1.) That the use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
- (2.) That the use or development complies with all required regulations and standards of this Ordinance and with all other applicable regulations;
- (3.) That the use or development is located, designed, and proposed to be operated so as not to substantially injure the value of adjoining or abutting property, or that the use or development is a public necessity; and
- (4.) That the use or development will be in harmony with the area in which it is to be located and conforms to the general plans for the land use and development of Village of Marvin and its environs.

(D.) Additional Conditions. In granting the special use *zoning permit*, the *Board of Adjustment* may designate only those conditions, in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located, with the spirit of this Ordinance and clearly in keeping with the public welfare. All such additional conditions shall be entered into the minutes of the meeting, at which the special use *zoning permit* is granted, on the special use *zoning permit* itself, and on the approved

plans. All specific conditions shall run with the land and shall be binding on the original applicants, their heirs, successors, and assigns. The special use *zoning permit*, as approved, shall be recorded by the *Planning, Zoning & Subdivision Administrator* with the Register of Deeds for the county in which the subject property is located the same as a deed restriction. The *zoning permit* recipient shall be responsible for paying the recording fee. No *building permit* shall be issued for the subject property until the recording is made.

- 7.8-6 Transfer of approval. A special use approval is not transferable from one property to another but is transferred to a subsequent owner of the property to which applied.
- 7.8-7 Resubmission of denied applications. No application for approval of a special use shall be filed with, or accepted by, the *Planning, Zoning & Subdivision Administrator* that is identical or substantially similar to an application that has been denied by the *Marvin Board of Adjustment* within one year of the final action by the *Board of Adjustment* denying the request. This waiting period may be waived in an individual case, for good cause shown, by the affirmative vote of a majority of the members of *Board of Adjustment*.
- 7.8-8 Notice of hearing. Notice of evidentiary hearings required under this section for special use approvals shall be provided in accordance with the requirements established by G.S. 160D-406 for evidentiary hearing notification.
- 7.8-9 Project phasing. If a project approved as a special use is to be developed in phases, a master plan for the entire development site must be approved by the *Marvin Board of Adjustment* at the same time and in the same manner the special use *zoning permit* application is considered.
- (A.) Final plans for phases of the special use may be submitted in stages and shall be approved by the *Planning, Zoning & Subdivision Administrator* provided that the following requirements are met:
- (1.) All stages shall be shown with precise boundaries on the master plan and shall be numbered in the expected order of development.
 - (2.) Each phase must be able to exist independently of subsequent phases by meeting all applicable laws and regulations as if the phase were a separate project.
 - (3.) All the data required for the project as a whole shall be given for each stage shown on the plan.
 - (4.) A proportionate share of the open space, common facilities, amenities, play areas, etc. shall be included in each stage of the development, except that centralized common facilities shall be guaranteed by bond or other irrevocable financial instrument valid for the duration of the project implementation period.
 - (5.) The phasing shall be consistent with the traffic circulation, drainage, and utilities

plan for the entire master plan for the special use.

(6.) Each phase of the special use must comply with any and all conditions attached to the approval of the special use *zoning permit* by the *Marvin Board of Adjustment*.

7.8-10 Variances. In issuing special use *zoning permits*, the *Marvin Board of Adjustment* may prescribe dimensional requirements (height, setback, etc.) that are different from the requirements of the corresponding general zoning classification, and may prescribe development and design standards that are different from those set out in Article 9; provided, that any request for a modification to a dimensional requirement or development and design standard that is less restrictive than would be applicable for the underlying general zoning classification must be specifically described in any notices required for the evidentiary hearing on the special use *zoning permit* application, and must be set out separately in any Ordinance issuing said special use *zoning permit*, together with an explanation of the reason for the modification. Except as modified pursuant to this paragraph, all standards and requirements applicable to the underlying general zoning district must be met. Variances, per Article 6 of this Ordinance, to the standards established by any special use permit shall not be allowed. Minor modifications per Sub-section 7.8-14 of this Article are eligible.

7.8-11 Appeals. An appeal from the decision of the *Marvin Board of Adjustment* regarding a special use application and *Site Development Plan* may be made by an aggrieved party and shall be made to the Superior Court of the county in which the subject property is located in the nature of certiorari. Any such petition to the Superior Court shall be filed with the court no later than 30 days after a written copy of the decision of the *Board of Adjustment* is received by the applicant.

7.8-12 Permit validity. Approval(s) of a special use *zoning permit* application and *Site Development Plan* shall run with the land and constitute approval of a site-specific vesting plan in accordance with G.S. 160D-108(d) and be valid for a minimum of not less than two (2) years from the date of approval by the *Marvin Board of Adjustment*. Failure to initiate construction, or otherwise begin the permitted use, within this time shall render the special use approval null and void. Multi-phased development of a special use project containing 25 acres or more remains vested for a period of seven (7) years from the time a site plan approval is granted as authorized in G.S. 160D-108(f).

7.8-13 Failure to Comply with Plans or Conditions. In the event of failure to comply with the plans approved by the *Board of Adjustment* or with any other conditions imposed upon the special use *zoning permit*, the *zoning permit* shall thereupon immediately become void and of no effect. No building permits for further construction or certificates of occupancy under this special use *zoning permit* shall be issued. If a failure to comply with conditions in a special use *zoning permit* occurs after occupancy, the owner, lessee, or other responsible person shall be notified in writing of the violation. No earlier than five days after the receipt of the written notice, the body issuing the special use *zoning permit* may issue a finding of fact that a violation of the requirements of this Ordinance exists. If such finding of fact is made, it shall be unlawful for any person, firm or corporation to continue the special use until the responsible party makes the necessary corrections and the *Board of Adjustment* conducts an evidentiary hearing and finds that the violation no longer exists.

7.8-14 Minor modifications. Minor modifications to the approved special use permit may be approved by the *Planning, Zoning & Subdivision Administrator* per authorization under G.S. 160D-705(c). The minor modifications authorized herein are intended to provide relief where conditions established by the special use permit create a hardship based upon a unique physical attribute of the property itself or some other factor unique to the property which was not known at the time of special use permit approval and which has subsequently rendered the property difficult or impossible to use due to the condition(s) imposed by the special use permit. The special use permit holder shall bear the burden of proof to secure the modification(s). Such modifications shall be limited to the following:

1. A deviation of up to ten percent or 24 inches, whichever is greater, from the approved setback, provided that the conditions for approving a deviation from the required setback established by Article 14 (Flexible Development Standards) of this Ordinance are met.
2. A reduction of up to 25 percent in the number of parking spaces required for the use provided that the proposed development is located within 500 feet of either the Main Street District (MS) or the Mixed Use (MU-1 and MU-2) and on-street parking is available.
3. Any other minor modification in accordance with the limitations and procedures prescribed in this Ordinance, unless restricted by G.S. 160D-705(c), or the special use permit adopted pursuant to this section specifies otherwise.

Any other modifications must be approved by the *Board of Adjustment* as an amendment to the special use permit and may be referred to the Planning Board or *Planning, Zoning & Subdivision Administrator* as appropriate. The *Planning, Zoning & Subdivision Administrator* shall in every case have the discretion to decline to

exercise the power to approve or deny modifications as provided for herein, and may require the applicant to seek an amendment to the Special Use Permit.

- 7.8-15 Special Use Permit recorded. Special Use Permits shall be recorded by the holder of the permit with the Union County Register of Deeds within 60 days of approval. Modifications to Special Use Permits shall be recorded in the same manner in which the original permit was recorded.

7.9 Uses Listed with Additional Standards

- 7.9-1 Purpose. Uses listed with additional standards are uses permitted by right, provided that the additional standards set forth in Section 10.1 of this Ordinance are met. The additional standards are intended to ensure that the uses fit the intent of the zoning districts within which they are permitted, and that the uses are compatible with other development permitted within the zoning districts. Review and approval of these uses are the authority of the *Planning, Zoning & Subdivision Administrator*, who has no discretion to modify the additional standards.

7.9-2 Plan submittal.

- (A.) Filing of application. An application for a *zoning permit* for a use with additional standards may be filed by landowner, a lessee or person holding an option or contract to purchase or lease land, or by an authorized agent of the landowner. Where an agent files the application, the agent shall provide documentation that the owner of the property has authorized the filing of the application. The application for a *zoning permit* for a use with additional standards shall be filed with the *Planning, Zoning & Subdivision Administrator* on a form provided by the *Planning, Zoning & Subdivision Administrator*.
- (B.) Information required. Each application for a *zoning permit* for a use with additional standards shall contain all information required by the *Planning, Zoning & Subdivision Administrator*. The application shall be accompanied by a *Site Development Plan* meeting the requirements for *Site Development Plans* as established by section 7.7 of this Ordinance.

- 7.9-3 Staff review. Notwithstanding the procedures applicable in section 7.7 of this Ordinance, the *Planning, Zoning & Subdivision Administrator* shall review the proposed use and determine if the additional standards for that use have been met. If the additional standards have been met, the use shall be approved provided all other applicable standards and procedures have been met. Failure to meet all the additional standards shall result in denial of a *zoning permit* for the proposed use. The *Planning, Zoning & Subdivision Administrator* shall approve or deny the proposed use with additional standards or request more information, if needed, within ten (10) working days of submittal. If the application is found to be incomplete, the *Planning, Zoning*

& *Subdivision Administrator* shall notify the applicant of any deficiencies. No further steps will be taken to process the application until the applicant corrects the deficiencies. The *Planning, Zoning & Subdivision Administrator* shall approve the use only upon finding that the proposed use satisfies all applicable requirements set forth in this Ordinance.

- 7.9-4 Permit validity. Upon the approval of a *zoning permit* for a use with additional standards authorized by G.S. 160D-403 the applicant shall have one year to obtain the required building permit(s) if any, unless a greater timeframe is authorized by G.S. 160D-108. Failure to obtain requisite building permit(s) within this time shall render the *zoning permit* void. Upon issuance of a building permit(s), a *zoning permit* for improvements shall run with the land and remain valid as long as a valid building permit exists for the project. A *zoning permit* issued for the use of a premises in accordance with then current adopted ordinance(s) shall remain valid for the duration of said use, or temporary period as stipulated in said permit. Any unapproved change, as determined by the *Planning, Zoning & Subdivision Administrator* in the approved plans shall render the *zoning permit* invalid and in violation of this Ordinance. Approval of *Site Development Plans* for a use with additional standards authorized by G.S. 160D-403 for developments requiring Site Development Plan review required by Section 7.7 of this Article shall constitute approval of a site-specific vesting plan in accordance with G.S. 160D-108(d) and be valid for two (2) years from the date of approval unless a greater timeframe is authorized by G.S. 160D-108. Failure to submit construction plans, initiate construction, or otherwise begin the permitted use, within this time shall render the Site Development Plan approval void. The *Planning, Zoning & Subdivision Administrator* may grant a single extension of this time period of up to three (3) years upon submittal by the applicant of sufficient justification for the extension. Violations of this Ordinance are subject to the remedies and penalties pursuant to Article 23 of this Ordinance. Multi-phased development of a special use project containing 25 acres or more remains vested for a period of seven (7) years from the time a site plan approval is granted as authorized in G.S. 160D-108(f).

7.10 Sign permits

- 7.10-1 Purpose. In order to regulate the provision of sign standards and sign restrictions within the planning and regulation jurisdiction of the Village of Marvin, it shall be unlawful to erect or maintain any sign or sign structure without first obtaining a sign *zoning permit*.

- 7.10-2 Application submittal.

(A.) Filing of application.

- (1.) An application for a sign *zoning permit* may be filed by landowner, a lessee or person holding an option or contract to purchase or lease land, or by an authorized

agent of the landowner. The application for a sign *zoning permit* shall be filed with the Village of Marvin *Planning Department* on a form provided by the *Planning, Zoning & Subdivision Administrator*.

(2.) Sign contractor's license. No person shall engage in the business of erecting or maintaining signs in the Village of Marvin unless said person has been issued a sign contractor's license which has not expired at the time said work is done. This requirement shall exclude those persons who construct and erect a principal use identification sign when that sign is used at that person's place of business, provided all construction and installation is properly permitted and inspected for compliance with the applicable building codes of the Village of Marvin and other sections of this Ordinance.

(B.) Information required. Each application for a sign *zoning permit* shall be accompanied by complete information as required by the *Planning, Zoning & Subdivision Administrator* and shall include, without being limited to, a *Site Development Plan* and elevation drawings of the proposed sign, a drawing of the building facade indicating the proposed location of the sign (if the sign is to be attached to a building), height, dimensions and square footage of the proposed sign and any other data as the *Planning, Zoning & Subdivision Administrator* may determine to be necessary for review of the application.

7.10-3 Staff review. Provided the application for a sign *zoning permit* is complete, the *Planning, Zoning & Subdivision Administrator* shall review the application and determine whether it is complete within ten (10) working days of its submittal. If the application is incomplete, the *Planning, Zoning & Subdivision Administrator* shall notify the applicant of any deficiencies. No further steps shall be taken to process the application until the applicant corrects the deficiencies. The *Planning, Zoning & Subdivision Administrator* shall issue a sign *zoning permit* only upon finding that the proposed sign or sign structure satisfies the requirements of Article 17.

7.10-4 Permit validity. Upon issuance of a sign *zoning permit*, the applicant will have 12 months to commence work on the approved signage, after which the *zoning permit* shall automatically become null and void. Signs included in a *Site Development Plan* application and approval are subject to Permit Validity of Section 7.7 of this Article.

7.11 Subdivision Plat Approval

7.11-1 Major Subdivisions.

- (A.) Purpose. The *Major Subdivision* review process is required for those divisions of land meeting the definition of “*Subdivision, Major*” appearing in Article 3 of this Ordinance. Review and approval of the *Preliminary Plat* by the *Planning, Zoning & Subdivision Administrator* following input by the *Planning Board* is required under the *Major Subdivision* review process, with review and approval of the *Final Plat* made by the *Planning, Zoning & Subdivision Administrator*. *Major Subdivisions* proposing the development of new street infrastructure are required to enter into a *Development Agreement* in accordance with Section 7.15 of this Article.
- (B.) Pre-application procedure.
- (1.) Conference. It is required that every applicant for a *Major Subdivision* meet with the *Planning, Zoning & Subdivision Administrator* in a conference prior to the submittal of a *Subdivision Plat*. The purpose of this conference is to provide clarification and assistance in the preparation and submission of *Plats* for approval.
- (2.) Sketch Plan. A *Sketch Plan* shall be submitted to the *Planning, Zoning & Subdivision Administrator* prior to or at the pre-application conference. Upon submittal of the *Sketch Plan*, the *Planning, Zoning & Subdivision Administrator* shall conduct an initial review to determine whether the proposed *Subdivision* is a *Major Subdivision*.
- (C.) Application and Preliminary Plat/Site Development Plan submittal.
- (1.) Preliminary Plat(s) required. A *Preliminary Plat and Site Development Plan* for a proposed *Major Subdivision* shall be prepared by a registered architect, engineer, landscape architect, and/or land surveyor licensed in the State of North Carolina for the work in which the professional is trained and licensed to perform; and shall be prepared in accordance with the standards set forth by the *Planning Department* and applicable state standards.
- (2.) Filing of application. A complete application containing all information as required by the Village of Marvin shall be submitted, along with applicable fees, to the *Planning, Zoning & Subdivision Administrator*.
- (D.) Preliminary Plat/Site Development Plan for Major Subdivisions submittal requirements.
- (1.) Application required. An application shall be required for all *Preliminary Plat/Site Development Plan* for *Major Subdivisions* review requests. This

application shall contain pertinent information regarding the proposed project and shall be accompanied by a *Preliminary Plat/Site Development Plan for Major Subdivisions*. The *Preliminary Plat/Site Development Plan for Major Subdivisions* shall contain the following:

- (a.) Property boundaries with dimensions
- (b.) PIN for property
- (c.) Location of adjacent streets, right of ways, and utility easements
- (d.) Dimensioned footprint and setbacks of the existing structures
- (e.) Location and size of buffer and landscape areas
- (f.) Location of existing and proposed streets
- (g.) Location of all flood zones
- (h.) Location of adjoining properties and both the existing zoning designation and use of these properties
- (i.) Names and addresses of adjoining property owners
- (j.) Location of proposed stormwater facilities
- (k.) Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other water bodies, steep slopes, areas covered by tree canopy, etc., and
- (l.) Other information determined by the *Planning, Zoning & Subdivision Administrator* as necessary to evaluate the request.

(E.) Staff review and Planning Board input.

(1.) Planning Department staff review.

Plans for *Preliminary Plat/Site Development Plan for Major Subdivisions* review shall be reviewed by the *Planning, Zoning & Subdivision Administrator* for compliance with the requirements of this Article.

(2.) Submittal of plans to Planning, Zoning & Subdivision Administrator.

This review shall be made by the *Planning, Zoning & Subdivision Administrator* and by any other agencies or officials set forth in G.S. 160D-803(b) as requested by the *Planning, Zoning & Subdivision Administrator*. The *Planning, Zoning & Subdivision Administrator* shall review the *Preliminary Plat/Site Development Plan for Major Subdivisions* for compliance with the applicable requirements of this Ordinance and other applicable Ordinances and laws, to which their respective departmental role applies.

(3.) Submittal of plans to Planning Board.

This review shall be made by the *Planning Board* as scheduled by the *Planning, Zoning & Subdivision Administrator*. The *Planning Board* shall review the *Preliminary Plat/Site Development Plan for Major Subdivisions* only in

accordance with the applicable requirements of this Ordinance.

(F.) Permit validity. Approval of the *Preliminary Plat/Site Development Plan* for *Major Subdivisions* authorized by G.S. 160D-403 for developments requiring Site Development Plan review shall run with the land and constitute approval of a site-specific vesting plan in accordance with G.S. 160D-108(d) and be valid for two (2) years from the date of approval unless a greater timeframe is authorized by G.S. 160D-108. The *Planning, Zoning & Subdivision Administrator* may grant a single extension of this time period of up to three (3) years upon submittal by the applicant of sufficient justification for the extension. The *Final Plat* for the *Major Subdivision* shall be presented for approval prior to the end of the two-year period. Failure to submit construction plans, initiate construction, or otherwise begin the permitted use, within this time shall render the *Preliminary Plat/Site Development Plan* approval void. Multi-phased development of subdivisions containing 25 acres or more remains vested for a period of seven (7) years from the time a site plan approval is granted as authorized in G.S. 160D-108(f).

(G.) Site Construction Plans.

(1.) Site Construction Plan required. A complete and comprehensive set of Site Construction Plans shall be required for all *Preliminary Plat/Site Development Plan* for *Major Subdivisions* review requests. This submittal shall contain pertinent information regarding the proposed project listed below and shall be accompanied by the approved *Preliminary Plat/Site Development Plan* for *Major Subdivisions* per 7.11-1(E.) herein above illustrating any and all deviations from the approved *Preliminary Plat/Site Development Plan* for *Major Subdivisions*. The *Site Construction Plans* shall contain the following:

- (a.) Property boundaries with dimensions
- (b.) Location of adjacent streets/roads including existing right-of-way and/or easement(s)
- (c.) Location and design of proposed streets including cross-sections in accordance with the Marvin Technical Standards & Specifications Manual, centerline profile(s), and the proposed right-of-way
- (d.) Location of existing and proposed utilities, including easements associated with both
- (e.) A grading plan showing existing and proposed contours demonstrating both positive drainage characteristics and smooth grade transitions to avoid abrupt “v” ditches, swales and other disruptions to the landscape, particularly between dwellings. The use of crawl-space construction techniques in detached residential structures and professional landscape design is required to meet this characteristic of site development.
- (f.) Location of existing and proposed stormwater detention, retention, collection,

and conveyance facilities

- (g.) Dimensions of existing and proposed impervious surfaces
 - (h.) Location of existing structures and either proposed structures or proposed building envelopes
 - (i.) Location and number of existing and proposed parking spaces, including loading spaces, maneuvering areas, and fire lane(s)
 - (j.) Location and size of buffer and landscape areas
 - (k.) Location of existing and proposed driveways and/or streets
 - (l.) Location of all flood zones
 - (m.) Location of adjoining properties and both the current zoning designation and use of these properties
 - (n.) Names and addresses of adjoining property owners
 - (o.) Number of stories and overall height of all existing and proposed structures
 - (p.) Location of existing and proposed dumpster and recycling container area(s) if applicable
 - (q.) Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other water bodies, steep slopes, areas covered by tree canopy, etc., and
 - (r.) Other information determined by the *Planning, Zoning & Subdivision Administrator* as necessary to evaluate the request.
- (2.) Preparation by professional. *Construction Plans* for developments requiring Site Development Plan review shall be prepared by a registered architect, engineer, landscape architect, and/or land surveyor licensed in the State of North Carolina for the work in which the professional is trained and licensed to perform; and shall be prepared in accordance with the standards set forth by the *Planning Department* and applicable state standards.

(H.) Final Plat. *Plats* for recording *Major Subdivisions* shall be prepared by a professional land surveyor in accordance with the standards set forth by the applicable state standards and in accordance with the standards and specifications of this Ordinance. The *Final Plat* of a *Major Subdivision* shall be reviewed by the *Planning, Zoning & Subdivision Administrator* for compliance with the requirements of this Ordinance and for conformity with the approved *Preliminary Plat*. Substantial changes from the *Preliminary Plat*, as determined by the *Planning, Zoning & Subdivision Administrator*, shall require an additional review by the *Planning, Zoning & Subdivision Administrator*, to ensure compliance. No *Final Plat* shall be approved by the *Planning, Zoning & Subdivision Administrator* until all improvements are installed, fees paid in lieu, or their execution guaranteed as permitted by this Ordinance and all certificates required for final *Plats* by this Ordinance or approvals by state law have been properly completed and signed. Provided the *Final Plat* is complete, and no

further review is determined to be required, the *Planning, Zoning & Subdivision Administrator* shall act on the *Final Plat* of *Major Subdivisions* within ten (10) working days of receipt of the Mylar *Plat*. The *Planning, Zoning & Subdivision Administrator* is authorized to approve the *Final Plat* for recording and to present the *Final Plat* to the Village Council to grant approval and acceptance of dedications by resolution. Following *Final Plat* approval, the applicant shall record the *Plat* for a *Major Subdivision* in accordance with this subsection.

(I.) Signatures and recordation.

- (1.) Signatures. Upon approval of a *Final Plat* for *Major Subdivisions*, the *Plat* shall be signed in the appropriate place by the *Planning, Zoning & Subdivision Administrator* and by the owner(s). Additionally, approval shall be shown by a Certificate of Approval; Certificate of Review Officer; Certificate of Professional Land Surveyor; and Certificate of Ownership for recording. For *Major Subdivisions* installing new public infrastructure the following certificates shall also be shown where applicable: Certificate of Dedication; Certificate of Approval for Street and Road Maintenance; Certificate of Streets and Other Public Infrastructure Improvements; and Certificate of Water and Sewer System Approval. The language for these certificates appears at the end of Article 7 of this Ordinance.
- (2.) Recordation. A *Final Plat* for *Major Subdivisions* shall be recorded in the office of the register of deeds for the county in which the subject property is located in compliance with North Carolina General Statutes within 60 days following approval by the Village of Marvin. No *Subdivision Plat* shall be considered finally approved until the *Plat* has been recorded. If the *Final Plat* of all or part of the area shown on an approved *Preliminary Plat* for a *Major Subdivision* is not recorded in the office of the register of deeds within two years of the approval by the Village of the *Preliminary Plat*, the *Preliminary Plat* shall be resubmitted to the *Planning, Zoning & Subdivision Administrator* for consideration following the process set forth in this Article. *Final Plats* for *Subdivisions* developed in phases shall be recorded in accordance with the schedule presented by the applicant during the *Preliminary Plat* approval and approved as part of the *Preliminary Plat* approval process. If the *Final Plat* of all or part of the area shown on an approved *Preliminary Plat* for a *Major Subdivision* to be developed in phases is not recorded in the office of the register of deeds within the schedule approved by the Village, the *Preliminary Plat* shall be resubmitted to the *Planning, Zoning & Subdivision Administrator* for consideration following the process set forth in this Article. No lots in a *Subdivision* shall be sold prior to approval by the *Planning, Zoning & Subdivision Administrator* and recording of a *Plat* for the *Subdivision*.

7.11-2 Minor Subdivisions.

- (A.) Purpose. The *Minor Subdivision* review process is required for those divisions of land meeting the definition of “*Subdivision, Minor*” appearing in Article 3 of this Ordinance. Review and approval of the preliminary and *Final Plat* by the staff permits a speedy review in accordance with G.S.160D-802(b) while ensuring that the proposed *Subdivision* meets all requirements established by the Village of Marvin.
- (B.) Pre-application conference. It is required that every *Subdivision* applicant meet with the *Planning, Zoning & Subdivision Administrator* prior to the submittal of a *Minor Subdivision Plat*. The purpose of this conference is to provide clarification and assistance in the preparation and submission of *Plats* for approval.
- (C.) Plat submittal.
- (1.) Plat required. *Plats* for *Minor Subdivisions* shall be prepared by a professional land surveyor licensed in the State of North Carolina for the work in which the professional is trained and licensed to perform; and shall be prepared in accordance with the standards set forth by the *Planning Department* and applicable state standards.
- (2.) Filing of application. A complete application containing all information as required by the Village of Marvin shall be submitted, along with applicable fees, to the *Planning, Zoning & Subdivision Administrator*.
- (D.) Staff review.
- (1.) Planning Department staff review.
Plans for development not requiring Site Development Plan review shall be reviewed by the *Planning, Zoning & Subdivision Administrator* for compliance with the requirements of this Article.
- (E.) Final Plat approval.
- (1.) Recordation and signatures.
- (a.) Signatures. Upon approval of a *Plat* for *Minor Subdivisions*, said *Plat* shall be signed in the appropriate place by the *Planning, Zoning & Subdivision Administrator* and by the owner(s). Additionally, approval shall be shown by a Certificate of Approval; Certificate of Review Officer; Certificate of Professional Land Surveyor; and Certificate of Ownership for recording. The language for these certificates appears at the end of this Article.
- (b.) Recordation. A *Plat* for *Minor Subdivisions* shall be recorded by the developer of Marvin in the office of the register of deeds for the county in which the subject property is located within 60 days following approval by the

Planning, Zoning & Subdivision Administrator. No Plat shall be considered finally approved until the Plat has been recorded. No lots in a Subdivision shall be sold prior to approval by the Planning, Zoning & Subdivision Administrator and recording of a Plat for the Subdivision.

(F.) Permit validity. *Minor Subdivision Plats* which have been granted approval shall be recorded as set forth in section 7.11-2(E)(1)(b) above within 60 days following approval or the approval becomes invalid.

7.12 Floodplain Development and Certification Permit

Permitting procedures and requirements for Floodplains appear in Article 18 of this Ordinance.

7.13 Zoning Vested Rights

Vested rights and permit choice are inherent rights established by G.S. 160D and applied herein accordingly. Each approval procedure stipulated in this Article establishes criteria in accordance with G.S. 160D-108 and G.S. 160D-108.1 for ensuring due process in the vesting of rights to develop, use and enjoy real property in accordance with applicable standards & specifications.

7.14 Notices and Hearings

7.14-1 General notice requirements.

(A.) All notices which this Article requires for hearings or public meetings shall identify the date, time and place of the hearing/public meeting and the nature and character of the proposed action. Where the action being taken concerns a particular property or properties, the notice shall also identify the location of the subject property.

(B.) Where specific notice requirements are set forth in the North Carolina General Statutes for a particular type of hearing, the requirements set forth in the North Carolina General Statutes shall be followed. Where these requirements conflict with procedures as stipulated in this subsection or elsewhere in this Article, the requirements contained in the North Carolina General Statutes will control. Evidentiary hearing notices appear in G.S. 160D-406(b) and legislative hearing notices appear in G.S. 160D-602.

7.14-2 Notice procedure. The following guidelines detail the notification procedure to be followed for hearings required by this Article unless otherwise set forth in this Article. Failure to follow procedures set forth in this section, other than those required by the North Carolina General Statutes, shall not affect the validity of any action taken at a hearing or public meeting. See G.S. 160D-406 (applicable to quasi-judicial

procedures), 160D-602 (applicable to legislative actions).

- 7.14-3 Special notice requirements for telecommunications towers/structures. For any evidentiary hearing for special use applications for telecommunication towers as required by section 10.2-14 hereinafter, additional notice and evidentiary hearing requirements shall be provided as set forth in section 10.2-14 of this Ordinance.

7.15 Development Agreements

7.15-1 Authorization and Applicability

- (A.) The North Carolina General Statutes authorize the use of Development Agreements for the development of land in accordance with the criteria and procedures established in sections G.S. 160D-1001 through G.S. 160D-1012.
- (B.) In addition to any *Development Agreement* proposed for an eligible project, a *Development Agreement*, established pursuant to Sub-section 7.15-3 of this Ordinance, shall be required as part of all applications for the following:
- (1.) Traditional Neighborhood Development Overlay (TNDO) District, Heritage (HD) District, Main Street (MS) District, and Mixed Use (MU-1 and MU-2) District and apply to all new development projects within the HD, TNDO, MS, MU-1, and MU-2 Districts.
 - (2.) *Major Subdivisions* in any district where new street infrastructure will be developed.

7.15-2 Content of Development Agreement

- (A.) The development agreement shall establish the period of time for completion of the development and construction of the project subject to the agreement.
- (B.) The development agreement shall establish the property to which the agreement shall apply by metes and bounds description attached to the agreement as “Exhibit A”.
- (C.) The development agreement shall cite all terms and conditions applicable to the development of the land subject to the agreement including standards and/or specifications that differ from the provisions of this Ordinance.
- (D.) The development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development.

7.15-3 Procedures for Entering into Development Agreements

- (A.) The development agreement shall be drafted in a format as directed by the Planning, Zoning & Subdivision Administrator. The development agreement shall then be presented to the *Planning Board* for a formal recommendation at a regularly

scheduled meeting. Said meeting shall be held prior to notification for a legislative hearing by the Village Council.

- (B.) The development agreement and the *Planning Board* recommendation shall be published for public inspection and notification shall be made in accordance with the provisions of G.S. 160D-601.
- (C.) The notice for the legislative hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.
- (D.) The development agreement shall be presented at a legislative hearing allowing an opportunity for the public to comment on the proposed development agreement. The information presented at the legislative hearing shall be considered by the Village Council in formulating its decision on the approval of an ordinance authorizing approval of said agreement.
- (E.) Upon finding that said agreement is in the best interest of the Village of Marvin, the Village Council may by adoption of an ordinance adopting the development agreement and authorizing its execution by the Mayor, approve such agreement to be administered in full force and effect by the *Planning, Zoning & Subdivision Administrator*.
- (F.) The development agreement shall be recorded in the office of the Register of Deeds of the county in which the subject property is located within fourteen (14) days of execution and prior to the issuance of any development permits authorizing development activities to commence.

7.15-4 Administration of Development Agreements and Termination for Material Breach

- (A.) The development agreement shall run with the land obligating the parties to the agreement to any and all stipulations therein and may only be amended in accordance with the laws of North Carolina governing such agreements as stipulated in section 7.15-1 herein.
- (B.) The *Planning, Zoning & Subdivision Administrator* shall conduct a periodic review at least every 12 months, at which time the developer is required to demonstrate good faith compliance with the terms of the development agreement. If, as a result of a periodic review, the *Planning, Zoning & Subdivision Administrator* finds and determines that the developer has committed a material breach of the terms or conditions of the agreement, the *Planning, Zoning & Subdivision Administrator* shall serve notice in writing, within a reasonable time after the periodic review, upon the

developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the developer a reasonable time in which to cure the material breach.

- (C.) If the developer fails to cure the material breach within the time given, then the Village of Marvin may unilaterally terminate or modify the development agreement. In accordance with G.S. 160D-1008(c) the notice of termination or modification may be appealed to the Board of Adjustment in the manner provided by G.S. 160D-405.
- (D.) A development agreement adopted pursuant to this Section shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of this Ordinance.

Recommended by Planning Board 16 April 2024

CERTIFICATIONS FOR SUBDIVISION PLATS

All Subdivisions:

Village of Marvin Certificate of Approval:

This plat of minor/major (select one) subdivision meets the requirements of the Village of Marvin Development Ordinance as of this ____ day of _____, 20____ and is hereby approved conditioned upon the plat being registered in the Office of the Register of Deeds within sixty (60) days of such approval and receipt of record accompanied by a plat presented to the Village of Marvin Planning Services Department.

Planning, Zoning & Subdivision Administrator

Certificate of Review Officer:

State of North Carolina
County of Union

I, _____ (name), Review Officer for Union County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording as of this ____ day of _____, 20____.

Union County Review Officer

Certificate of Professional Land Surveyor:

I, _____ (name), certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book ____, Page ____)(other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book ____, Page ____; that the ratio of precision as calculated is 1:____; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this ____ day of _____, A.D., 20____.

Seal or Stamp

Professional Land Surveyor No. _____,
Professional Land Surveyor

Certificate of Ownership:

I (We) hereby certify that I am (we are) the owner(s) of the property shown and described hereon, that I (we) hereby adopt this plan of subdivision with my (our) free consent as of this ____ day of _____, 20____.

Property Owner Name (typed or printed)

Property Owner Signature

(PROVIDE SEPARATE LINES FOR EACH OWNERSHIP INTEREST)

Additional Certifications for Major Subdivisions:

Certificate of Dedication:

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon, and that I (we) hereby dedicate all roads, alleys, walks, parks, and other sites to the public use except as noted this ____ day of _____, 20____.

Property Owner Name (typed or printed)

Property Owner Signature

(PROVIDE SEPARATE LINES FOR EACH OWNERSHIP INTEREST)

Certificate of Approval for Street and Road Maintenance:

I (we) hereby certify that I (we) will maintain the streets and/or roads to the standards set forth by the Village of Marvin and the North Carolina Department of Transportation until the respective governmental agency accepts the responsibility by adoption of a resolution stating such this ____ day of _____, 20____.

Property Owner Name (typed or printed)

Property Owner Signature

(PROVIDE SEPARATE LINES FOR EACH OWNERSHIP INTEREST)

Certificate of Streets and Other Public Infrastructure Improvements:

I, _____(name), Village Engineer, hereby certify that the streets, storm drainage systems, and all other roadway improvements have been designed and installed, or their installation guaranteed, in an acceptable manner according to specifications and standards of the Village of Marvin and the State of North Carolina this ____ day of _____, 20____.

Village Engineer of the Village of Marvin, North Carolina

Certificate of Water and Sewer System Approval:

I, _____(name), Village Engineer of the Village of Marvin, North Carolina, hereby certify that all water and sewer systems have been designed and installed, or their installation guaranteed, in an acceptable manner according to specifications and standards of the Village of Marvin, and the State of North Carolina this ____ day of _____, 20____.

Village Engineer of the Village of Marvin, North Carolina

ARTICLE 8

DISTRICTS

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ARTICLE 8

DISTRICTS

8.1 Purpose

In order to provide for the orderly development of Marvin, preserve existing development patterns that contribute to the character and sense of place of the community, and to allow for creativity in the planning for future development, the Village hereby establishes districts and their associated standards and specifications.

8.2 Districts Created

The following Primary General-Use Districts are hereby created. This listing is in order of intensity of development listed within the district, from least intense to most intense:

- (1.) Rural Residential (RR)
- (2.) Single-Family Residential (SFR-1)
- (3.) Single-Family Residential (SFR-2)
- (4.) Single-Family Residential (SFR-3)
- (5.) Main Street (MS)
- (6.) Civic (CIV)
- (7.) Mixed Use (MU-1)
- (8.) Mixed Use (MU-2)
- (9.) NC Highway 16 Commercial District (C-16)
- (10.) Vehicle Service and Repair (VSR)
- (11.) Industrial (IND)

In addition to the Primary General-Use Districts above, the following Overlay Districts are created to provide for more creativity in the development of land and/or to protect unique environmental features of the Village.

- (12.) Traditional Neighborhood Development Overlay (TNDO)
- (13.) Scenic Corridor Overlay (SCO)
- (14.) Heavy Industry Overlay (HIO)
- (15.) Mini Farm Overlay (MFO)
- (16.) Manufactured Home Overlay (MHO)
- (17.) Heritage District (HD)

8.3 Description of Each District Purpose and Intent

The purpose and intent of districts created by this Ordinance are described as follows:

The Rural Residential District (RR) is established to protect lands used for low-density residential uses in traditional rural settings and includes agricultural production, agriculturally based businesses and related activities. The Rural Residential District can also be used to preserve open spaces.

The Single-Family Residential Districts (SFR-1, SFR-2 and SFR-3) provide for the completion of existing residential neighborhoods and the development of new residential neighborhoods. Allowed building/lot types in the Single-Family Districts are Detached House. Listed uses are restricted to Single-Family, including duplex (two-family), homes and their accessory uses. Neighborhoods in these districts are the dominant land use in Marvin and are a major element in defining the character of the community. Standards for the Single-Family Residential Districts promote that new development maintains the character of the community. The Single-Family Residential Districts permit the completion and conformity of conventional residential subdivisions already existing or approved in sketch plan form by the Village of Marvin prior to the effective date of these regulations.

The Main Street District (MS) provides for new development, revitalization, reuse, and infill development in Marvin's core downtown. A broad array of uses is listed to enable the needs of residents and visitors to be met. Allowed building/lot types in this district are Urban Workplace, Shop-front, Detached House, Attached House, Multi-family Building, and Civic Building. The development pattern seeks to integrate shops, restaurants, services, workplaces, civic, educational, and higher density housing in a compact, pedestrian-oriented environment. The Main Street District serves as the hub of the surrounding neighborhoods and of the broader community. The Main Street District may be expanded over time to meet the needs of the growing community for downtown facilities and services. Expansion of the Main Street District shall be contiguous and not separated from the primary district area.

The Civic District (CIV) provides a location for educational, medical, governmental, religious, and other institutional uses. Large developments in the Civic District are encouraged to provide a master plan to the Village. Institutional uses in the Civic District are required to provide pedestrian connections on their campuses and, to the extent possible, develop an internal street system with structures fronting on the streets. Parking should not be the dominant visible element of the campuses developed for institutional uses. Providing a unique district for civic uses will establish uniform standards.

The Mixed-Use Districts (MU-1 and MU-2) are established to provide opportunities for both compatible and sustainable re-development where underutilized commercial properties already exist as well as infill sites where site specific land planning of new development creates opportunities for businesses and various housing designs sharing community amenities and enhancements. Existing auto-oriented street, lot, and building designs can create uncomfortable pedestrian environments; however, with careful site planning these areas will allow a greater number of residents to walk or bike to businesses and services with an interconnected network of streets and sidewalks. Allowed building/lot types are Highway Commercial, Urban Workplace, Shop-front, Detached House, Attached House, and Multi-family. Dominant uses in this district are residential, retail and office. The Mixed-Use Districts are expected to serve Marvin residents as well as persons who travel from surrounding communities. The development pattern in this district acknowledges the role of the automobile, with parking and access provided to promote safety for the motoring public. Development standards in the Mixed-Use Districts promote the creation of a pleasant pedestrian-friendly auto-oriented environment while enabling a compatible transition to uses in adjacent neighborhood districts.

The NC Highway 16 Commercial District (C-16) is established to provide opportunities for compatible, resilient and sustainable development along the NC Highway 16 corridor. Development standards in the C-16 district acknowledge that the automobile is the primary mode of transportation. Development and design standards encourage pedestrian scale development along a secondary street network serving larger projects. Goals of the C-16 district include providing a pleasant calm environment for motorists, a safe environment for pedestrians within a network of streets and pedestrian facilities; promoting the safety of motorists, cyclists and pedestrians; and preserving the capacity of the transportation network outside the core area as shown in the adopted Village Plan. Uses in this district include commercial goods & services, employment, and some limited small-scale industrial. Allowed building/lot types include Highway Commercial, Urban Workplace, and Shop-front.

The Vehicle Service and Repair District (VSR) is established to provide locations for specific uses that, due to their unique characteristics and importance to the community, and the traveling public, require different criteria and specifications than typical commercial development. Development standards in the Vehicle Service and Repair District acknowledge that the automobile is the primary mode of transportation in suburban communities and there is a vital need for such businesses to be located in close proximity to one another. Uses within the Vehicle Service and Repair District are buffered from adjacent uses. The dominant uses in this district are vehicle oriented and/or dependent and include vehicle-based services, vehicle repair shops and disabled vehicle storage areas. The Vehicle Service and Repair District is reserved for uses which

require broad maneuvering spaces and avoid pedestrian interaction with potentially hazardous conditions. Goals of the Vehicle Service and Repair District include providing a pleasant environment for motorists, a safe environment for pedestrians along the network of streets and pedestrian facilities; promoting the safety of motorists and pedestrians; and preserving the capacity of Main Street and its interconnecting network of streets outside the core area as shown in the adopted Village Plan. Uses in this district include heavy commercial goods and services for motor vehicles, and some limited industrial. Allowed building/lot type is Highway Commercial.

The Industrial District (IND) is established to provide locations for industrial uses that, due to the scale of the buildings and/or the nature of the use, cannot be integrated into the community. Uses within the Industrial District are buffered from adjacent uses. The dominant uses in this district are manufacturing and warehouse storage. Small scale manufacturing and storage that is compatible with less intensive uses can and should be located in other non-residential or mixed-use districts. The Industrial District is reserved for uses which require very large buildings and/or large parking and loading facilities.

The Traditional Neighborhood Development Overlay District (TNDO) provides an alternative opportunity applicable only upon request for a Zoning Map Amendment for the development of new neighborhoods and the revitalization or extension of existing neighborhoods. These neighborhoods are structured upon a fine network of interconnecting pedestrian-oriented streets and other public spaces. Traditional Neighborhood Developments (TND's) provide a mixture of housing types and prices, prominently sited civic or community building(s), stores/offices/workplaces, and churches to provide a balanced mix of activities. A Traditional Neighborhood Development (TND) has a recognizable center and clearly defined edges; optimum size is a quarter mile from center to edge. A TND is urban in form, is typically an extension of the existing developed area of the Village and has an overall residential density of up to eleven (11) dwelling units per acre. TNDO districts should have a significant portion of land dedicated to improved open spaces, and reserve un-improved open spaces where environmentally sensitive areas are located.

The Scenic Corridor Overlay District (SCO) is established to protect the pastoral scenes and open spaces that provide a sense of arrival for residents and visitors traveling the major entrance roads and gateways to the Village. The pastoral scenes and undeveloped property along the entrance roads and gateways contribute significantly to Marvin's community character and sense of place. The Scenic Corridor Overlay District provides development options for the owners of the property abutting the entrance roads and gateways. The goal of this district is to protect the scenic value of the corridors through a mix of incentives and development standards. These standards will preserve the suburban character of the Village by maintaining the sense of a suburban corridor in an urban environment; provide an aesthetically appealing experience for those traveling the

corridor; provide multi-modal transportation options for travel; and promote a safe transportation corridor for motorists, bicyclists, and pedestrians.

The Heavy Industry Overlay District (HIO) is established to protect all environments from the negative impacts of certain activities and types of development. It is the intent of this district to provide and permit certain public and private heavy industrial uses and facilities that incorporate hazardous materials and/or scientific technology, including wholesale, distribution, storage, processing, manufacturing and production. However, it is required that industries in this district take all necessary actions including but not limited to installation of apparatus and technological equipment available to prevent negative impacts on the environment and the community from the emissions of smoke, dust, fumes, noise and vibrations and other activities and/or products resulting from such hazardous industrial activities in accordance with federal, state and local regulations.

The Mini Farm Overlay District (MFO) permits buildings to be grouped on a site, parcel, or property in order to optimize the use of land and resources for both residential and agricultural purposes. By clustering development at a density no greater than 1.15 units per developed acre, projects developed in accordance with these standards can obtain density bonuses while preserving unique natural features for agricultural use. The Mini Farm Overlay District mandates the dedication of both agricultural land and open space with density bonuses provided as an incentive for adhering to the standards. It is the intent of this district to be used for new development in undeveloped outlying areas of the Village. Allowed building/lot type is Detached House.

The Manufactured Home Overlay District (MHO) is established to protect the standard of living and neighborhood conditions. Established standards that will enable the use of innovative manufactured homes with a higher aesthetic standard will invigorate these communities. Non-conforming manufactured home parks that have not received approval for continuation would be amortized over a period of time to allow the owner/operator to meet reasonable financial payback expectations in accordance with accepted practices in North Carolina. Existing parks could be limited to less fundamental standards and specifications, while new parks are required to meet a higher standard. These parks may be ideally suited for alternative designs such as Tiny House, Park Model and other styles of housing where installation standards are considered temporary. The overlay could be expanded to apply to permanent installations of innovative manufactured housing in subdivisions or parks in accordance with G.S. 160D-909.

The Heritage District (HD) is to promote the educational, cultural, and general welfare of the public through the creation of a community center that preserves, protects, and enhances of the old, historic, and/ or architecturally worthy structures of the historical center of the Village of Marvin; and to maintain such structures as visible reminders of the history and cultural heritage of the Village. Another purpose is to maximize

pedestrian connectivity and preservation of open space in this area. Furthermore, a purpose is to protect adjacent existing neighborhoods by requiring transitional density of residential areas, and large, opaque buffers between commercial areas and existing neighborhoods.

8.4 **District Development Standards and Permitted Uses Listed for Each District**

Development standards are established for each of the following Primary General-Use Districts to promote the orderly development of the Village of Marvin. The uses listed for each district, are as specified in Table 8.1, Sections 1-3 appearing at the end of this Article for each of the three categories of use listings as follows:

- 1) Listed Use - Where a use is listed in a given district, the symbol “L” is entered in the corresponding district column for the specific use.
- 2) Use Listed with Additional Standards - Where a use requiring supplemental standards and specifications in accordance with Section 10.1 of this Ordinance is listed in a district, the symbol “A” is entered in the corresponding district column for the specific use along with the reference number for the applicable supplemental standard(s).
- 3) Special Use - Where a use is listed in a given district, upon satisfaction of the requirements established in Section 10.2 of this Ordinance, the symbol “S” is entered in the corresponding district column for the specific use.

Where a use is not listed within a given Primary General-Use District, such use shall not be permitted.

8.4-1 Rural Residential District (RR)

(A.) Intent. The Rural Residential District (RR) is established to protect lands used for low-density residential uses in traditional rural settings and includes agricultural production, agriculturally based businesses and related activities. The Rural Residential District can also be used to preserve open spaces.

(B.) Listed Uses:

- (1.) Uses listed by right: See Table of Uses (Table 8.1) of this Article
- (2.) Uses listed with additional standards: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.1
- (3.) Uses listed with conditions: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.2

(C.) Listed Building and Lot Types: Detached House and Agricultural Buildings

(D.) Residential Density Limit, excluding Accessory Dwellings meeting the

limitations of and in accordance with Article 10, Section 10.1-3: 0.34 units/acre

(E.) General Standards & Specifications:

- (1.) Building placement, parking placement, building type, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building type listed in the Rural Residential District.
- (2.) Lot lines are exempt from the provisions of Article 16, sub-section 16.2-3(D).
- (3.) In addition to the requirements established by the lot type standards and building type standards, the following dimensional standards shall apply in the Rural Residential District:

Minimum Lot Size	Minimum Lot Width	Minimum Front Street Setback	Minimum Rear Yard Setback	Minimum Side Yard Setback	Minimum Corner Lot Side Street Setback
2.5 acres	144'	50'	40'	16'	25'

(F.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21.

(G.) Parking & Landscaping. Parking shall comply with the requirements set forth in Article 12. Landscaping shall comply with the requirements set forth in Article 11.

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8.4-2 Single-Family Residential Districts (SFR-1, SFR-2 and SFR-3)

(A.) Intent. The Single-Family Residential Districts (SFR-1, SFR-2 and SFR-3) provide for the completion of existing residential neighborhoods and the development of new residential neighborhoods. Allowed building/lot types in the Single-Family Districts are Detached House. Listed uses are restricted to Single-Family, including duplex (two-family), homes and their accessory uses. Neighborhoods in these districts are the dominant land use in Marvin and are a major element in defining the character of the community. Standards for the Single-Family Residential Districts promote that new development maintains the character of the community. The Single-Family Residential Districts permit the completion and conformity of conventional residential subdivisions already existing or approved in sketch plan form by the Village of Marvin prior to the effective date of these regulations.

(B.) Listed Uses:

- (1.) Uses listed by right: See Table of Uses (Table 8.1) of this Article
- (2.) Uses listed with additional standards: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.1
- (3.) Uses listed with conditions: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.2

(C.) Listed Building and Lot Types: Detached House

(D.) Gross Residential Density Limit, excluding Accessory Dwellings meeting the limitations of and in accordance with Article 10, Section 10.1-3:

- (1.) SFR-1: 1.00 unit/acre
- (2.) SFR-2: 2.00 units/acre
- (3.) SFR-3: 3.00 units/acre

(E.) General Standards & Specifications:

- (1.) Building placement, parking placement, building type, access, and lot arrangement shall be controlled by the lot and building type standards set forth in Article 9 for the lot and building types listed in the Single-Family Residential Districts.
- (2.) In addition to the requirements established by the lot type standards and building type standards, the following dimensional standards shall apply in the Single-Family Residential Districts:

	SFR-1	SFR-2	SFR-3
LOT DIMENSIONS			
Minimum Lot Size (gross square feet)	34,900	17,450	11,600
Minimum Lot Width measured at Front Street Setback	130'	72'	60'
PRINCIPAL STRUCTURES			
Minimum Front Street Setback measured from Street Right-of-way	50'	33'	20'
Minimum Rear Yard Setback	40'	30'	20'
Minimum Side Yard Setback	16'	9'	5'
Minimum Corner Lot Side Street Setback measured from Street Right-of- way	25'	21'	17'
ACCESSORY STRUCTURES			
Minimum Front Street Setback measured from Street Right-of-way	102'	73'	60'
Minimum Rear Yard Setback	10'	5'	5'
Minimum Side Yard Setback	10'	5'	5'
Minimum Corner Lot Side Street Setback measured from Street Right-of- way	26.5'	22.5''	18.5'
MINIMUM REQUIRED PARKING, WHETHER ENCLOSED OR NOT			
Minimum Front Street Setback measured from Street Right-of-way	65' or as specified by structure type whichever is greater	36.5'	23.5'
Minimum Corner Lot Side Street Setback measured from Street Right-of- way	47' or as specified by structure type whichever is greater	22.5'	18.5'

(F.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21.

(G.) Parking & Landscaping. Parking shall comply with the requirements set forth in Article 12. Landscaping shall comply with the requirements set forth in Article 11.

8.4-3 Main Street District (MS)

(A.) Intent. The Main Street District (MS) provides for new development, revitalization, reuse, and infill development in Marvin’s core downtown. A broad array of uses is listed to enable the needs of residents and visitors to be met. Allowed building/lot types in this district are Urban Workplace, Shop-front, Detached House, Attached House, Multi-family Building, and Civic Building. The development pattern seeks to integrate shops, restaurants, services, workplaces, civic, educational, and higher density housing in a compact, pedestrian-oriented environment. The Main Street District serves as the hub of the surrounding neighborhoods and of the broader community. The Main Street may be expanded over time to meet the needs of the growing community for downtown facilities and services. Expansion of the Main Street District shall be contiguous and not separated from the primary district area.

(B.) Listed Uses:

- (1.) Uses listed by right: See Table of Uses (Table 8.1) of this Article
- (2.) Uses listed with additional standards: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.1
- (3.) Uses listed with conditions: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.2

(C.) Listed Building and Lot Types: Urban Workplace, Shop-front, Detached House, Attached House, Multi-family Building, and Civic Building

(D.) Residential Density Limit, excluding Accessory Dwellings meeting the limitations of and in accordance with Article 10, Section 10.1-3: 24 units/acre

(E.) General Standards & Specifications:

- (1.) Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types listed in the Main Street District.
- (2.) In addition to the requirements established by the lot type standards and building type standards, the following dimensional standards shall apply in the Main Street District:

Minimum Lot Size	Minimum Lot Width	Build-to-Line from any street	Minimum Rear Yard Setback	Minimum Side Yard Setback

0 SF	0'	9'-3" or 14'-3" off back-of-curbing at street-side edge-of-sidewalk (exclusive of curb bump-outs) per Section 13.6-1 of this Ordinance, or the average alignment of existing buildings within the same block and same side of the street, provided that buildings with greater than six (6) feet of deviation shall not be considered in this computation. Under no conditions shall a building be permitted within the public right-of-way.	8'	0'
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(F.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21.

(G.) Parking & Landscaping. Parking shall comply with requirements set forth in Article 12. Landscaping shall comply with the requirements set forth in Article 11.

8.4-4 Civic District (CIV)

Intent: The Civic District (CIV) provides a location for educational, medical, governmental, religious, and other institutional uses. Large developments in the Civic District are encouraged to provide a master plan to the Village. Institutional uses in the Civic District are required to provide pedestrian connections on their campuses and, to the extent possible, develop an internal street system with structures fronting the streets. Parking should not be the dominant visible element of the campuses developed for institutional uses. Providing a unique district for civic uses will establish uniform standards.

(A.) Parking should not be the dominant visible element of the campuses developed for institutional uses.

(B.) Listed Uses:

- (1.) Uses listed by right: See Table of Uses (Table 8.1) of this Article
- (2.) Uses listed with additional standards: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.1
- (3.) Uses listed with conditions: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.2

(C.) Listed Building and Lot Types: Urban Workplace, Detached House, Attached House, Multi-family, and Civic Building

(D.) Residential Density Limits, excluding Accessory Dwellings meeting the

limitations of and in accordance with Article 10, Section 10.1-3:

- (1.) Single-Family Detached: 2 units/acre
- (2.) Dormitory for student population only: 16 dormitory beds/acre

(E.) General Standards & Specifications:

- (1.) Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types listed in the Civic District.
- (2.) In addition to the requirements established by the lot type standards and building type standards, the following dimensional standards shall apply in the Civic District:

Minimum Lot Size	Minimum Lot Width	Minimum Front Street Setback	Minimum Rear Yard Setback	Minimum Side Yard Setback	Minimum Side Street Setback, Corner Lot
20,000 SF	96'	12'	12' or as required by buffering standards and/or building type whichever is greater	12' or as required by buffering standards and/or building type whichever is greater	12' or as required by buffering standards and/or building type whichever is greater

(F.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21.

(G.) Parking, Landscaping and Buffers. Parking shall comply with the requirements set forth in Article 12. Landscaping, including required buffers, shall comply with the requirements set forth in Article 11.

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8.4-5 Mixed Use Districts (MU-1 and MU-2)

- (A.) Intent. The Mixed-Use Districts (MU-1 and MU-2) are established to provide opportunities for both compatible and sustainable re-development where underutilized commercial properties already exist as well as infill sites where site specific land planning of new development creates opportunities for businesses and various housing designs sharing community amenities and enhancements. Existing auto-oriented street, lot, and building designs can create uncomfortable pedestrian environments; however, with careful site planning these areas will allow a greater number of residents to walk or bike to businesses and services with an interconnected network of streets and sidewalks. Allowed building/lot types are Highway Commercial, Urban Workplace, Shop-front, Detached House, Attached House, and Multi-family. Dominant uses in this district are residential, retail and office. The Mixed-Use Districts are expected to serve Marvin residents as well as persons who travel from surrounding communities. The development pattern in this district acknowledges the role of the automobile, with parking and access provided to promote safety for the motoring public. Development standards in the Mixed-Use Districts promote the creation of a pleasant pedestrian-friendly auto-oriented environment while enabling a compatible transition to uses in adjacent districts.
- (B.) A Development Agreement, established pursuant to Section 7.15 of this Ordinance, shall be required as part of all Mixed Use (MU-1 and MU-2) District applications and shall apply to all projects within the MU-1 and MU-2 Districts.
- (C.) Listed Uses:
- (1.) Uses listed by right: See Table of Uses (Table 8.1) of this Article
 - (2.) Uses listed with additional standards: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.1
 - (3.) Uses listed with conditions: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.2
- (D.) Listed Building and Lot Types: Highway Commercial, Urban Workplace, Shop-front, Detached House, Attached House, and Multi-family
- (E.) Residential Density Limits, excluding Accessory Dwellings meeting the limitations of and in accordance with Article 10, Section 10.1-3:
- (1.) Single-Family Detached: 7 unit/acre
 - (2.) Single-Family Attached: 12 units/acre
 - (3.) Multifamily: 19 units/acre

(F.) General Standards & Specifications:

- (1.) Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types listed in the Mixed-Use Districts.
- (2.) In addition to the requirements established by the lot type standards and building type standards, the following dimensional standards shall apply in the Mixed-Use Districts:

Minimum Lot Size	Minimum Lot Width	Build-to-Line from “Main Street” type streets and intersecting streets (see Sect. 13.6-1)	Build-to-Line from street(s) other than the “Main Street” type street	Minimum Rear Yard Setback	Minimum Side Yard Setback
6,000 SF for all types except Single-family Attached Townhouse at 1600 SF	120’ on NC Hwy 16 0’ on a “Main Street” type street, 24’ on all other streets for all types except Single-family Attached Townhouse at 16’	14’-3” or 9’-3” off back-of-curb at street-side edge-of-sidewalk (exclusive of curb bump-outs) per Section 13.6-1 of this Ordinance, or the average alignment of existing buildings within the same block and same side of the street, provided that buildings with greater than six (6) feet of deviation shall not be considered in this computation. Under no conditions shall a building be permitted within the public right-of-way.	Maximum of 24’ from r/w or as required by buffering standards and/or building type whichever is greater	12’ or as required by buffering standards and/or building type whichever is greater	0’ or as required by buffering standards and/or building type whichever is greater unless specified by development agreement(s) for all types except interior lot lines of Single-family Attached Townhouse at 0’

(G.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21.

(H.) Parking, Landscaping and Buffers. Parking shall comply with the requirements set forth in Article 12. Landscaping, including required buffers, shall comply with the requirements set forth in Article 11.

8.4-6 NC Highway 16 Commercial District (C-16)

(A.) Intent: The NC Highway 16 Commercial District (C-16) is established to provide opportunities for compatible, resilient and sustainable development along the NC Highway 16 corridor. Development standards in the C-16 district acknowledge that the automobile is the primary mode of transportation. Development and design standards encourage pedestrian scale development along a secondary street network serving larger projects. Goals of the C-16 district include providing a pleasant calm environment for motorists, a safe environment for pedestrians within a network of streets and pedestrian facilities; promoting the safety of motorists, cyclists and pedestrians; and preserving the capacity of the transportation network outside the core area as shown in the adopted Village Plan. Uses in this district include commercial goods & services, employment, and some limited small-scale industrial. Allowed building/lot types include Highway Commercial, Urban Workplace, and Shop-front.

(B.) Listed Uses:

- (1.) Uses listed by right: See Table of Uses (Table 8.1) of this Article
- (2.) Uses listed with additional standards: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.1
- (3.) Uses listed with conditions: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.2

(C.) Listed Building and Lot Types: Highway Commercial, Urban Workplace, Shop-front, and Civic Building

(D.) Residential Density Limit: 0

(E.) General Standards & Specifications:

- (1.) Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types listed in the NC Highway 16 Commercial District (C-16).
- (2.) In addition to the requirements established by the lot type standards and building type standards, the following dimensional standards shall apply in the NC Highway 16 Commercial District (C-16):

Minimum Lot Size	Minimum Lot Width	Minimum Street Setback from r/w of NC Hwy 16	Minimum Street Setback from r/w of any street other than NC Hwy 16	Minimum Rear Yard Setback	Minimum Side Yard Setback
7,200 SF	120' on Primary/State Highways, or 40' on all other streets	24'	16' or as required by buffering standards and/or building type whichever is greater	12' or as required by buffering standards and/or building type whichever is greater	0' or as required by buffering standards and/or building type whichever is greater

(F.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 2.

(G.) Parking, Landscaping and Buffers. Parking shall comply with the requirements set forth in Article 12. Parking may be placed in between a building and NC Highway 16. However, parking shall not be in the required setback between a building and NC Highway 16. Landscaping, including required buffers, shall comply with the requirements set forth in Article 11.

(H.) When a building is in between a secondary street and the NC Highway 16, that building shall front the secondary street.

(This space left blank intentionally.)

8.4-7 Vehicle Service and Repair District (VSR)

(A.) Intent: The Vehicle Service and Repair District (VSR) is established to provide locations for specific uses that, due to their unique characteristics and importance to the community, and the traveling public, require different criteria and specifications than typical commercial development. Development standards in the Vehicle Service and Repair District acknowledge that the automobile is the primary mode of transportation in suburban communities and there is a vital need for such businesses to be located in close proximity to one another. Uses within the Vehicle Service and Repair District are buffered from adjacent uses. The dominant uses in this district are vehicle oriented and/or dependent and include vehicle-based services, vehicle repair shops and disabled vehicle storage areas. The Vehicle Service and Repair District is reserved for uses which require broad maneuvering spaces and avoid pedestrian interaction with potentially hazardous conditions. Goals of the Vehicle Service and Repair District include providing a pleasant environment for motorists, a safe environment for pedestrians along the network of streets and pedestrian facilities; promoting the safety of motorists and pedestrians; and preserving the capacity of Main Street and its interconnecting network of streets outside the core area as shown in the adopted Village Plan. Uses in this district include heavy commercial goods and services for motor vehicles, and some limited industrial. Allowed building/lot type is Highway Commercial.

(B.) Listed Uses:

- (1.) Uses listed by right: See Table of Uses (Table 8.1) of this Article
- (2.) Uses listed with additional standards: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.1
- (3.) Uses listed with conditions: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.2

(C.) Listed Building and Lot Type: Highway Commercial

(D.) Residential Density Limit: 0

(E.) General Standards & Specifications:

- (1.) Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types listed in the Vehicle Service and Repair District.
- (2.) In addition to the requirements established by the lot type standards and building type standards, the following dimensional standards shall apply in the

Vehicle Service and Repair District:

Minimum Lot Size	Minimum Lot Width	Minimum Street Setback from NC Hwy 16 r/w	Build-to-Line from r/w of any street other than NC Hwy 16	Minimum Rear Yard Setback	Minimum Side Yard Setback
12,000 SF	120' on any Primary/State Highway, or 80' on any other street	24'	24' or as required by buffering standards and/or building type whichever is greater	12' or as required by buffering standards and/or building type whichever is greater	12' or as required by buffering standards and/or building type whichever is greater

(F.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 2.

(G.) Parking, Landscaping and Buffers. Parking shall comply with the requirements set forth in Article 12. Parking may be placed in between a building and Main Street. However, parking shall not be in the required setback between a building and Main Street. Landscaping, including required buffers, shall comply with the requirements set forth in Article 11. See Image 8.4-2 below.

(H.) When a building is in between a secondary street and NC Highway 16, that building shall front the secondary street.

(This space left blank intentionally.)

8.4-8 Industrial District (IND)

(A.) Intent: The Industrial District (IND) is established to provide locations for industrial uses that, due to the scale of the buildings and/or the nature of the use, cannot be integrated into the community. Uses within the Industrial District are buffered from adjacent uses. The dominant uses in this district are manufacturing and warehouse storage. The Industrial District is reserved for uses which require very large buildings and/or large parking and loading facilities.

(B.) Listed Uses:

- (1.) Uses listed by right: See Table of Uses (Table 8.1) of this Article
- (2.) Uses listed with additional standards: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.1
- (3.) Uses listed with conditions: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.2

(C.) Listed Building and Lot Types: Highway Commercial

(D.) Residential Density Limit: 0

(E.) General Standards & Specifications:

- (1.) Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types listed in the Industrial District.
- (2.) In addition to the requirements established by the lot type standards and building type standards, the following dimensional standards shall apply in the Industrial District:

Lot Size	Lot Width	Front Street Setback	Rear Yard Setback	Side Yard Setback	Corner Lot Side Street Setback
32,400 SF	180'	80'	16'	16'	80'

(F.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21.

(G.) Parking, Landscaping and Buffers. Parking shall comply with the requirements set forth in Article 12. Landscaping, including required buffers, shall comply with the requirements set forth in Article 11.

8.5 Overlay Districts

The following Overlay Districts supersede the underlying primary general use zoning districts where additional listed uses and/or requirements and/or standards and/or conditions are established by the Overlay District. All other provisions of the Primary General-Use District shall apply where no superseding provisions of the Overlay Districts are established.

Development standards are established for each of the following Overlay Districts to promote the orderly development of the Village of Marvin. The uses listed for each district, are as specified in Table 8.1, Sections 1-3 appearing at the end of this Article for each of the three categories of use listings as follows:

- 1) Listed Use - Where a use is listed in a given district, the symbol “L” is entered in the corresponding district column for the specific use.
- 2) Use Listed with Additional Standards - Where a use requiring supplemental standards and specifications in accordance with Section 10.1 of this Ordinance is listed in a district, the symbol “A” is entered in the corresponding district column for the specific use along with the reference number for the applicable supplemental standard(s).
- 3) Special Use - Where a use is listed in a given district, upon satisfaction of the requirements established in Section 10.2 of this Ordinance, the symbol “S” is entered in the corresponding district column for the specific use.

Where a use is not listed within a given Overlay District or underlying Primary General-Use District, such use shall not be permitted.

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8.5-1 Traditional Neighborhood Development Overlay (TNDO)

(A.) Intent: The Traditional Neighborhood Development Overlay District (TNDO) provides an alternative opportunity applicable only upon request for a Zoning Map Amendment for the development of new neighborhoods and the revitalization or extension of existing neighborhoods. These neighborhoods are structured upon a fine network of interconnecting pedestrian-oriented streets and other public spaces. Traditional Neighborhood Developments (TND's) provide a mixture of housing types and prices, prominently sited civic or community building(s), stores/offices/workplaces, and churches to provide a balanced mix of activities. A Traditional Neighborhood Development (TND) has a recognizable center and clearly defined edges; optimum size is a quarter mile from center to edge. A TND is urban in form, is typically an extension of the existing developed area of the Village and has an overall residential density of up to eleven (11) dwelling units per acre. TNDO districts should have a significant portion of land dedicated to improved open spaces, and reserve un-improved open spaces where environmentally sensitive areas are located.

(B.) A Development Agreement, established pursuant to Section 7.15 of this Ordinance, shall be required as part of all Traditional Neighborhood Development Overlay (TNDO) District applications and apply to all projects within the TNDO District. Application for a TNDO District shall serve as consent per G.S. 160D-702(b) to the standards & specifications applicable to TNDO District development.

(C.) Listed Uses:

- (1.) Uses listed by right: See Table of Uses (Table 8.1) of this Article
- (2.) Uses listed with additional standards: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.1
- (3.) Uses listed with conditions: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.2

(D.) Listed Building and Lot Types: Urban Workplace, Shop-front Commercial, Multi-family Building, Detached House, Attached House and Civic Building

(E.) Residential Density Limits, excluding Accessory Dwellings meeting the limitations of and in accordance with Article 10, Section 10.1-3:

- (1.) Single-Family Detached: 7 units/acre
- (2.) Single-Family Attached: 12 units/acre
- (3.) Multifamily: See 10.1-24 B.(2) for Multifamily limits

(F.) General Standards & Specifications:

- (1.) Building placement, parking placement, building type, urban form, access,

and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types listed in the Traditional Neighborhood Development Overlay District and by the standards set forth in section 8.5-1.(F) below.

- (2.) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - (a.) New buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.
 - (b.) New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume.
- (3.) On new streets, allowable building and lot types will establish the development pattern.
- (4.) A master site development plan in compliance with Traditional Neighborhood Development standards of this Ordinance Section 8.5-1 shall be provided with both the application for a Zoning Map Amendment and the Zoning Compliance Permit Submittal for a FNDO. The master plan shall include a topographic survey and shall show the location and hierarchy of streets and public open spaces, location of residential, commercial, and civic building lots, street sections and/or plans, a master sign program, an outline of any additional regulatory intentions, phasing, and any other information, including building elevations, which may be required to evaluate both the internal pedestrian environment and conditions at project edges.
- (5.) A grading plan shall be provided for review and approval in accordance with the procedures of Article 7 of this Ordinance to demonstrate both positive drainage characteristics and smooth grade transitions to avoid abrupt “v” ditches, swales and other disruptions to the landscape, particularly between dwellings. The use of either crawl-space and/or stem-wall construction techniques, or professional landscape design is required to meeting this characteristic of site development.
- (6.) Minimum Development Size: 10 acres
- (7.) Maximum Development Size: none.

(G.) TND Design Standards & Specifications:

- (1.) Neighborhood Form:
 - (a.) The descriptions of Traditional Neighborhood Building and Lot types in Article 9 will determine the general arrangement and distribution of

elements in a TND.

- (b.) The area of the TND shall be divided into blocks, streets, lots, and open space. Grading of blocks shall not produce abrupt “v” ditches, swales and other disruptions to the landscape between dwellings on either individual lots or the same lot.
- (c.) Similar land uses shall generally front across each street. Dissimilar categories shall generally abut at rear lot lines. Corner lots which front on streets of dissimilar use shall generally observe the setback established on each fronting street.

(2.) Streets, Alleys and Blocks:

- (a.) Public streets shall provide access to all tracts and lots.
- (b.) Streets and alleys shall, wherever practicable, terminate at other streets within the neighborhood and connect to existing and projected streets outside the development.
- (c.) Cul-de-sacs shall not exceed 250 feet in length, must be accessed from a street providing internal or external connectivity, shall be permanently terminated by a vehicular turnaround, and are permitted only where topography makes a street connection impracticable. In most instances, a “close” or “eyebrow” is preferred to a cul-de-sac.
- (d.) Vehicular turnarounds of various configurations are acceptable so long as emergency access is adequately provided.
- (e.) Pedestrian connections should be provided as extensions of terminating streets where not precluded by topography or other physical constraints.
- (f.) The average perimeter of all blocks within the TND shall not exceed 2,400 feet. No block face shall have a length greater than 750 feet without a dedicated alley or pathway providing through access.
- (g.) A continuous network of rear alleys is recommended for all lots in a TND; however, rear alleys shall provide vehicular access to all lots 49 feet or less in width to reduce traffic conflicts with vehicles operating in reverse.
- (h.) Utilities may run along alleys provided that a permanent access and utility easement is recorded for the full length of alley being used for utilities or public services such as garbage collection.
- (i.) TND streets shall be organized according to a hierarchy based on function, size, capacity, and design speed; streets and rights-of-way are therefore expected to differ in dimension. The proposed hierarchy of streets shall be indicated on the submitted site plan. Each street type in a TND shall be separately detailed. Street types shall meet or exceed the minimum requirements of the Village of Marvin Standards and Specifications

Manual Standard 1.01. Alley and/or Lane Street types shall have a minimum 16'-0" total width of hard surface(s) and meet the minimum pavement section standard for streets per Village of Marvin Standards and Specifications Manual Standard 1.01. Required elements that are combined to meet the purposes of TND neighborhood streets:

1. building placement line,
2. optional utility allocation,
3. 5'-0" to 14'-0" sidewalk widths,
4. planting strip for sidewalks less than 9'-0" in width,
5. street trees on all streets,
6. curb and gutter,
7. optional parallel parking per Village of Marvin Standards and Specifications Manual Standard 2.02 , and
8. travel lane(s) not exceeding 11'-0" in width unless excess width is marked for either shared or dedicated bicycle lanes.

Alternative methods of assembling the required street elements will be considered to allow neighborhood street designs that are most appropriate to setting and use by *Special Use Permit* per Article 7 of this Ordinance.

- (j.) To prevent the buildup of vehicular speed, disperse traffic flow, and create a sense of visual enclosure, long uninterrupted segments of straight streets should be avoided. Methods to achieve this interruption include:
- a. A street can be interrupted by intersections designed to calm the speed and disperse the flow of traffic (see Village of Marvin Standards and Specifications Manual) and terminate vistas with a significant feature (building, park, natural feature);
 - b. a street can be terminated with a public monument, specifically designed building facade, or a gateway to the ensuing space;
 - c. perceived street length can be reduced by a noticeable street curve where the outside edge of the curve is bounded by a building or other vertical element that hug the curve and deflect the view; and
 - d. other traffic calming configurations are acceptable so long as emergency access is adequately provided.

(3.) Buildings and Lots:

- (a.) All lots shall share a frontage line with a street or square; lots fronting a square shall be provided rear alley access.
- (b.) No minimum lot size, width, or setback dimensions are required. Lot configurations and setback criteria shall be as denoted on the approved Major Site Development Plan approved for the project, provided all design

criteria of Section 8.5-1, and applicable provisions of Article 9 are met.

(c.) Consistent build-to lines shall be established along all streets and public space frontages; build-to lines determine the width and ratio of enclosure for each public street or space. A minimum percentage build-out at the build-to line shall be established on the plan along all streets and public square frontages.

(d.) Building and lot types shall comply with the descriptions provided in Article 9.

(e.) Large-scale, single use facilities (conference spaces, theaters, athletic facilities, etc.) shall generally occur behind or above smaller scale uses of pedestrian orientation. Such facilities may exceed maximum first floor area standards if so sited.

(4.) Open Space: The provision and design of open space shall comply with the requirements set forth in Article 21.

(5.) Driveways, Parking, Landscaping and Buffers: Driveways to individual lots shall be separated a minimum of 47 linear feet, measured at the right-of-way along streets, within the TNDO. Parking shall comply with the requirements set forth in Article 12. Landscaping, including required buffers, shall comply with the requirements set forth in Article 11.

8.5-2 Scenic Corridor Overlay (SCO)

(A.) Intent. The Scenic Corridor Overlay District (SCO) is established to protect the pastoral scenes and open spaces that provide a sense of arrival for residents and visitors traveling the major entrance roads and gateways to the Village. The pastoral scenes and undeveloped property along the entrance roads and gateways contribute significantly to Marvin's community character and sense of place. The Scenic Corridor Overlay District provides development options for the owners of the property abutting the entrance roads and gateways. The goal of this district is to protect the scenic value of the corridors through a mix of incentives and development standards. These standards will preserve the suburban character of the Village by maintaining the sense of a suburban corridor in an urban environment; provide an aesthetically appealing experience for those traveling the corridor; provide multi-modal transportation options for travel; and promote a safe transportation corridor for motorists, bicyclists, and pedestrians.

(B.) Types. Three (3) types of scenic corridors are hereby created:

(1.) Suburban Scenic Corridor – A corridor along which development is limited, consisting largely of fields, pastures, and scattered residential uses. The suburban scenic corridor evokes a sense of traveling through an undeveloped area, with pastoral scenes and a sense of being removed from the urban

environment.

- (2.) Gateway Scenic Corridor - A corridor that serves as an entrance way to a place that is unique and different from other communities in the area. The gateway corridor provides a sense of arrival to a place that is special and different from the typical places. The gateway scenic corridor may be more developed than the suburban scenic corridor, but the character of the development is such that those using the corridor are aware they are in a special place.
- (3.) Bypass Scenic Corridor - A corridor providing for buffering of the Bypass to protect the traffic carrying capacity of the road and to provide for a pleasant experience for motorists using the bypass. The bypass scenic corridor requires an undeveloped setback from the bypass, promoting that the bypass through Marvin is unique and portrays the character of the community while enhancing the safety of motorists using the road.

(C.) General Standards & Specifications:

- (1.) Development Pattern. Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types listed in the Scenic Corridor Overlay District.
- (2.) Activities Listed in the Scenic Corridor. In order to preserve the aesthetic quality of the scenic corridors, uses and activities within the designated scenic corridors shall be limited to the following:
 - (a.) The scenic corridor easement may be used for passive recreation, agricultural uses, and equestrian uses. No other use shall be listed within the scenic corridor easement.
 - (b.) No building construction, parking, land disturbing activity, signs, tree removal, lighting (other than street lighting provided by the Village of Marvin and driveway or private road lighting provided that said lighting is provided by full cutoff fixtures), or other development activity shall occur within the scenic corridor easement except as follows:
 - a. A bikeway, greenway, and/or other pedestrian/bicycle facility may be located within the scenic corridor easement.
 - b. Underground utilities and easements for underground utilities may be located within the scenic easement, provided that no above ground transmission or other equipment is located within the scenic easement.
 - c. Buildings used primarily for agricultural and/or equestrian related activities may be built in the scenic corridor easement upon approval by the Village Council as a Special Use. Parking shall be located

behind the building, shall not be located within the scenic easement, and shall be buffered from the scenic corridor. The Village Council shall consider the following items in making the decision to allow aforesaid buildings in the scenic easement:

1. The building's visual impact on the scenic corridor;
2. The building's size;
3. The compatibility of the building's architecture with community character and the purposes of the scenic corridor overlay district.

(3.) Scenic Corridor Dimensions. The designated scenic corridors shall meet the following dimensional standards:

- (a.) The width of the scenic easement within the Suburban Scenic Corridor shall be 10% of the lot depth but no more than 100 feet from the edge of the public right-of-way. The *Planning, Zoning & Subdivision Administrator* may require an additional scenic depth of up to 50 feet in order to preserve structures and/or vegetation deemed to be significant.
- (b.) The width of the scenic easement within the Gateway Scenic Corridor shall be 10% of the lot depth but no more than 50 feet from the edge of the roadway right-of-way. The *Planning, Zoning & Subdivision Administrator* may require an additional depth of up to 25 feet in order to preserve structures and/or vegetation deemed to be significant.
- (c.) The width of the scenic easement within the Bypass Scenic Corridor shall be 10% of the lot depth but no more than 75 feet from the edge of the public right-of-way. The *Planning, Zoning & Subdivision Administrator* may require an additional depth of up to 25 feet in order to preserve structures and/or vegetation deemed to be significant.

(4.) Scenic Corridor Provisions. The following provisions shall govern development within a designated scenic corridor:

- (a.) The area within the scenic easement may be dedicated to the Village as a conservation easement, provided it meets the standards for such an easement as established by applicable state and federal standards.
- (b.) Development density shall be calculated for the entire property, including the area within the scenic easement, with the exception that development density bonuses of up to 50 percent are given for the portion of the property within the scenic easement. In the event that the property owner provides a scenic easement wider than required by this ordinance, the density bonus may be increased up to 75% for the area located within the scenic easement.

For example, the Jones family own a 10-acre property zoned Single-Family Residential (SFR). Two (2) acres of the property are within the Scenic

*Corridor Overlay. The density is calculated as follows:
Base density @ 3 units/acre x 10 acres = 30 units
50% density bonus for 2 acres in scenic corridor easement
50% of (2 acres x 3 units/acre) = 3-unit bonus
Total Density = 33units*

*If the Jones' provide an easement wider than required, then they would receive a
75% density bonus for the area within the easement:*

*Base density @ 3units/acre x 10 acres = 30 units
75% density bonus for 2 acres with wider easement
75% of (2 acres x 3 units/acre) = 4.5-unit bonus
Total Density = 35 units*

- (c.) Development may be clustered on the portion of the property located outside the scenic easement.
- (5.) Curb Cuts. There shall be a minimum separation of 500' between curb cuts in the suburban scenic corridors. This separation requirement may be waived by the *Planning, Zoning & Subdivision Administrator* if the width of the property frontage would preclude a second curb cut meeting this spacing requirement.
- (6.) Lot Standards & Specifications. The lot type standards and building type standard listed in the underlying district, as set forth in section 8.4 and further described in Article 9, shall apply in the Scenic Corridor Overlay District.
- (D.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21. Land within the scenic easement may count for up to 100% of the minimum open space required by Article 21 of this Ordinance.
- (E.) Parking & Landscaping. Parking shall comply with the requirements set forth in Article 12. Landscaping shall comply with the requirements set forth in Article 11.

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8.5-3 Heavy Industry Overlay (HIO)

(A.) Intent. The Heavy Industry Overlay (HIO) District is established in accordance with *NCGS Reference: 130A-293 Local ordinances prohibiting hazardous waste facilities* to protect all environments from the negative impacts of certain activities and types of development. It is the intent of this district to provide and permit certain public and private heavy industrial uses and facilities that incorporate hazardous materials and/or scientific technology, including wholesale, distribution, storage, processing, manufacturing and production. However, it is required that industries in this district take all necessary actions including but not limited to installation of apparatus and technological equipment available to prevent negative impacts on the environment and the community from the emissions of smoke, dust, fumes, noise and vibrations and other activities and/or products resulting from such hazardous industrial activities in accordance with federal, state and local regulations. It is further intended that this section will:

- (1.) provide standards that will promote that such development will be designed, arranged and constructed to protect the reservoirs and the lands of the Village of Marvin;
- (2.) provide standards that will promote that such development will have a minimum impact on the public schools within the Village's jurisdiction and public health safety, and welfare; and
- (3.) through the zoning map amendment process; provide for careful consideration in the location of such uses that, because of their inherent nature, extent, and external effects, require special care in control of their design and methods of operation in order to promote protection of the public safety and welfare.

(B.) Property shall be within an Industrial (IND) Zoning District to be eligible for consideration for the Heavy Industry Overlay (HIO) District.

(C.) Exempt Uses. For the purpose of this section, the following uses are exempt from the provisions of this section:

- (1.) Medical Clinics having no-certificate-of need for in-patient care;
- (2.) Medical Facilities having no-certificate-of need for in-patient care;
- (3.) Doctor's Offices;
- (4.) Dental Offices;
- (5.) Outpatient Facilities having no certificate-of-need for in-patient care; and
- (6.) Healthcare Facilities having no certificate-of-need for in-patient care.

(D.) Special Use Permits for All Hazardous Industries Required.

(E.) Minimum Lot Dimensions. The minimum lot size shall be of sufficient size to facilitate a hazardous industry facility which meets all requirements of this section, the Marvin Technical Standards & Specifications Manual, and all buffer requirements for new development.

(F.) Minimum Building/Parking Lot/Storage Area Setbacks. The minimum building/parking/storage area setbacks shall be as follows:

- (1.) From any arterial or collector street right-of-way – 500 feet
- (2.) From any local street right-of-way – 500 feet
- (3.) From an interior lot line adjacent to a non-residential zoning district –250 feet
- (4.) From an interior lot line adjacent to a school or day care facility –500 feet
- (5.) From an interior lot line adjacent to a residential zoning district – 500 feet

(G.) Building Height Requirements.

- (1.) The maximum building height for a structure adjacent to a residential or commercial zoning district shall be no greater than 40 feet.
- (2.) The maximum building height for a structure adjacent to an industrial zoning district – no height restrictions.

(H.) Listed Uses:

- (1.) Uses listed by right: See Table of Uses (Table 8.1) of this Article
- (2.) Uses listed with additional standards: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.1
- (3.) Uses listed with conditions: See Table of Uses (Table 8.1) of this Article and Article 10, Section 10.2

(I.) Use Requirements.

- (1.) Any such hazardous industry facility shall be located consistent with the Future Land Use Patterns as set out in the adopted “*Village Plan 2040*” as may be amended from time to time.
- (2.) Any such hazardous industry facility shall be located on a designated arterial roadway as defined in either an officially adopted comprehensive, land use, transportation and/or thoroughfare plan by a government having jurisdiction affecting the location.
- (3.) Any such hazardous industry facility shall be serviced by a public water and wastewater system.
- (4.) Any such hazardous industry facility shall be enclosed with a security fence

of adequate height and structure that would reasonable prohibit access to the site by the general public. All security gates and/or gate houses shall be set back a minimum of 50 feet from the public right-of-way line.

- (5.) All structures housing the storage of bulk liquid and/or hazardous or toxic materials shall be set back from any property line a minimum of 550 feet.
- (6.) There shall be no industry created noise in excess of 50 decibels as measured at the property line and no objectionable noise due to extreme frequency, beat frequency, intermittence or shrillness.
- (7.) There shall be no industry created ground vibration measurable at any lot line of an industrial unit.
- (8.) There shall be no industry created air pollution including:
 - (a.) No noxious odors; no noxious, toxic or corrosive gases or fumes.
 - (b.) No smoke of a density in excess of #1 on the Ringelmann Chart. In cases of smoke other than black in color, and approved density scale equivalent to the Ringelmann Chart shall be used.
 - (c.) No dust or other particulate matter emitted in excess of 0.85 pounds per 1,000 pounds of gases adjusted to 12% carbon dioxide.
 - (d.) There shall be no surface or subsurface discharge or disposal of any wastes, either liquid or in any form without prior approval of the Village Council.
 - (e.) There shall be no unusual fire or explosion hazards. Based on the National Board of fire insurance rates which classifies industrial units as Class I, Class II, and Class III, the following shall apply:
 - a. No special controls on a manufacturing unit determined to be Class I other than under [iii] below.
 - b. Class II and Class III manufacturing units shall be contained in a building designed and constructed in accordance with its class and according to provisions of the building code published by the Building Officials and Code Administrators, International [BOCA], 1313 East 60th Street, Chicago, Illinois, 60637.
 - c. Machinery or equipment shall be treated as necessary to eliminate hazards.
 - d. Uses which are customarily incidental and accessory to the principal use shall be listed including, but not limited to: dwelling quarters for watchmen and caretakers employed on the premises, recreation areas and facilities for persons employed by industries within the same district's boundaries, restaurants, warehouses and commercial uses that are listed in the NC Highway 16 Commercial District ("C-16").
 - (f.) Businesses that produce, store or use hazardous materials, as defined by the Environmental Protection Agency's (EPA) Hazardous Substances or Prior Pollutants lists shall be allowed only when the items listed in Section 10.2-16

are met.

(g.) Miscellaneous Prohibitions:

- a. Any interference with any other process, equipment, appliance or devices and any mechanical, electrical or other equipment which could create such interference shall have all necessary shielding or other protection.
- b. In any industrial unit or accessory all operations and storage, other than for passenger vehicles of visitors and employees, trucks and over the road vehicles, shall be within an entirely enclosed building or structure. Exemption: Outside storage of bulk or large raw materials which are fireproof if enclosed by a security fence with provisions for visual inspection and where screened from public view in its entirety from adjacent properties and public streets/roadways.

(J.) Conformance with *Marvin Technical Standards & Specifications Manual*. All development shall comply with the requirements of the *Marvin Technical Standards & Specifications Manual*.

(K.) Operations and Closure Plans Required. An emergency operations plan shall be developed and be on file at the Village of Marvin and Union County Emergency Management Offices.

(1.) An operations plan shall be submitted to include:

- (a.) The date of commencement of operations and their expected duration;
- (b.) Proposed hours and days of operation;
- (c.) A complete description of operation, including source of materials, method of compaction, type of sealing proposed to be used, types and number of equipment to be used;
- (d.) Any phasing schedule of operations and relationship among phases;
- (e.) Operating practices to be followed to promote compliance with regulations of this ordinance, and;
- (f.) Complete assessment by the Marvin Fire Department in conjunction with local emergency management agencies that all necessary equipment, training, and personnel are available at the emergency response level to adequately handle all emergency scenarios.

(2.) A closure plan shall be prepared and submitted in accordance with United States Environmental Protection Agency (USEPA) guidelines as part of the application for a zoning map amendment to establish the HIO district.

(L.) Hazardous Chemical Notification and Inventory Reporting. EPCRA Section 311-312 applies to any facility at which a hazardous chemical, as defined by the Occupational Safety and Health Act, is present in an amount exceeding a specified threshold. These facilities must submit -- to the SERC, LEPC, and local fire department -- material safety data sheets (MSDSs) or lists of MSDSs and hazardous chemical inventory forms (also known as Tier I and II forms). This information helps the local government respond in the event of a spill or release of the chemical.

(M.) Emergency Notification and Rural Residential. EPCRA requires businesses that store threshold amounts of chemicals that are subject to OSHA's Hazardous Communication Standard to submit information -- including facility point of contact and the Material Safety Data Sheets (or a list of those chemicals) -- to state and local authorities in order to facilitate emergency planning and response. Annual reporting to state and local authorities is required for all covered facilities that have those chemicals in amounts above threshold. Hazardous chemicals used in routine agricultural operations and fertilizers held for resale by retailers is excluded.

(N.) Toxic Chemical Release Inventory Reporting. EPCRA Section 313 requires manufacturing facilities included in SIC codes 20 through 39 to submit an annual toxic chemical release report if they have 10 or more employees and if they manufacture, process, or use specified chemicals in amounts greater than threshold quantities. This report, commonly known as Form R, covers releases and transfers of toxic chemicals to various facilities and environmental media, and allows EPA to compile the national Toxic Release Inventory (TRI) database.

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8.5-4 Mini Farm Overlay (MFO)

- (A.) Intent. The Mini Farm Overlay District (MFO) permits buildings to be grouped on a site, parcel, or property in order to optimize the use of land and resources for both residential and agricultural purposes. By clustering development at a density no greater than 1.15 unit per developed acre, projects developed in accordance with these standards can obtain density bonuses while preserving unique natural features for agricultural use. The Mini Farm Overlay District mandates the dedication of both agricultural land and open space with density bonuses provided as an incentive for adhering to the standards. It is the intent of this district to be used for new development in undeveloped outlying areas of the Village. Allowed building/lot type is Detached House.
- (B.) Applicability. The provisions set forth below may be applied, upon designation of the property as a Mini Farm Overlay District, to properties with a minimum size of 66 acres in the Rural Residential (RR) District. The provisions of this section shall not be applicable in platted and recorded residential subdivisions.
- (C.) Listed Uses: See underlying Primary General-Use District for Listed Uses.
- (D.) Listed Building and Lot Type: Detached House
- (E.) Development standards. The following development standards shall apply to developments approved in accordance with the provisions of this section:
- (1.) Maximum density shall be one dwelling per 0.34 acre of the Tract(s) within the MFO district, excluding Accessory Dwellings meeting the limitations of and in accordance with Article 10, Section 10.1-3.
 - (2.) There shall be a minimum separation of 12 feet between all enclosed structures.
 - (3.) Parking shall comply with the requirements set forth in Article 12.
- (F.) Agricultural and Open Space. Not less than 67% of the site shall be conveyed as Common Agricultural and Open Space. The provision and design of agricultural and open space shall comply with the requirements set forth below.
- (1.) Common agricultural and open space provided by a development shall be conveyed as follows:
 - (a.) To the Village of Marvin and accepted by it for park, open space, agricultural, or other specified use or uses, provided that the conveyance is approved by the Village Council; or
 - (b.) To a nonprofit organization whose principal purpose is the conservation

of open space, to a corporation or trust owned or to be owned by the owners of lots or dwelling units within the development, or to owners of shares within a cooperative development. If such a corporation or trust is used, ownership shall pass with the conveyances of the lots or dwelling units. Such corporation or trust shall maintain the property in use for agricultural purposes and/or as open space.

(2.) Where the common agricultural and open space in a development is conveyed pursuant to subparagraph 1.b above, a deed restriction enforceable by the Village of Marvin shall be recorded that provides that the common agricultural and open space shall:

- (a.) be maintained in the authorized conditions(s); and
- (b.) not be developed for principal uses, accessory uses (e.g., parking), or roadways, with the exception that gazebos, tool sheds, barns, shelters, or similar accessory uses and structures may be constructed within the agricultural and common open space upon approval of the *Planning, Zoning and Subdivision Administrator*.

(G.) General Standards & Specifications.

(1.) The following shall apply in the Mini Farm Overlay District:

Minimum Lot Size	Minimum Lot Width	Minimum Front Yard Setback	Minimum Rear Yard Setback	Minimum Side Yard Setback	Minimum Corner Lot Side Yard Setback
50,000 S.F.	120'	80'	16'	16'	50'

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8.5-5 Manufactured Home Overlay (MHO)

(A.) Intent. The Manufactured Home Overlay District (MHO) is established to protect the standard of living and neighborhood conditions. Established standards that will enable the use of innovative manufactured homes with a higher aesthetic standard will invigorate these communities. Non-conforming manufactured home parks that have not received approval for continuation would be amortized over a period of time to allow the owner/operator to meet reasonable financial payback expectations in accordance with accepted practices in North Carolina. Existing parks could be limited to less fundamental standards and specifications, while new parks are required to meet a higher standard. These parks may be ideally suited for alternative designs such as Tiny House, Park Model and other styles of housing where installation standards are considered temporary. The overlay could be expanded to apply to permanent installations of innovative manufactured housing in subdivisions or parks in accordance with G.S. 160D-910.

(B.) Applicability. The provisions set forth below may be applied, upon designation of the property as a Manufactured Home Overlay District, to properties with a minimum size of five (5) acres in either the Single-family Residential (SFR-3) district, or the Mixed Use (MU) district.

(C.) Listed Uses:

- (1.) Uses listed by right
See Table of Uses (Table 8.1)
- (2.) Uses listed with additional standards
See Table of Uses (Table 8.1)
- (3.) Uses listed with conditions
See Table of Uses (Table 8.1)

(D.) Listed Building and Lot Type: Detached House

(E.) Development standards. The following development standards shall apply to developments approved in accordance with the provisions of this section:

- (1.) Compliance with the provisions of Section 10.2-10 of this Ordinance.
- (2.) Maximum density shall be three (3) dwellings per gross acre of the Tract(s) within the MHO district.
- (3.) There shall be a minimum separation of 24 feet between all enclosed structures.

8.5-6 Heritage District Conditional Zoning (HD-CZ)

- (A.) Intent. The Heritage District Conditional Zoning (HD-CZ) is to promote the educational, cultural, and general welfare of the public through the creation of a community center that preserves, protects, and enhances of the old, historic, and/or architecturally worthy structures of the historical center of the Village of Marvin; and to maintain such structures as visible reminders of the history and cultural heritage of the Village. Another purpose is to maximize pedestrian connectivity and preservation of open space in this area. Furthermore, the purpose is to protect adjacent existing neighborhoods by requiring transitional density of residential areas, and large, opaque buffers between commercial areas and existing neighborhoods.
- (B.) Applicability. This section shall govern the design and permitting of construction of land lying within the village's Heritage District area as shown on the Official Zoning Map of the village for properties where property owners have voluntarily applied for conditional zoning and received rezoning approval to one or more of the Heritage District's subdistricts. This section is applicable to all land, building sites and land development of all properties zoned with a Heritage District (HD) suffix zoning designation, except in Exceptions below. Traditional design conventions have been applied to create a palette of Zoning subdistricts and streetscapes that form the framework for the Heritage District.

In the event any provisions of these form-based code regulations conflict with any other provisions of this chapter or other village ordinances, then the provisions of these form-based codes shall control. Other provisions in the village ordinances not in conflict with the form-based code regulations remain in effect. All applications are subject to the following standards. The images contained in this Code are meant to demonstrate the character intended for the Marvin Heritage District but are for illustrative purposes only. The accompanying text and numbers are rules that govern permitted development, where if pictures and text conflict, the text prevails.

After property has been voluntarily rezoned to Heritage District zoning districts, exterior modifications made to repair damages following an event, or additions proposed to existing buildings which predate adoption of such rezoning, shall comply with architectural standards set forth in this Code where such exterior architectural repairs or new construction will be visible from a public right-of-way. Exterior routine repair and maintenance of buildings that predate adoption of rezonings to the Heritage District's conditional zoning districts shall not be subject to comply with architectural standards set forth in this Code.

While the Marvin Heritage District is envisioned as an integrated seamless grouping of land uses and building types, the geographic area of the overall district and regulations contained herein, are organized into the following four subdistricts, and depicted in the Marvin Heritage District Regulating Plan: Heritage District-Residential Only (HD-RO); Heritage District-Mixed Use (HD-MU); Heritage District-Commercial Only (HD-CO); and Heritage District-Civic (HD-Civic).

(C.) A Development Agreement, established pursuant to Section 7.15 of this Ordinance, shall be required as part of all Heritage District (HD) applications and apply to all projects within the HD District. Application for a HD District shall serve as consent per G.S. 160D-702(b) to the standards & specifications applicable to TNDO District developments appearing in Article 9, Section 9.2-3(6)(a.) of this Ordinance.

(D.) Listed Uses:

(1.) Uses listed by right

See Table of Uses (Table 8.1)

(2.) Uses listed with additional standards

See Table of Uses (Table 8.1)

(3.) Uses listed with conditions

See Table of Uses (Table 8.1)

(E.) Listed Building and Lot Type: The house types were carefully selected from the current and historic character of the Marvin area. Characteristics of the Large Lot-Estate House and Medium Lot-Suburban House type were derived from homes currently in the Heritage District and neighborhoods such as Weddington Chase, Providence Downs South, and Ladera. The Cluster House type was derived from the Amber Meadows and Courtyards at Marvin neighborhoods, (but this is not intended to convey that houses of these types must be age-restricted), Ardrey and Ardrey Commons off of Wade Ardrey Road. The Greek Revival/Southern Colonial House type uses the same dimensions of the Estate House type, but emphasize the architectural significance of former and existing houses along New Town Road, such as the McIlwain-Suggs House and the J. J. Rone House. The Cottage and Bungalow House types reflect existing buildings in the District, and similar buildings in the region.

(F.) Development standards. The following development standards shall apply to developments approved in accordance with the provisions of this section:

(1.) Compliance with the provisions of this Ordinance.

(2.) Maximum density shall be three (3) dwellings per gross acre of the Tract(s) within the MHD district.

(3.) There shall be a minimum separation of 24 feet between all enclosed structures.

- (4.) All buildings shall have a maximum height of 35’.
- (5.) The primary façade of the building shall face the main pedestrian travel-way whenever possible, with a secondary façade facing the parking lot. Buildings are encouraged to have two entrances if the parking lot and pedestrian routes are on different sides of the building. (Example: Five Guys, Cold Stone in Blakeney).
- (6.) Special Consideration must be given to the “Terminate Vista” Locations, which are across from the Southbound Marvin Road approach, the Northbound Waxhaw-Marvin Road approach, and the Westbound and Eastbound New Town Road Approaches. See Exhibit D for the locations of Terminate Vistas.
- (7.) Only Larger Lot Houses (Colonial, and Village House Building Types) can be built adjacent to existing Rural Neighborhoods.
- (8.) ADA-Accessible entrances shall be available on all buildings intended for commercial use.
- (9.) Residential Buildings shall be one dwelling unit. Additional Dwelling Units that are accessory to a primary dwelling unit, whether attached or detached, shall be prohibited. Dwelling Units that are accessory to a building whose primary use is commercial may be considered with a Special Use Permit.
- (10.) Accessory Use Structures are permitted. Outdoor Swimming Pools for individual houses are not permitted on lots less than half an acre in size.
- (11.) Equipment and outdoor storage shall be screened to be fully opaque from every reasonable pedestrian travel-way and public right-of-way. Mechanicals and waste collection shall not be located in the front yard of any building or between the building and a major road.

(G.) Subdistrict Classifications

Minimum design standards were carefully selected from current and historic characteristics of the Marvin area for each subdistrict. Additional standards that apply to all subdistricts in the Heritage District are located at the end of this subsection.

Each of the four subdistrict design standards set forth specifications related to building placement (lot size, lot width, setbacks, and building size) and building type illustrated on the following pages. All new buildings and modifications to existing buildings in the Marvin Heritage District must meet the criteria of a designated building type outlined in this Section, and therefore must follow the prescribed minimum design standards set forth for that type, within the respective subdistricts.

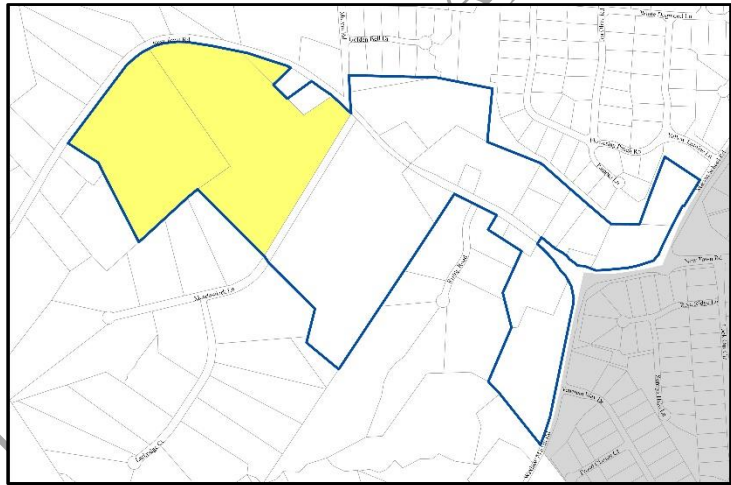
The *Planning, Zoning & Subdivision Administrator* may consider alternative architectural style and details of residential building types when proposed alternatives meet or exceed the intent of the subdistrict design standards. The

minimum design standards contain regulations for properties in the Heritage District, based upon the following subdistricts:

1. Heritage District-Residential Only (HD-RO-CZ);
2. Heritage District-Mixed Use (HD-MU-CZ);
3. Heritage District-Commercial Only (HD-CO-CZ); and
4. Heritage District-Civic Heritage District (HD-Civic-CZ).

(H.) Subdistrict Standards

(1.) Heritage District-Residential Only (HD-RO-CZ): A subdistrict for solely residential buildings. This subdistrict is intended to provide additional housing to boost the vibrancy and walkability of the District as a whole and must have 100% residential uses within the area shown above. The images appearing below are for examples and not for regulatory purposes. The dimensional standards appearing below are required within the subdistrict.



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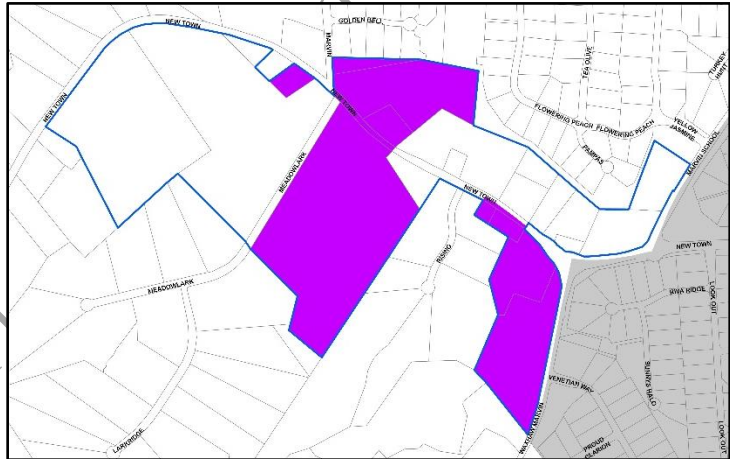
HD-RO-CZ Dimensional Standards

Min. Lot Size (s.f.)	Lot Width	Front Setback	Rear Setback	Side Setback
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Large Lot Home/ Village House	43,560	130'	50'	75'	20'
Medium Lot Homes	20,000	100'	40'	40'	10'
Small Lot Homes	10,000	70'	25'	25'	5'

(2.) Heritage District-Mixed Use (HD-MU-CZ): A subdistrict intended to be the bulk of the central area of the District. These parcels have residential in the back and commercial on the major road side.

Developments in this district must meet the intent of Mixed-Use and shall have no more than 30% of the total area be residential uses, which shall be defined as the total



area that consists of a private residential lot. The 30% residential maximum does not apply to the two parcels (further identified as Parcel Numbers 06225003A and 06225018) on New Town Road, which had existing homes at the time of this ordinance's adoption. Due to their small lot size, this residential maximum does not apply to the two parcels on New Town Road, which had existing homes at the time of this ordinance's adoption. This Heritage District-Mixed Use (HD-MU) subdistrict also includes two small properties (further identified as Parcel Numbers 06225003A and 06225018) whose location tends to



support commercial use, but are too small to provide a 100-foot buffer from existing uses. These properties shall be allowed to have commercial, but shall have more limited commercial uses allowed and a different approach to buffering than the other subdistricts that allow commercial uses.

Developments in this district must meet the intent of Mixed-Use and shall have no more than 30% of the total area be residential uses, which shall be defined as the total area that consists of a private residential lot. The images appearing above are for examples and not for regulatory purposes. The dimensional standards appearing below are required within the subdistrict.

	Min. Lot Size (s.f.)	Lot Width	Front Setback	Rear Setback	Side Setback	Building Size (s.f.)
Large Lot Home	43,560	130'	50'	75'	20'	No min. No max.
Medium Lot Homes	20,000	100'	40'	40'	10'	No min. No max.
Small Lot Homes	10,000	70'	25'	25'	5'	No min. No max.
Village house • Commercial Uses Only	None	None	10'	20'	5'	1,000- 7,500
Cottage Commercial	None	None	10'	20'	5'	600- 3,000
Bungalow • Commercial Uses Only	None	None	10'	20'	5'	1,000- 3,000
Greek Revival / Southern Colonial • Commercial Uses Only	None	None	10'	40'	5'	3,000- 10,000
Conventional Square Commercial*	None	None	85'	100'	50'	10,000- 15,000

(This space left blank intentionally.)

(3.) Heritage District-Commercial Only (HD-CO-CZ): A subdistrict intended to host only commercial uses. The proximity to Village Hall and narrow properties tend to favor commercial uses, and these uses shall be buffered significantly from existing residential uses. The images appearing below

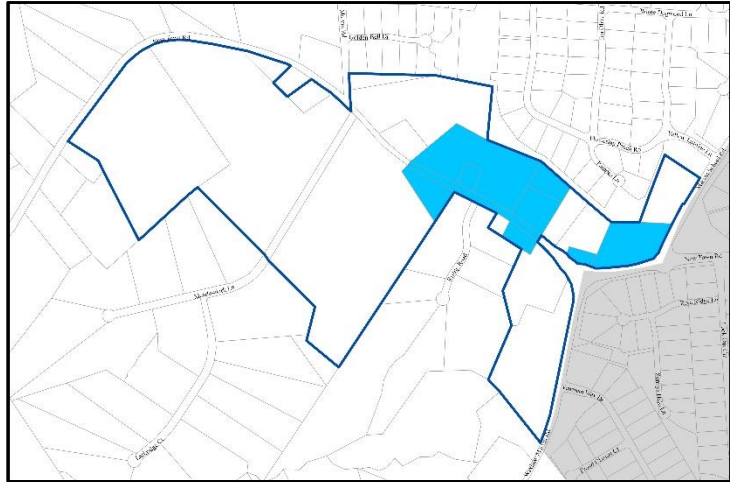


are for examples and not for regulatory purposes. The dimensional standards appearing below are required within the subdistrict.

	Min. Lot Size (s.f.)	Lot Width	Front Setback	Rear Setback	Side Setback	Building Size (s.f.)
Village house	None	None	10'	20'	5'	1,000-7,500
Cottage Commercial	None	None	10'	20'	5'	600-3,000
Bungalow Commercial Uses Only	None	None	10'	20'	5'	1000-3,000
Greek Revival / southern Colonial	None	None	10'	40'	5'	3000-10,000
Conventional Square Commercial	None	None	85'	75'	5'	5,000-10,000

(4.) Heritage District-Civic Heritage District (HD-Civic-CZ): This subdistrict

holds the historic churches and site of the new Marvin Village Hall. These properties shall be limited to civic uses and similar building vernacular to the churches and Village Hall or other similarly civic vernacular. The images appearing above are for examples and not for regulatory purposes. The dimensional standards appearing below are required within the subdistrict.



Min. Lot Size (s.f.)	Lot Width	Front Setback	Rear Setback	Side Setback	Building Size (s.f.)
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Church Vernacular*	130,680	130'	75'	40'	50'	1,000-10,000
Government Vernacular*	43,560	130'	75'	40'	50'	1,000-10,000
	*All new buildings shall match the character of the existing buildings on the property. Any architectural proposal shall be reviewed by the Design Review Board.					

(H.) General Standards. In addition to subdistrict standards, the following general standards are applicable to all properties and subdistricts within the Heritage District.

(1.) Allowable Adjacent Uses and Buffer Standards Between Existing and Proposed Uses. This section serves the two purposes of:

- Defining which uses in the Heritage District are allowed or not allowed to be adjacent to existing uses, and
- Defining the minimum landscape buffer or viewshed plaza depth between these uses.

Adjacent uses are defined as the use whose property line shares a border. In the context of this district, uses across the major road are not considered adjacent, but rather, the major road itself is the adjacent use. If a proposed use is separated from an existing use by a natural or created public open space of at least 100' depth, then the proposed use shall not be considered adjacent. See precedent imagery in Exhibit G for examples of buffer types.

The existing uses immediately adjacent to the district are divided into three categories as outlined below. The buffers and allowable adjacent uses are defined by considering the different characters of these existing uses and the transitional density/intensity of uses needed to preserve that character. Three categories and their character needs are defined as follows and depicted in the map below.

(a.) Rural Residential. The "Rural Residential" use consists of the Meadowlark and Three Pond Acres neighborhoods as well as properties on New Town Road to the west and south-east of the District. A no cut tree/vegetation buffer width of 75 feet shall be preserved. If existing trees do not provide a fully opaque buffer, vegetative screening must be installed and maintained to enhance the buffer within the 75 foot buffer width. The following items shall be the required implementation for any no cut buffer considered.

1. Identified no cut buffer areas shall be clearly provided on any plans. Metes and Bounds shall be required for any proposed no cut buffer. Proposed easement, deed restriction or general restrictions language shall be provided on the proposed plan as well as any required separate documentation. Any adjacent clearing and grading limits shall be provided in concert with the no cut buffer upon plans provided for final review.

2. Upon any approval, no cut buffers shall be clearly delineated on site by installing orange 4ft. tall heavy duty plastic snow or safety fencing securely attached to steel (14-gauge min.) U channel fence posts spaced no greater than 25 ft. apart at all clearing facing or publicly accessible frontage prior to commencing any grading or construction and shall remain through completion of construction. The location of fencing shall be established on plan prior to any action.
 3. Signage printed on laminate or otherwise protected from weather of at least 8 1/2" x 11" noting "No tree cutting, or disturbance permitted at any point. More information can be obtained from the Village of Marvin Planning and *Planning, Zoning & Subdivision Administrator*." The signage shall be posted at minimum every 50 feet along all fencing.
 4. The no cut buffer shall be shown on final site plans and/or subdivision plats.
 5. Should a site with a no cut buffer be sold or conveyed to another party, proof of the new owner's acceptance of the requirement to preserve the no cut buffer is required to be provided to the Planning and *Planning, Zoning & Subdivision Administrator*. Such correspondence should include all relevant project information including Tax Parcel ID and a copy of the most recent plans as an attachment.
 6. Refer to the section entitled, "General Standards, Tree Protection and Mitigation" for penalties when trees are removed in the no cut buffer. Removal may be allowed with review and approval from the Urban Forester.
- (b.) Suburban Residential: The "Suburban Residential" existing use consists of the Preserve at Marvin neighborhood and the Coates' House at 10213 New Town Road. The properties in this use can have cluster residential adjacent, but that cluster residential must serve as a buffer between this existing use and commercial in the MU subdistrict. This use is buffered from commercial in the CO subdistrict by a minimum 50' vegetative buffer as it is consistent with the buffer from other commercial Zoning Districts in Marvin.
- (c.) Major Road. Most properties in the District front a major road. Downtown districts typically have commercial buildings abutting the road with just a sidewalk in between, however, there is a prevailing sentiment to preserve the rural feeling while driving down the major roads. Therefore, the viewshed buffer/viewshed plaza depth shall be at least 50' and the

residential viewshed shall be at least 85' deep for suburban-size lots and 100' deep for cluster-style lots.

(2.) Streetscape. The streetscape is a vital component of the District, and so the construction of amenities and features along the Major Roads should be coordinated between the Village and potential developers. At minimum, the typical streetscape of the Major Road shall have at least 50' of depth between the edge of pavement and the front face of buildings, and shall consist of the components below, whose widths can be negotiated beyond the ranges listed by at most 50% width up or down based on special circumstances.

(a.) Major Road Cross Section.

- a. Travel Lane (10' width): The existing 10' wide travel lanes should not be widened, so as not to encourage vehicle users to drive faster. Travel Lanes may be paved with different materials either throughout the district or at pedestrian crossings. Signs or banners extending over and above the lanes are permitted at a height appropriate for vehicular traffic to pass safely.
- b. Drainage Ditch (5' – 8' width): Drainage ditches are required along the major roads to preserve the current rural typical section. Grassed shoulders with at most a 1:2 slope shall be required for a few feet to prevent accidents caused by drivers straying out of the travel lane.
- c. Street Furniture and Landscaping (6' – 10' width): This area of the streetscape is meant to both buffer the pedestrian travelway from the vehicle travel lane, and provide amenities to enhance the experience. The street furniture must include landscaping and trees at least one every 40 linear feet and may include but is not limited to:
 - a. Benches
 - b. Planters/other landscaping approved by the Parks, Recreation, and Greenways Board
 - c. Trash Cans
 - d. Lamp posts
 - e. seasonal/event signage/flags/banners hanging from lamp posts allowed with approval from the Zoning and Planning Administrator.
 - f. Wayfinding signs and kiosks, approved by the Planning Board or MHD Review Board
 - g. Electronic, digital, or interactive wayfinding kiosks are permitted if designed with muted materials and inward facing lighting and dimmed or off past midnight
 - h. Bike repair station
 - i. Drinking Fountain

- j. Historical Marker Signs, approved by the Planning Board or relevant MHD Review Board
- d. Trail or Sidewalk (6' – 10' width): The pedestrian trail is a crucial part of the streetscape and shall be designed with the pedestrian experience in mind. This experience involves distance and buffer from the travel lane, interaction with street furniture, avoidance of utilities, access to viewshed plazas and other pedestrian paths, proper alignment of pedestrian crossings and curb cuts, for example.

Street furniture and the front of the viewshed plaza shall be designed to interface with the trail. The trail may also meander around existing heritage trees, signs, and buildings in such a manner that the widths of the street furniture and viewshed plaza areas can be negotiated for the sake of preservation and improvement of the pedestrian experience. This is intended to be a multi-use path that can comfortably fit pedestrians and slow cyclists simultaneously.

- e. Viewshed Plaza (12' – 20' width): The area between the sidewalk and the face of the building shall provide direct pedestrian paths from the trail and the buildings. Public Spaces along a major road must be visible from the road but buffered with distance, street furniture, and landscaping. The Viewshed Plaza shall be activated for outdoor enhancement and enjoyment of the building's use, in ways including but not limited to:
 - a. Seating for restaurants
 - b. Playground or passive park
 - c. Limited display of merchandise (displays that are intended to advertise and draw attention but are not related to the products sold, such as animated machines or inflatables are prohibited)
 - d. Landscaped lawn
 - e. Temporary outdoor dining enclosures can be in the front by Special Use Permit
- f. Balcony, Patio, Awnings, Arcades, etc. (up to 15' from the face of building, can extend into the viewshed plaza): This section refers to any covered or open architectural feature attached to the building and intended to provide a space for enjoyment of the use in the building. These features can extend and overlap the depth of the viewshed plaza up to 15'.

- (b.) Residential and Internal Commercial Cross Section. The Residential and Internal Commercial Cross Sections can be flexible depending on the needs and design of the development but shall consist generally of the components below.

- a. Travel Lane (10' – 12' width): The travel way can be one-way or two-way depending on the design of the neighborhood. There shall only be one lane per direction on any street in the district unless specified by NCDOT or the Village Engineer.
- b. On street parking on one side only (7' – 9' width incl. Curb and Gutter (1' – 2')). This is optional and can be encouraged based on the design of the site to help with traffic calming.
- c. Planting Strip (2' – 5'): Trees and planting strip width should be considered in tandem such that there is enough room for roots to grow depending on the species. Tree pits, Rubbery asphalt, pavers, and other methods should be considered to protect the long-term health of trees in the planting strip.
- d. Sidewalk on any side of the street that has buildings (5' – 8'): The pedestrian experience shall be considered when deliberating the cross section and pedestrian travel routes. Materials, minimized crossings, landscaping, raised crossings, etc. shall all be considered in the design phase to maximize pedestrian safety and comfort.
- e. Lawns and Porches. There shall be no minimum or maximum depth for lawns and balconies in this section, however, the building type front setback shall still apply. For the purposes of this district, the setback shall be measured from the front face of the building to the edge of the right-of-way. Any porch or balcony may extend past the building front setback line.

(3.) Parking.

- (a.) Minimum Parking Spaces by Land Use. In significant contrast to a conventional zoning district, this form-based code shall not regulate a minimum number of parking spaces by land use throughout the Heritage District, except to have Americans with Disability Act (ADA) compliance. This District is envisioned to host unique types and combinations of land uses and development patterns in a rural-type environment, which does not lend itself to an otherwise conventional suburban-type minimum parking space requirement. Therefore, the minimum number of parking space proposed for development is voluntary. Instead, the parking regulations shall focus on the appearance and functionality.
- (b.) ADA Compliance minimum spaces. To achieve compliance with the ADA, the number of parking spaces required to comply with ADA must be in accordance with the table below based on the number of parking spaces proposed.
- (c.) Maximum Number of Parking Spaces. The maximum number of parking spaces that can be proposed is 1 parking space per 200 s.f. of buildings in

total. Additional parking spaces can be considered up to 1 space per 150 s.f. with a shared parking agreement with different developments.

- (d.) Location of Parking Lots. Parking lots (including stacking lanes, loading areas, service areas and parking stalls) shall be located behind the established front building line of the structure closest to the major road. Parking is only allowed on the side or rear of buildings.
- (e.) Parking Surfaces. Parking surfaces of parking lots having more than 10 parking spaces must be paved. To achieve compliance with the ADA, accessible parking spaces and accessibility routes to buildings must be paved. When pavement is not used for the remainder of the parking lot, gravel, stone or turf may be used, but parking stalls must be delineated with wheel stops at the outer limit of each intended parking space. If an unpaved surface is shown to cause issues with materials spreading out of the property, the Village may require the property owner to pave the parking lot.
- (f.) Screening Parking Lots. All parking lots shall be appropriately screened with opaque landscaping and/or agriculturally themed fencing to screen lots from view of major roads and all existing uses (when necessary). Parking lots must be screened from view of existing and planned greenway trails with landscaping and/or fencing.
- (g.) Internal Landscaping. Parking Lots with vast expanses shall be avoided. Parking lots and stalls shall be designed and divided by landscaping per the standards in §151.165(H) and (I).
- (h.) Connection of Parking to Buildings. Walkways shall be installed between parking areas and building entrances through the installation of hardscape surfaces such as concrete and/or pavers. ADA accessible routes from accessible parking spaces to main entrances must not exceed a distance of distance 200 feet.
- (i.) Bicycle Racks. Bicycle racks that are designed to accommodate four bicycles are required at each retail land use near main entrances.
Plug-in Electric Vehicle (PEV) Charging Stations. The installation of
- (j.) PEV charging stations are required in parking areas within a designated parking space at a ratio of 1:10 of the required minimum number of spaces (one charging station per each 10 spaces), rounded up to the next whole number.

(k.) Shared Parking and Ownership. All Parking spaces not on the lot of a commercial use building shall be shared parking and on a common-ownership lot.

(4.) Street Network Design. The following design factors shall be incorporated into the street network design and traffic patterns to mitigate for increased traffic and improve pedestrian and vehicular flow.

(a.) No Left Turns in or out on New Town Road between Marvin Road and Marvin School Road: Traffic wanting to turn into a driveway on their left must go to the next roundabout for a U-Turn and turn right into that driveway. Also, traffic exiting a driveway wanting to turn left must turn right and take a U-Turn at the next roundabout. Rising Road and Church driveways may be exempted from No Lefts In and Out.

(b.) Comment from NCDOT: "If the driveway will be right-in/right-out only it could be within about 100 feet [from a roundabout]. If the driveway will be full movement, several hundred feet (400-600' minimum) would be typical.

(c.) Shared driveway of Old Crane Store, Scott White's Property, Vasireddy property, and future Village Hall should be considered as a fourth leg of Waxhaw-Marvin Roundabout: Driveways to these properties where they currently are would be too close to the roundabouts for full-movement given commercial use. The site plan for each of these properties should show connectivity between their parking lots in the rear to reduce the number of individual driveways on New Town Road and prevent driveways too close to the roundabouts.

(d.) Sidewalks on both sides of New Town Road, Commercial Area: Will increase trips generated by walking/biking, thus reducing trips generated by vehicle

(e.) Trails built around lakes: Shall provide pedestrian access and feature two beautiful lakes in our Village Center area and further incentivize people to walk to Heritage District instead of drive. Houses may front the lake behind the trail, but must not have driveways that cross the trails that encircle lakes.

(f.) No Public Driveway from Private Roads; Meadowlark Lane and Rising Road: To protect Meadowlark and Three Pond Acres neighborhoods' rural character and prevent external vehicular traffic on those streets, there shall be no public driveway to any MHD property from the Private portion of Meadowlark Lane or Rising Road. However, pedestrian connectivity shall be encouraged. A turnaround/cul-de-sac built shortly down the road from

the roundabout on Meadowlark Lane may be encouraged to allow people to turn around without intruding in private property.

(g.) Speed Reduction . Consider speed humps where appropriate.

(h.) Cross walks shall be added at roundabouts.

(i.) Viewshed depth, streetscape, and speed limit should be coordinated together.

(j.) Parks and Greenways Master Plan must be fulfilled: Not necessarily along the exact route drawn on the plan, but the end-to-end connections must be satisfied using a path of at least 6' width and asphalt material.

(k.) Site plans shall anticipate connectivity to adjacent plans. Both vehicular and pedestrian stub outs shall be incorporated where applicable to connect development proposals to adjacent HD properties, even if that adjacent property is not developed or developing.

(5.) Signage. The regulations outlined herein pertain to nonresidential developments in the Heritage District. Signs in residential-only areas must be built in accordance with Article 17 of this Ordinance. Master Sign Plans may be made a part of the Heritage District Conditional Zoning process in accordance with the provisions of Article 17, Section 17.10.

(a.) Freestanding signs shall be no higher than eight (8) feet.

(b.) Signs attached to buildings shall be no higher than twelve (12) feet.

(c.) Signs shall be constructed of natural materials (such as wood, brick, or stone) or constructed of materials that successfully simulate these natural materials.

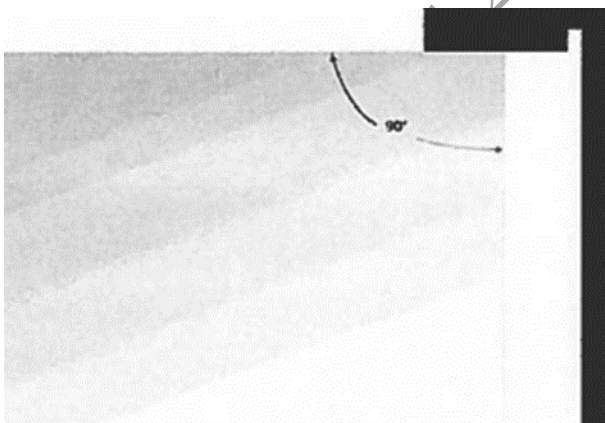
(d.) Signs must not be internally lit and the bulb(s) of proposed lighting must not be seen directly by motorists or adjacent residential property owners.

(e.) The maximum area of freestanding signs is calculated as twenty-five percent (25%) of the linear property frontage. For example, a property that is 60' wide may have a freestanding sign up to 15 sf. Freestanding signs shall not exceed twenty (20) square feet. Total signage area shall not exceed fifty (50) square feet regardless of property frontage.

(6.) Lighting. Outdoor lighting requirements applicable throughout the Village of Marvin, including property within the Heritage District shall comply with Chapter 152: Outdoor Lighting. In addition, to requirements in Chapter 152, the following outdoor lighting requirements are applicable to property within the Heritage District.

(a.) Light posts: Light posts that will be visible from adjacent residential properties shall not exceed fifteen (15) feet in height and shall have a dark finished paint color such as dark gray, dark brown, dark green or black.

(b.) Light fixtures that permit light to project up are prohibited. All outdoor light fixtures shall be full-cutoff fixtures which do not allow light to be emitted above ninety degrees (90°) (see illustration at right).



(c.) Light fixtures used for architectural lighting, such as feature, landscape and sign lighting, shall be aimed or directed to preclude light projection beyond immediate objects intended to be illuminated.

(d.) External wall or roof mounted flood lights shall not be installed on walls that face abutting residential uses without landscaping or other means to shield the view of such lights from residential properties.

(e.) Neon and bare fluorescent light tubes in any form on the exterior of a building or any other structure is prohibited.

(f.) Animated lights: Flashing, blinking, strobe, neon, and searchlights are prohibited. Neon lights that are located either inside and/or outside of windows and doors are prohibited. Temporary Seasonal or Holiday lighting is permitted which meets Marvin's Outdoor Lighting ordinance, not to be installed for more than 30 days.

(g.) Photometric plans shall be required by the Planning and *Planning, Zoning & Subdivision Administrator* to ensure lighting shall not affect surrounding residential uses. Light trespassing shall not exceed one (1.0) foot-candle at any property line that adjoins residential uses or property zoned for residential uses.

(7.) Historic Preservation. This section is applicable to and includes all existing structures fronting New Town Road at the time of adoption of this Form-Based Code. The requirements are:

- (a.) Property owners of buildings that front New Town Road which have historic character are encouraged to retain, renovate, and where appropriate, repurpose the buildings' use to uses permitted within the Heritage District.
- (b.) Exteriors of alterations and additions shall be consistent and reinforce the historic architectural character of the entire structure and shall comply with standards herein.
- (c.) New additions and exterior alterations shall not destroy historic materials that characterize the property. New work may be differentiated from the old. To protect historic integrity, any new work shall be compatible with the massing, size, scale and architectural features of the property.
- (d.) The removal of distinctive materials or alteration of features that characterize a structure shall be avoided.
- (e.) Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design.
- (f.) Existing churches are to be emphasized in connectivity, adjacent infill, and open space.
- (g.) Property owners of existing buildings and places having historically-contributing character are encouraged to apply for National Historic Landmark (NHL) or National Register of Historic Places (NR) designation with the National Trust for Historic Preservation managed by the National Park Service.
- (h.) The Current Village Hall at 10004 New Town Road is exempted from the historic preservation requirements of this section, as the proposal to demolish the building upon completion of the construction of the new Village Hall precedes the adoption of the Heritage District.

(8.) Tree Protection and Mitigation. All requirements and procedures of tree preservation provisions in Article 11 are applicable throughout the Village of Marvin Heritage District along with additional requirements in this Form-Based Code. Trees in the Heritage District that have been determined by the Village of Marvin Urban Forester to be healthy trees that are 30” or more in diameter at breast height (dbh) shall not be removed unless a fee-in-lieu is paid of \$5,000 plus \$500 per inch dbh greater than 30”. If the Urban Forester is not consulted before the removal of trees that are 30” dbh or more, the fee shall be doubled. The fee-in-lieu shall be used for the preservation and creation of open spaces in the Village of Marvin. Refer to additional no cut tree buffer protection requirements in the General Standards section.

(9.) Public Space Standards.

(a.) Public Open Space Standards and Requirements.

1. All developed parcels shall provide at least 30% common open space for each parcel or where there are multiple parcels developed as a single project, provided on each parcel or on common open space areas.
2. The acreage of unique and vast natural areas, such as lakes, shall be counted as part of the 30% requirement because of their value as a natural asset, so long as the site plan incorporates public accessibility and enjoyment of these areas.
3. The land dedicated as open space shall be platted as such with permanent conservation. Areas platted to meet the open space requirement shall be on a property owned by a common entity, an HOA, local non-profit, or dedicated to the Village.
4. All public open spaces, parks, and trails must be constructed at minimum to the standards of the Parks and Greenways Master Plan. Additional amenities and wider trails are encouraged.
5. All public open spaces throughout the district must be accessible and connected by pedestrian trails or sidewalks, and from parking lots where applicable.
6. All open spaces with amenities shall be either free to access or the membership fee is equal in cost for both the residents of the neighborhood and all residents of Marvin.

7. A fee-in-lieu shall be considered at no less than \$70,000 per acre to reduce the 30% open space requirement. The open space requirement shall not be reduced to any less than 25% of the parcel of the proposed development.
8. The following spaces shall be counted as open space if the respective condition is met:
 - a. **Viewshed Buffers:** Must be designed as plaza spaces in the MU and CO districts, which can be enjoyed either independently or in conjunction with commercial uses.
 - b. **Lake areas:** Must be accessible to the public, for example having an encircling trail and/or fishing pier.
 - c. **Wetland areas:** Must be designed to be accessible to the public having for example boardwalk trails and/or a wetland park or nature preserve park. See for example McAlpine Creek and McMullen Creek Greenways in Charlotte.
 - d. **Stormwater Detention Pond Trail/Park:** Must have a trail encircling the Detention Pond, and have a park area designed to enjoy the view of the pond, and the pond must be designed with decorative features such as retaining walls, fountains, and other features that may be proposed to meet this requirement. See for example Pineville Lake Park.
 - e. **Cemeteries and Native Burial Grounds:** The Village shall commit to build sidewalks to access the Banks Presbyterian Church and Marvin UMC Cemeteries. Historic existing features such as graves, fences, landscaping, and plaza areas shall not be disturbed.
 - f. **Church Groves:** These are currently open space but they may be developed into related religious/civic uses later.
 - g. **Unbuilt areas of Village Hall property:** Must be developed as an active and flexible public open space use such as a Farmer's Market or Outdoor Amphitheater.
 - h. **Neighborhood Clubhouse/Amenity Center:** Shall not be counted as public open space unless it is fully accessible by the general public. Reservations of facilities for private events are permitted so long as that ability is available to all Marvin residents.

- i. **Any other created or natural open space listed in the Open Space Type Matrix:** Shall be accessible by pedestrians from the edge of the property without obstruction (during reasonable hours of the day). Linear Parks and Trails shall count towards the requirement as the acreage (length x width) of the trail and



surrounding landscaping.
Example of trail around stormwater detention pond at Pineville Lake



Example of a Wetland Trail/Park at McAlpine Creek Greenway Lake Park

Open Space Matrix. The matrix appearing below establishes permitted Open Space types and respective uses for the sub-districts. The key immediately below indicates types required and types allowable:

R- Required where applicable

P- Permitted

Open Space Type	HD-RO	HD-MU	HD-CO	HD-CIVIC
Playground	P	P	P	P
Pocket Park	P	P	P	P
Viewshed Plaza		R	R	P
Large Passive Park	R	P	P	P
Wetland Park/ Lake Trail Park	P	R	P	P
Stormwater Detention Pond Trail/Park	P	P	P	P
Linear Park / Greenway Park	P	P	P	P
Dog Park	P	P	P	
Active Park		P	P	
Farmer's Market		P	P	P
Amphitheater		P	P	P
Neighborhood Clubhouse/Amenity Center	P	P		
Food Truck Plaza				P
Cemetery	P	P	P	P

(10.) Pedestrian Amenities and Connectivity (funding, phasing, operation and maintenance)

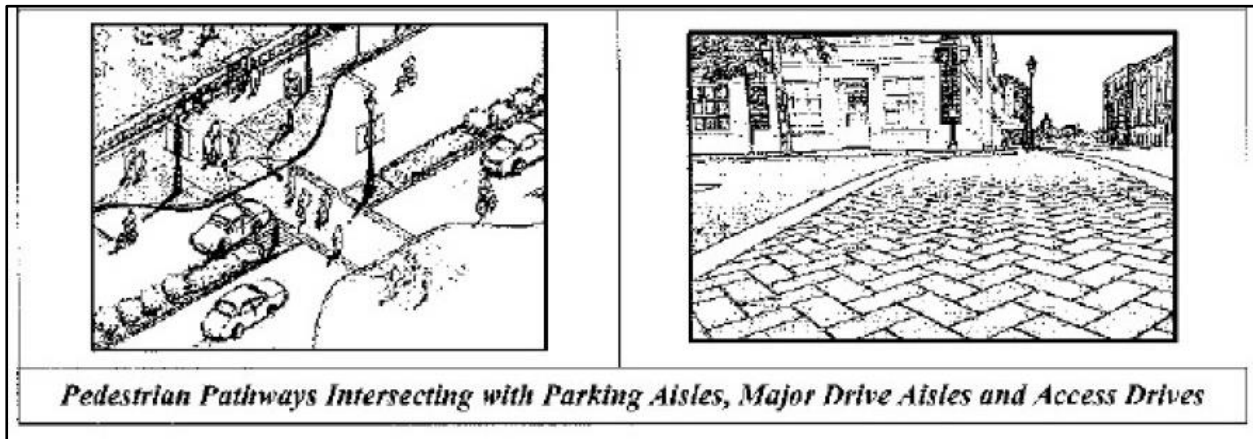
a. Connectivity Standards

1. Developments with trail networks on the Parks and Greenways Master Plan must provide the trail connection from one side of the property to the other.
2. Developments must provide stubs for driveways and trails to neighboring properties wherever reasonable to maintain continuity of travel through properties that have not been developed yet.
3. Pedestrian travel routes must be prioritized from each entryway and parking lot to each use, and the number of driveways that cross pedestrian travel-ways must be minimized.

b. Amenity Standards

1. The Pedestrian and Cyclist experience shall be prioritized over driving, and that experience must be considered when deliberating site specific design plans.
2. Traffic Calming methods shall be considered and included in roads, drive aisles, and parking aisles within the site plan, and along the major road, including but not limited to:
3. Speed humps,
4. Raised Crosswalks and raised intersections,
5. Pedestrian beacons/push-buttons (on major roads, not within developments)
6. Pedestrian-friendly materials. Materials used in pedestrian-oriented spaces shall be attractive, durable and slip-resistant. Materials must be compatible in terms of themes, colors, textures and patterns with a development project's design. Surfaces in pedestrian circulation areas shall be constructed from materials that provide a hard, stable surface and permit comfortable maneuverability for people of all abilities.
7. Pedestrian walkways separating parking from on-site buildings. All vehicular use areas shall be separated at least ten feet from building façades by sidewalks and landscaping.
8. Where pedestrian pathways intersect drive aisles. Wherever a pedestrian pathway crosses vehicular pavement the pathway shall be made identifiable with a grading change at required curbs, curb ramps, the installation of colored, textured pavers or stamped surface material. The material used must clearly differentiate the pedestrian pathway

from vehicular areas. Unless otherwise specified, pedestrian crossings shall be at least six feet wide.



c. Funding and Phasing

1. The Marvin Loop Trail (North side of New Town Road, with crosswalks across New Town Road in some places) is a federally-funded project and shall be incorporated in all applicable site plans in the District. Furthermore, developers shall be required to fund their proportionate portion of the local match or construct that section of the trail. Developments shall be required to create an easement or create a property which shall be dedicated to the Village for the Loop Trail. See Exhibit G for a map of the Marvin Loop Trail alignment.
2. Other grants may be pursued by the Village to fund trails and open spaces; developers are invited to assist with the applications for grants as desired.

d. Operation and Maintenance

1. The Village shall operate and maintain all trails and public spaces dedicated to the Village.
2. Public Open Spaces not dedicated to the Village must be maintained privately and obligated by a Maintenance Plan and Agreement signed by the owner and the Village.

e. Fishing

1. Any natural lake, pond, or stormwater detention pond designed and maintained to have fish shall be open to the public and accessible per the open space standards of this chapter.
2. Areas intended for fishing shall be covered under a Maintenance Plan and Agreement between the property owner and the Village.

(I.) Application Procedure and Requirements. A Zoning Map Amendment (rezoning) to one of the Marvin Heritage Districts shall include a concurrent development proposal(s) following all application and procedural requirements in Article 5, section 5.2 Conditional Zoning of this Ordinances. A Site Development Plan/Preliminary Plat in accordance with Article 7 of this Ordinance is required to

be completed and incorporated into the Conditional Zoning upon final approval of the ordinance to amend the Official Zoning Map. In addition, development agreements shall also be required as part of the application process as set forth in this Ordinance. New or changing commercial uses shall apply for and obtain a zoning permit per Article 7 of this Ordinance. In addition to the application requirements of the Sketch Plan, Site Development Plan/Preliminary Plat, and Construction Plans, the following shall be required in Sketch Plans, Site Development Plan/Preliminary Plats and Construction Plans:

- (1.) Elevations of all sides of proposed building(s), where precedent imagery is acceptable in the Sketch Plan phase;
- (2.) Setbacks of all parking facilities from all property lines and description of materials proposed for surface and wheel stops;
- (3.) Samples of exterior materials proposed for all structures;
- (4.) Locations and schematics showing dimensions, appearance, and landscaping for all signs and fences proposed;
- (5.) Clearly depicted pedestrian routes from all entrance points and parking areas to all buildings.

(J.) Modifications Following Approval. Modifications to approved plans, elevations and/or required setbacks and/or build-to lines appearing on HD approved plats/plans shall be eligible for up to 50% of the eligible modifications established in Article 14 of this Ordinance. The *Planning, Zoning & Subdivision Administrator* retains the right to decline the exercise of the power to approve or deny modifications as provided in Article 14, Section 14.2 of this Ordinance.

Table 8.1 - Table of Uses L=listed use S=special use A=use listed with additional standards Section 1 - General Uses of the following:	SIC for PZ&SA use only if needed	Rural Residential (RR)	Single Family Residential (SFR-1, SFR-2 & SFR-3)	Manufactured Home Overlay (MHO)	Heritage District Overlay (HDO)	Traditional Neighborhood Development Overlay (TNDO)	Main Street (MS)	Civic (CIV)	Mixed Use (MU-1)	Mixed Use (MU-2)	NC 16 Commercial (C-16)	Vehicle Services/Repair (VSR)	Industrial (IND)	Heavy Industry Overlay (HIO)
ABC Store (liquor sales)	5921						L			L	L			
Accessory Dwelling Unit		A (10.1-3)	A (10.1-3)		A (10.1-3)	A (10.1-3)	L	A (10.1-3)	A (10.1-3)	A (10.1-3)				
Adult Establishment/Uses														S (10.2-3)
Bookstore, Adult														S (10.2-3)
Cabaret, Adult														S (10.2-3)
Massage Parlor														S (10.2-3)
Motel, Adult														S (10.2-3)
Movie, Adult - Rental, Sales														S (10.2-3)
Retail, Adult Products														S (10.2-3)
Motion Picture Theater, Adult														S (10.2-3)
Agricultural Based Business Facilities		S (10.2-4)												A(10.1-37)
Agricultural Production (Crops only)		L	L					L					L	L
Agricultural Production (Crops & Livestock)		L												
Agricultural Production (Within Buildings)		L											L	L
Alteration, Clothing Repair						L	L		L	L	L			
Ambulance, Fire, Rescue Station								L						
Amusement/Water Parks, Fairgrounds	7996										S (10.2-5)			
Antique Store	5932					L	L			L	L			
Apparel Sales (Clothing, Shoes, Accessories)	5600				L	L	L			L	L			
Appliance Repair, Refrigerator or Large	7623									A(10.1-37)	A(10.1-37)	A(10.1-37)	A(10.1-37)	
Appliance Store	5722									A(10.1-37)	A(10.1-37)			
Art Gallery					L	L	L			L	L			
Asphalt Plant	2951													S(10.2-6 & 16)
Athletic Fields		L	L			L		L		L				
Auditorium, Coliseum or Stadium							L	L		L				
Auto Supply Sales	5531										A(10.1-37)	A(10.1-37)		
Automobile Dealers	5571										A(10.1-37)	A(10.1-37)		
Automobile Rental or Leasing	7510										L	L		
Automobile Repair Services (Major)												A (10.1-4)	A (10.1-4)	
Automobile Repair Services (Minor)											A (10.1-4)	A (10.1-4)		
Automobile Towing and Storage Services	7549											A (10.1-5)	A (10.1-5)	
Bakery	5461				L	L	L		L	L	L			A(10.1-37)
Bank, Savings and Loan, or Credit Union	6000				A (10.1-6)	A (10.1-6)	A (10.1-6)			A (10.1-6)	A (10.1-6)			
Barber Shop	7241				L	L	L		L	L	L			
Bar (with/without Beverage Production Accessory Use)	5813				L	L	L			L	L			
Batting Cage, Indoor										L	L			
Batting Cages, Outdoor	7999									A (10.1-7)	A (10.1-7)			
Beauty Shop	7431				L	L	L		L	L	L			
Bed & Breakfast (incl. Tourist Home, Boarding House except when "Residential Tourist/temporary residence")	7011	A (10.1-8)			A (10.1-8)	A (10.1-8)	A (10.1-8)			A (10.1-8)				
Bicycle Assembly (Bike Shop)	3751				A(10.1-37)	A(10.1-37)	A(10.1-37)			A(10.1-37)	A(10.1-37)	A(10.1-37)	A(10.1-37)	
Billiard Parlors	7999					L	L			L	L			
Bingo Games	7999					L	L			L	L			
Boat Repair	3730										A (10.1-4)	A (10.1-4)	A (10.1-4)	

Table 8.1 - Table of Uses L=listed use S=special use A=use listed with additional standards Section 1 - General Uses of the following:	SIC for PZ&SA use only if needed	Rural Residential (RR)	Single Family Residential (SFR-1, SFR-2 & SFR-3)	Manufactured Home Overlay (MHO)	Heritage District Overlay (HDO)	Traditional Neighborhood Development Overlay (TNDO)	Main Street (MS)	Civic (CIV)	Mixed Use (MU-1)	Mixed Use (MU-2)	NC 16 Commercial (C-16)	Vehicle Services/Repair (VSR)	Industrial (IND)	Heavy Industry Overlay (HIO)
Boat Sales	5551										L	A(10.1-37)		
Bookstore	5942				L	L	L	L	L	L	L			
Bowling Lanes (bowling alley)	7933					L	L			L	L			
Building Supply Sales	5211										A(10.1-37)		A(10.1-37)	
Bulk Mail and Packaging	4212						L			L	L		A(10.1-37)	
Bus Terminal	4100						L							
Cafe' (coffee, tea, ice cream, deli foods, alcoholic bev.)					L									
Camera Store	5946				L	L	L			L	L			
Camp Ground (Recreational Vehicle Park) (RESERVED)														
Car Wash	7542										A (10.1-9)	A (10.1-9)	A (10.1-9)	
Casino for Games of Chance (RESERVED)														
Cellular Communications Facilities (See "Wireless")														
Cemetery or Mausoleum								A(10.1-10)						
Clothing, Shoe and Accessory Store (incl. tailoring & alterations)	5600				L	L	L			L	L			
Club or Lodge	8640					A (10.1-12)	A (10.1-12)	A (10.1-12)			A (10.1-12)			
Coin Operated Amusement	7993						L			L	L			
College or University	8220							L						
Communication or Broadcasting Facility, without Tower	4800						L	L			L		L	
Computer Sales and Service					L	L	L			L	L			
Convenience Store (with gasoline pumps)	5411										L		L	
Convenience Store (without gasoline pumps)	5411				L	L	L			L	L		L	
Correctional Institution (RESERVED)	9223													
Country Club with or without Golf Course	7997	A (10.1-13)						A (10.1-13)						
Crematorium													L	
Dance School	7911					L	L	L	L	L	L			
Day Care Center for Children or Adults (6 or more)	8322					A (10.1-14)	A (10.1-14)	A (10.1-14)	A (10.1-14)	A (10.1-14)	A (10.1-14)		A (10.1-14)	
Day Care Center, Home Occupation for less than 6 children						A (10.1-15)	A (10.1-15)	A (10.1-15)	A (10.1-15)	A (10.1-15)	A (10.1-15)		A (10.1-15)	
Department, Variety or General Merchandise Store	5300					L	L			L	L			
Dormitories								A (10.1-16)						
Drive Through Window as Accessory Use						A (10.1-17)	A (10.1-17)	A (10.1-17)		A (10.1-17)	A (10.1-17)			
Drugstore/Pharmacy, without Drive Through Window	5912				L	L	L			L	L			
Dwelling(s) (see Residential Dwellings)														
Electronic Gaming Operation														S (10.2-15)
Equestrian Facility	7999	S (10.2-7)												
Equipment Rental & Leasing (no outside storage)	7350					L					L	L	L	
Equipment Rental (w/fenced outside storage)	7350										A(10.1-37)	A(10.1-37)	A(10.1-37)	
Equipment Repair, Heavy	7690											A (10.1-4)	A (10.1-4)	
Event and Wedding Venue		L				L	L	L	L	L				
Fabric or Piece Goods Store	5949					L	L			L	L			
Family Care Facility (Family Care Home)		L	L		L	L	L	L	L	L	L			
Farmers Market		L			L		L	L	L	L				
Fences & Walls (see 2.13)		L (2.13-2)	L (2.13-2)	L (2.13-2)	L (2.13-2)	L (2.13-2)	L (2.13-2)	L (2.13-2)	L (2.13-2)	L (2.13-2)	L (2.13-2)	L (2.13-2)	L (2.13-2)	L (2.13-2)
Fire, Ambulance, Rescue Station								L					L	
Firearms and Ammunition Sales, (incl. Custom Gunsmith)											L		L	
Floor Covering, Drapery, and/or Upholstery Sales	5710						L			A(10.1-37)	A(10.1-37)			

Table 8.1 - Table of Uses L=listed use S=special use A=use listed with additional standards Section 1 - General Uses of the following:	SIC for PZ&SA use only if needed	Rural Residential (RR)	Single Family Residential (SFR-1, SFR-2 & SFR-3)	Manufactured Home Overlay (MHO)	Heritage District Overlay (HDO)	Traditional Neighborhood Development Overlay (TNDO)	Main Street (MS)	Civic (CIV)	Mixed Use (MU-1)	Mixed Use (MU-2)	NC 16 Commercial (C-16)	Vehicle Services/Repair (VSR)	Industrial (IND)	Heavy Industry Overlay (HIO)
Migrant Labor Housing (RESERVED)														
Motion Picture and/or Television Production	7810					A(10.1-37)	A(10.1-37)	A(10.1-37)		A(10.1-37)	A(10.1-37)		A(10.1-37)	
Motorcycle Sales (new & used), Parts and Service	5571										A(10.1-37)	A(10.1-37)		
Moving and Storage Service	4214										A(10.1-37)	A(10.1-37)	A(10.1-37)	
Museum	8412				L	L	L	L	L	L	L			
Musical Instrument Sales and/or Lessons	5736				L	L	L		L	L	L			
Newsstand	5994					L	L		L	L	L			
Nursing Home, Assisted Living	8050	A (10.1-25)			A (10.1-25)	A (10.1-25)	A (10.1-25)	A (10.1-25)	A (10.1-25)	A (10.1-25)	A (10.1-25)			
Office Machine Sales	5999						L			L	L		A(10.1-37)	
Office Uses														
Accounting, Auditing or Bookkeeping Services	8721				L	L	L		L	L	L			
Administrative or Management Services	8740				L	L	L		L	L	L			
Advertising Agency	7310				L	L	L		L	L	L			
Architect, Engineer or Surveyor's Office	8710				L	L	L		L	L	L			
Dental, Medical or Related Office	8000				L	L	L		L	L	L			
Employment Agency, Personnel Agency	7360				L	L	L		L	L	L			
Finance or Loan Office	6100				L	L	L		L	L	L			
General Contractors Office w/ Fenced Outside Storage													L	
General Contractors Offices without Outside Storage					L						L	L		
Government Office	9000				L	L	L	L	L	L	L			
Home Occupation		A (10.1-21)	A (10.1-21)	A(10.1-21)	A (10.1-21)	A (10.1-21)	A (10.1-21)	A (10.1-21)	A (10.1-21)	A (10.1-21)	A (10.1-21)		A (10.1-21)	
Insurance Agency (w/on-site claims inspections)	6300					L	L			L	L			
Insurance Agency (without on-site claims inspections)	6411				L	L	L		L	L	L			
Law Office	8111				L	L	L	L	L	L	L			
Medical, Dental or Related Office	8000				L	L	L	L	L	L	L			
Office Uses Not Otherwise Classified					L	L	L			L	L		L	
Real Estate Office	6500				L	L	L		L	L	L			
Service Contractors Offices w/Fenced Outside Storage													A(10.1-37)	
Service Contractors Offices without Outside Storage											L	L		
Stock, Security or Commodity Broker	6200				L	L	L		L	L	L			
Temporary Real Estate Office (see Article 15)														
Travel Agency	4720				L	L	L		L	L	L			
Optical Goods Sales	5995				L	L	L	L		L	L			
Outside Storage Uses Not Otherwise Classified													A(10.1-37)	
Paint and Wallpaper Sales	5231					A(10.1-37)	A(10.1-37)			A(10.1-37)	A(10.1-37)		A(10.1-37)	
Parks and Recreation Facilities, Public	7990	A (10.1-26)	A (10.1-26)	A(10.1-26)	A (10.1-26)	A (10.1-26)	A (10.1-26)	A (10.1-26)	A (10.1-26)	A (10.1-26)	A (10.1-26)			
Parking Lots or Structures						L	L	L		L	L		L	
Pawnshop and/or Used Merchandise Store	5932										A (10.1-35)			
Pest or Termite Control Services	7342										A(10.1-37)		A(10.1-37)	
Pet Supply Store	5999				L	L	L			L	L			
Pet Store	5999					L	L			L	L			
Petroleum Products Storage and/or Transfer														S (10.2-11&16)
Pharmacy/Drugstore	5912					L	L			L	L			
Photofinishing Laboratory	7384													S(10.2-16)
Photography, Commercial						L	L			L	L			

Table 8.1 - Table of Uses L=listed use S=special use A=use listed with additional standards Section 3 - Wholesale Trade of the following:	SIC for PZ&SA use only if needed	Rural Residential (RR)	Single Family Residential (SFR-1, SFR-2 & SFR-3)	Manufactured Home Overlay (MHO)	Heritage District Overlay (HDO)	Traditional Neighborhood Development Overlay (TNDO)	Main Street (MS)	Civic (CIV)	Mixed Use (MU-1)	Mixed Use (MU-2)	NC 16 Commercial (C-16)	Vehicle Services/Repair (VSR)	Industrial (IND)	Heavy Industry Overlay (HIO)
Wholesale with Outdoor Storage														
Flowers, Nursery Stock and Florist Supplies	5193	S (10.2-4)									A(10.1-37)		A(10.1-37)	
Lumber and Other Construction Materials with fenced storage	5030										A(10.1-37)		A(10.1-37)	
Machinery, Equipment and Supplies	5080										A(10.1-37)	A(10.1-37)	A(10.1-37)	
Machinery, Farm and Garden	5083										A(10.1-37)	A(10.1-37)	A(10.1-37)	
Wholesale with Hazardous Materials														
Chemicals and Allied Products	5169													S(10.2-16)
Plastics Materials	5162										A(10.1-37)		A(10.1-37)	
Resins	5162													S(10.2-16)
Wholesale with Recycling, Other Activities														
Scrap & Waste Materials - Recycling collection & sorting Only	5093											A(10.1-37)		S(10.2-16)
Wholesale, Other														
Apparel	5130										L		A(10.1-37)	
Beer, Wine or Distilled Alcoholic Beverages	5180	S(10.2-18)			S(10.2-18)	S(10.2-18)					S(10.2-18)		A(10.1-37)	
Books, Periodicals and Newspapers	5192							L			L		A(10.1-37)	
Durable Goods	5099												A(10.1-37)	
Electrical Goods	5060												A(10.1-37)	
Furniture and Home Furnishings	5020										L		A(10.1-37)	
Groceries and Related Products	5140										L		A(10.1-37)	
Hardware, Wholesale Dealer	5072									L	L	L	A(10.1-37)	
Lumber, Millwork and Veneer	5031										A(10.1-37)		A(10.1-37)	
Paper and Paper Products	5110										A(10.1-37)		A(10.1-37)	
Plumbing and Heating Equipment	5070										A(10.1-37)		A(10.1-37)	
Sporting and Recreational Goods and Supplies	5091										L		A(10.1-37)	
Wallpaper and Paint Brushes	5198										L		A(10.1-37)	

ARTICLE 9

BUILDING AND LOT TYPE STANDARDS

9.1	Purpose	1
9.2	Detached House Lot and Building Type	1
9.3	Attached House Lot Type and Building Type Standards	5
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Recommended by Planning Board 16 April 2024

ARTICLE 9

BUILDING AND LOT TYPE STANDARDS & SPECIFICATIONS

9.1 Purpose

The purpose of this Article is to establish standards and specifications for the buildings, and lots permitted in each of the zoning districts established in Article 8. The standards and specifications set forth below are established to ensure that new development and construction is enduring and compatible with the character of the Village of Marvin, that it accomplishes the purposes of this Ordinance, and that it achieves the goals identified in “the Plan” referenced in Article 1 of this Ordinance and other adopted and/or approved plans.

9.2 Detached House Lot and Building Type

- 9.2-1 Description. The detached house is the most prevalent building type in Marvin. The detached house building type is generally found in residential neighborhoods, although it may coexist with other, similarly scaled buildings in commercial or mixed-use areas. Where possible, structures should be designed to maintain a harmonious image of the neighborhood when viewed from a distance. Where appropriate and possible, structures shall be designed to terminate vistas. For detached homes on large lots accessed by a private drive, building placement and site planning shall be dictated by landscape features and landscape preservation. Within the limits described below and unless the zoning district standards require greater measures, these regulations shall apply to all houses built in the Village of Marvin.

The photographs of detached single-family houses in the Carolinas (Kannapolis & Greenwood) below are examples for illustration purposes only and not intended to regulate lot/building styles, patterns, or forms.



9.2-2 Detached House Lot Type.

Building Placement, Parking, and Vehicle Access.

- (1.) Along new streets:
 - (a.) the front setback shall be measured behind street ROW;
 - (b.) the rear setback shall be measured from the rear property line;
 - (c.) the side setbacks on interior lots shall be measured from the side property line;
 - (d.) the side setback on corner lots for the side of the building that faces the street shall be measured from the street ROW on a corner lot.
- (2.) Building placement may be further defined by zoning districts.
- (3.) Parking standards of Article 12 apply (see Section 12.3 and Table 12-1).
- (4.) Accessory structures, including detached garages, shall be located at least 5' behind the primary structure.
- (5.) Only in the most exceptional circumstances having to do with extreme topography or very special design composition may the rules of residential building placement be varied.
- (6.) Grading shall provide for smooth grade transitions to avoid abrupt “v” ditches, swales and other disruptions to the landscape, particularly between buildings where open space enhancements for use by persons actively utilizing the landscape and/or yard area. The use of either crawlspace and/or stem-wall construction techniques in detached residential structures, or professional landscape design is required to meet this characteristic of site development.
- (7.) The maximum building coverage for the primary structure shall be 30% of the lot area.
- (8.) Driveways to individual lots shall be separated a minimum of 47 linear feet, measured at the right-of-way along streets, within the TNDO.

Encroachment, Pedestrian Access, and Commercial Use Standards & Specifications.

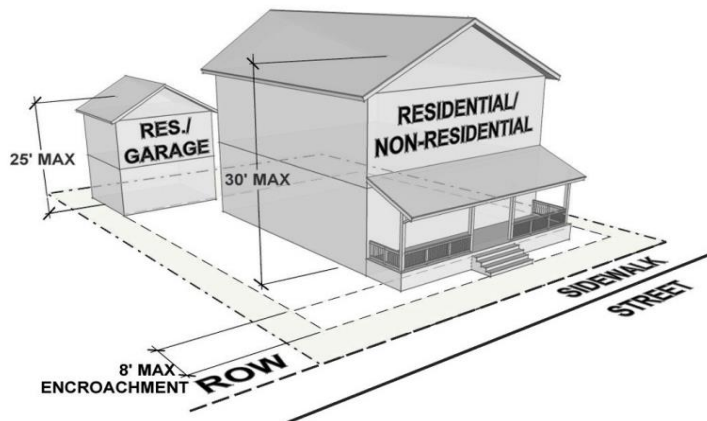
- (9.) Primary pedestrian access into the building shall be from the street frontage line with a concrete walkway connecting the edge of street or back of curb to base of step for emergency response to primary residence. Walkways shall be built to sidewalk standard. Secondary access may be from parking areas.
- (10.) Balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into the front setback area up to 8'.
- (11.) Mechanical equipment exceeding 16 square feet shall not encroach into any required setback.
- (12.) Commercial Use in a Detached House in the Main Street (“MS”), Heritage (“HD”), Mixed Use (“MU”), and “TNDO” Districts shall comply with the following:
 - (a.) Parking shall be located in the side or rear yards only. If provided in the side yards, the parking area shall not exceed 25% of the frontage line and shall not be in the yards adjacent to a street.

- (b.) Parking areas on adjacent mixed-use lots shall be connected whenever practical.
- (c.) Trash containers shall be located in the rear yard. If adjacent to existing single-family residential uses, trash containers shall be limited to residential rollout containers only, dumpsters are prohibited.
- (d.) Mechanical equipment at ground level shall be placed on the parking lot side of the building away from buildings on adjacent sites and shall be screened from view by an opaque screen.
- (e.) Hedges, garden walls, or knee walls may be built immediately adjacent to property lines or as the continuation of building walls. A garden wall, hedge or knee wall, a minimum 2.5' in height, maximum 3.5' in height, shall be installed along any street frontage adjacent to parking areas. Knee walls shall either be built of brick, stone or other decorative masonry material, or shall be built of wrought iron or other decorative metal, and shall generally match the architectural style of Marvin.

9.2-3 Detached House Building Type.

Permitted Height, Uses, Encroachments, and Resiliency Standards.

- (1.) Building heights shall be measured as the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights.
- (2.) Building height to the ridge may vary depending on the roof pitch.
- (3.) Permitted uses are controlled by zoning district standards.
- (4.) A minimum 8" overhanging gable end-rake and vented eaves shall be provided and finished by profiled molding or gutters to prevent wind-driven rain from compromising structure.
- (5.) Vinyl siding materials are prohibited except where approved landscape plans restrict the use of pine needles or other combustible bedding material within eight (8) feet of the foundation wall.



Architectural Standards in approved “TNDO” Districts requested by the developer.

- (6.) Principles for maintaining the character of the Village:
 - (a.) To perpetuate the unique building character of the Village and its environs, and to re-establish its local identity, development shall generally employ building styles that are compatible with the architectural vocabulary of the area in their external treatment. Architectural details and building elevations

shall accompany the Site Development Plan/Preliminary Plat and made a part of the TNDO. Manufactured homes shall not be permitted as part of any development.

- (b.) The front elevations facing the street and the overall massing must communicate an emphasis on the human scale and the pedestrian environment. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street to maintain compatibility with the character of structures within the Village.
 - (c.) Each building shall be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings shall be of similar scale, height, and configuration to maintain compatibility with the character of structures within the Village.
 - (d.) Building silhouettes shall be generally consistent. The scale and pitch of roof lines shall be similar across groups of buildings to maintain compatibility with the character of structures within the Village.
- (7.) Configurations & Techniques:
- (a.) Main roofs on residential buildings shall be symmetrical gables or hips with a pitch of between 4:12 and 12:12. Mono-pitch (shed) roofs should be attached to the wall of the main building. No mono-pitch roof should be less than 4:12. Grandiose roof pitches with multiple changes of outline are acceptable. It is recommended that accessory buildings have roof pitches that conform to those of the main building to maintain compatibility with the character of structures within the Village.
 - (b.) Front Porches extending across a minimum of 40% of the façade width, excluding front-loading garages, shall average 6'-0" in depth from façade to front edge and be included on all Detached Single-family and Duplex (Two-family) houses.
 - (c.) Balconies shall generally be simply supported by posts and beams. The support of cantilevered balconies shall be assisted by visible brackets to maintain compatibility with the character of structures within the Village.
 - (d.) Two wall materials may be combined horizontally on one facade. The "heavier" material shall be below to maintain compatibility with the character of structures within the Village.
 - (e.) Exterior chimneys shall be finished in brick or stone to maintain compatibility with the character of structures within the Village.
 - (f.) Overhanging eaves may expose rafters to maintain compatibility with the character of structures within the Village.

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9.3 Attached House Lot Type and Building Type Standards

9.3-1 Description. The attached house is also known as row-house or Village house. Traditional southern homes in Savannah and Charleston provide a model. The Southside neighborhood in Greensboro provides a good contemporary example. Generally, building plans will have narrow frontages with the plan depth being greater than its width. Groups of attached house buildings that are not integrated into a pedestrian oriented mixed-use urban pattern shall not be permitted within Marvin. Attached house structures should complement the neighborhood through their design, location on the site, and building materials. Within the limits described below and unless the zoning district standards require greater measures, these regulations shall apply to all attached houses built on public streets.



The photograph (left) is of a four-unit single-family attached Village-house property in Kannapolis, North Carolina is an example for illustration purposes only and is not intended to regulate lot/building styles, patterns, or forms.

The photograph (right) of a six-unit single-family attached Village-house property in Concord, North Carolina is an example for illustration purposes only and is not intended to regulate lot/building styles, patterns, or forms.



9.3-2 Attached House Lot Type Standards & Specifications.

Building Placement, Parking and Vehicle Access.

- (1.) There shall be at least 12' of separation between units that are not attached.
- (2.) Only in the most exceptional circumstances having to do with extreme topography or very special design composition may these rules of residential building placement be varied.
- (3.) Building facades shall be generally parallel to front street right-of-way lines.
- (4.) All buildings shall front onto a public street.
- (5.) Grading shall provide for smooth grade transitions to avoid abrupt "v" ditches, swales and other disruptions to the landscape, particularly between buildings

where open space enhancements for use by persons actively utilizing the landscape and/or yard area. The use of either crawl-space and/or stem-wall construction techniques in attached residential structures, or professional landscape design is required to meet this characteristic of site development to establish a Finished Floor Elevation (FFE) a minimum of two (2.0) vertical feet above adjacent sidewalk.

- (6.) Parking standards of Article 12 apply (see Section 12.3 and Table 12-1).
- (7.) Accessory structures shall be located at least 5' behind the primary structure and shall have the same side and rear setbacks as the main structure.

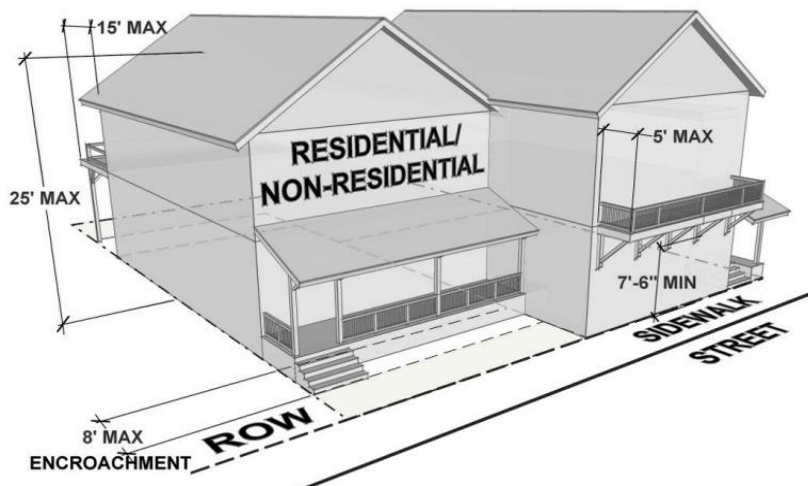
Encroachment and Pedestrian Access.

- (8.) For buildings set up to the sidewalk, balconies and bay windows at an upper level and their supports are permitted and encouraged within the sidewalk area. Encroachments affixed to the building and horizontally protruding more than 6" from the face of the building must have a minimum 7'6" clearance from the finished grade. Encroaching canopies should cover the entire sidewalk within the permitted distance shown by the shaded area.
- (9.) For buildings set back from sidewalk, balconies, stoops, stairs, unenclosed porches and bay windows are permitted to encroach into the front setback area up to 8'.
- (10.) Mechanical equipment exceeding 16 square feet shall not encroach into any required setback.
- (11.) Main pedestrian access to the building is from the street. Secondary access may be from parking areas.
- (12.) Decks shall be constructed only in an established rear yard and are not permitted to encroach into the rear setback.

9.3-3 Attached House Building Type.

Permitted Height, Uses, Encroachments and Resiliency Standards.

- (1.) Building heights shall be measured as the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights.
- (2.) Building height to the ridge may vary depending on the roof pitch.
- (3.) Permitted uses are controlled by zoning district standards.



- (4.) Vinyl siding materials are prohibited except where approved landscape plans restrict the use of pine needles or other combustible bedding material within eight (8) feet of the foundation wall.

Architectural Standards.

- (5.) Principles for maintaining the character of the Village:
- (a.) To perpetuate the unique building character of the Village and its environs, and to re-establish its local identity, development shall generally employ building styles that are compatible with the architectural vocabulary of the area in their external treatment. Manufactured homes shall not be permitted as part of any attached residential development under this ordinance.
 - (b.) The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street to maintain compatibility with structures within the Village. Setbacks should be used in a manner which encourages pedestrian activity.
 - (c.) Each building should be designed to form part of a larger composition of the area in which it is situated to maintain compatibility with structures within the Village.
 - (d.) Building silhouettes should be generally consistent. The scale and pitch of roof lines should thus be similar across groups of buildings to maintain compatibility with structures within the Village.
 - (e.) Porches should form a predominant motif of house designs, and be located on the front or to the side of the dwelling. When attached to the front, they shall extend over at least 40% of the front facade. All porches should be constructed of materials in keeping with those of the main building to maintain compatibility with structures within the Village.
 - (f.) Front loaded garages, if provided, shall meet the standards of Article 2 to maintain compatibility with structures within the Village.
- (6.) Configurations:
- (a.) Main roofs on residential buildings shall be symmetrical gables or hips with a pitch of between 4:12 and 12:12 to maintain compatibility with structures within the Village. Mono-pitch (shed) roofs are allowed only if they are attached to the wall of the main building. No mono-pitch shall be less than 4:12. All accessory buildings shall have roof pitches that conform to those of the main buildings to maintain compatibility with structures within the Village.
 - (b.) Balconies should generally be simply supported by posts and beams to maintain compatibility with structures within the Village. For balconies overhanging the sidewalk, supports should be from visible brackets, as supports cannot be located in the sidewalk. The support of cantilevered balconies should be assisted by visible brackets.

- (c.) Two wall materials may be combined horizontally on one facade. The “heavier” material should be below to maintain compatibility with structures within the Village.
 - (d.) Exterior chimneys should be finished in brick, stone or stucco to maintain compatibility with structures within the Village.
- (7.) Techniques:
- (a.) Overhanging eaves may expose rafters to maintain compatibility with structures within the Village.
 - (b.) The gable end-rake and minimum 8” overhanging vented eaves shall be finished by profiled molding or gutters to maintain compatibility with structures within the Village.

9.4 Multi-Family Lot Type and Building Type Standards

9.4-1 Description. The multi-family building is a residential building accommodating several households. In traditional Cities, this building type coexists with a variety of other building types and is located in or near mixed use districts. A successful contemporary design permits its integration with other building types through the coordination of site and building design. The multi-family building type helps to build the residential density necessary for mixed- use areas to function properly by helping to create a base of people who can walk to employment, goods and services. Where possible, structures shall be designed to terminate vistas. Structures should be designed to establish the design template and serve as a key focal point in the neighborhood. Within the limits described below and unless the zoning district standards require greater measures, these regulations shall apply to all multi-family houses built on public streets.

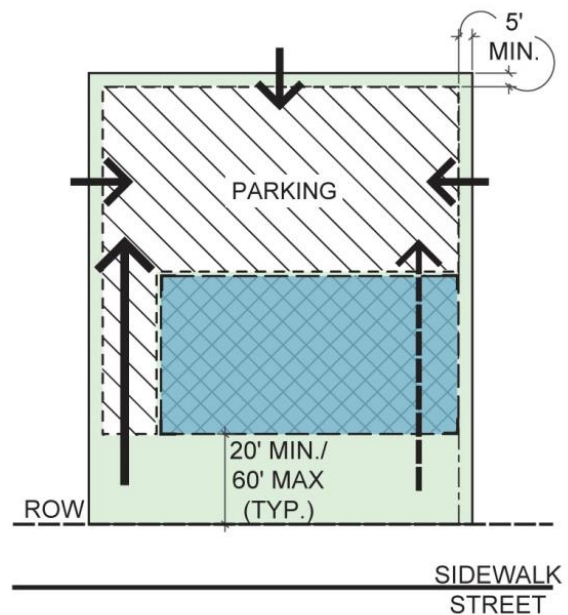
The photograph of a multi-family building in Concord, North Carolina below is an example of Piedmont region architecture transitioning between the non-residential building mass of a downtown area to a single-family residential neighborhood. The photograph is for illustration purposes only and is not intended to regulate lot/building styles, patterns, or forms.



9.4-2 Multi-Family Lot Type Standards.

Building Placement, Parking, and Vehicle Access.

- (1.) Buildings shall be placed on the lot within the zone represented within the hatched area.
- (2.) In most cases, the front build-to line will be 20'-35' behind street ROW in residential districts. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings permit a larger setback. In districts that allow commercial uses and where this building type is permissible, multi-family buildings may be set up to the sidewalk if the sum of the sidewalk and planting strip width are 12' or greater.
- (3.) Corners: Setback at street corners will generally replicate frontage conditions. However, side setbacks on a minor residential street may be less than the front dimension.
- (4.) Within the limits described, side and rear setbacks will vary depending upon buffering requirements. When no buffer is required, a minimum 5' side and rear setback is required.
- (5.) Building facades shall be generally parallel to front property lines. All buildings shall front onto a public street. All ground floor residential units with exterior access shall front a public street.
- (6.) Grading shall provide for smooth grade transitions to avoid abrupt "v" ditches, swales and other disruptions to the landscape, particularly between buildings where open space enhancements for use by persons actively utilizing the landscape and/or yard area. The use of either crawl-space and/or stem-wall construction techniques in multi-family residential structures, or professional landscape design is required to meet this characteristic of site development to establish a Finished Floor Elevation (FFE) a minimum of two (2.0) vertical feet above adjacent sidewalk.
- (7.) Parking shall be located to the rear of the building, unless there are extenuating circumstances that make it impractical to park in the rear of the building, in which case parking may be permitted to the side. When parking is permitted to the side of the building, the parking area shall comprise no more than 35% of the road frontage and shall be buffered according the buffering standards in Article 11.
- (8.) Points of permitted access to the parking indicated by arrows.
- (9.) Hedges, garden walls, or knee walls may be built on property lines or as the continuation of

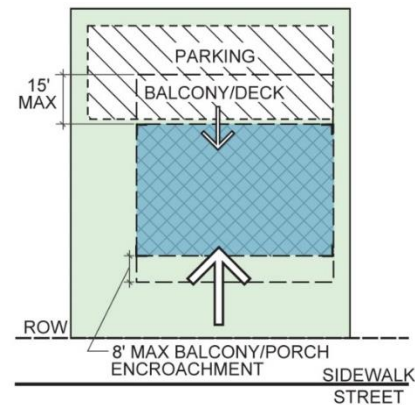


building walls. A garden wall, hedge or knee wall a minimum 2.5' in height, maximum 3.5' in height, shall be installed along any street frontage adjacent to parking areas. Knee walls should be built of brick, stone or other decorative masonry material, or should be built of wrought iron or other decorative metal, and shall generally match the architectural style of Marvin.

- (10.) Trash containers shall be located in a rear parking area (see Parking Regulations) and shall be screened from the right-of-way per standards set forth in Article 11.
- (11.) Mechanical equipment at ground level shall be placed on the parking lot side of building away from buildings on adjacent sites and shall be screened from view per standards set forth in Article 11.
- (12.) All rooftop equipment shall be screened from view from public Right-of-Ways by a building material that matches the structure or is visually compatible with the structure. The screening apparatus should be incorporated as part of the architectural theme to maintain compatibility with structures within the Village.

Encroachment and Pedestrian Access.

- (13.) For buildings set back from sidewalk, balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into setback area up to 8'.
- (14.) Attached decks are permitted to encroach into the rear setback up to 15 feet.
- (15.) For buildings set up to the sidewalk, balconies and bay windows at an upper level and their supports are permitted within the sidewalk area. Encroachments affixed to the building and horizontally protruding more than 6" from the face of the building must have a minimum 7'6" clearance from the finished grade.
- (16.) Main pedestrian access to the building and to individual units is from the street. Secondary access may be from parking areas.

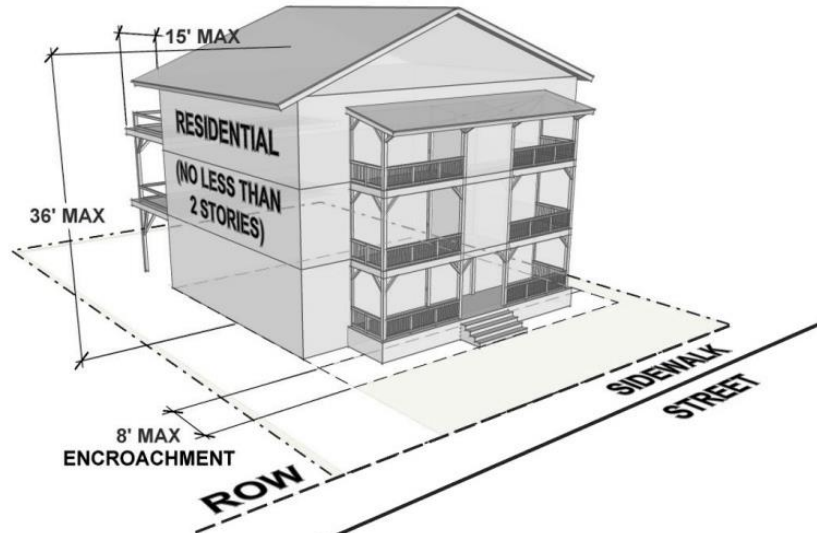


9.4-3 Multi-Family Building Type Standards.

Height, Uses, Encroachments, and Resiliency Standards.

- (1.) For buildings with flat roofs, building height shall be measured as the vertical distance from the mean elevation of the existing grade to the highest finished roof surface. The height of parapet walls is not counted in the building height calculations and may vary depending upon the need to screen mechanical equipment.
- (2.) For buildings with pitched roofs, building heights shall be measured as the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights.

- (3.) Building height to the ridge may vary depending on the roof pitch.
- (4.) Buildings shall have a maximum of 42' in height, except for pitched roof type measured as shown in sketch below.
- (5.) For buildings set back from sidewalk, balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into setback area up to 8'.



- (6.) Vinyl siding materials are prohibited except where approved landscape plans restrict the use of pine needles or other combustible bedding material within eight (8) feet of the foundation wall.

Architectural Standards.

(7.) Principles:

- (a.) To perpetuate the unique building character of the Village and its environs, and to re-establish its local identity, development shall generally employ building styles that are compatible with the architectural vocabulary of the area in their external treatment.
- (b.) The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment. Buildings in all locations shall relate the principal facade to the sidewalk and public space of the street to maintain compatibility with structures within the Village.
- (c.) Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration to maintain compatibility with structures within the Village.
- (d.) Building silhouettes should be generally consistent. The scale and pitch of roof lines should thus be similar across groups of buildings to maintain compatibility with structures within the Village.
- (e.) Porches should form a predominant motif of building designs, and be located on the front or to the side of the dwelling. When attached to the front, they should extend over at least 15% of the front facade. All porches should be

constructed of materials in keeping with those of the main building to maintain compatibility with structures within the Village.

(f.) Front loaded garages, if provided, shall meet the standards of Article 2 to maintain compatibility with structures within the Village.

(g.) At a minimum, the Americans with Disabilities Act standards for accessibility shall be met.

(8.) Configurations:

(a.) Main roofs on multi-family buildings shall be symmetrical gables, hips with a pitch of between 4:12 and 12:12 or flat roofs with a parapet wall. Mono-pitch (shed) roofs are allowed only if they are attached to the wall of the main building. No mono-pitch shall be less than 4:12. All accessory buildings shall have roof pitches that conform to those of the main building to maintain compatibility with structures within the Village.

(b.) Balconies should generally be simply supported by posts and beams. The support of cantilevered balconies should be assisted by visible brackets to maintain compatibility with structures within the Village.

(c.) Two wall materials may be combined horizontally on one facade. The "heavier" material should be below to maintain compatibility with structures within the Village.

(d.) Exterior chimneys should be finished in brick, stone or stucco to maintain compatibility with structures within the Village.

(9.) Techniques:

(a.) Overhanging eaves may expose rafters to maintain compatibility with structures within the Village.

(b.) The gable end-rake and minimum 8" overhanging vented eaves shall be finished by profiled molding or gutters to maintain compatibility with structures within the Village.

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9.5 Civic Building Lot and Building Type

9.5-1 Description. Civic buildings are used for purposes that are public in nature (e.g. schools, libraries, government buildings, and churches). These buildings must be designed to take their appropriate places within neighborhoods as integral parts of the community. It is expected that the scale and architectural sophistication of these buildings will match their civic importance. Civic structures should be designed to serve as key focal points in the neighborhood. When located at intersections or other appropriate locations, Civic Buildings shall be designed to terminate vistas. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street. Civic buildings shall not be set back on the lot behind a standard parking lot; however, a plaza may be used for occasional parking and/or passenger drop-off. Large institutions with multiple buildings are encouraged to adopt campus master plans.

The photograph below is an example located in Kannapolis, North Carolina for illustration purposes only and is not intended to regulate lot/building styles, patterns, or forms.



9.5-2 Civic Building Lot Type.

Building Placement, Parking, and Vehicle Access

- (1.) Buildings shall be placed on the lot within the zone represented by the hatched area. In most cases, the build-to line will range from 0' to 115' behind street ROW. Special site conditions such as topography, lot width, or provision of a green or plaza will permit a larger building setback.
- (2.) Side and rear setbacks will vary according to side and rear buffer requirements as set forth in Article 11, with a minimum 8-foot setback where buffers are required and 15-foot setback when no buffer is required.

(3.) Parking shall be located to the rear of the building; side-yard parking shall occupy no more than 25% of the primary frontage line and shall not be placed in any side-yard abutting an intersecting street. Where dimensions of existing lots restrict parking behind buildings, the limitations on side-yard parking may be modified.

(4.) A planting strip, lawn or defined plaza should be provided to relate the building to the street.

(5.) Generally, building and street facades must be parallel to frontage property lines.

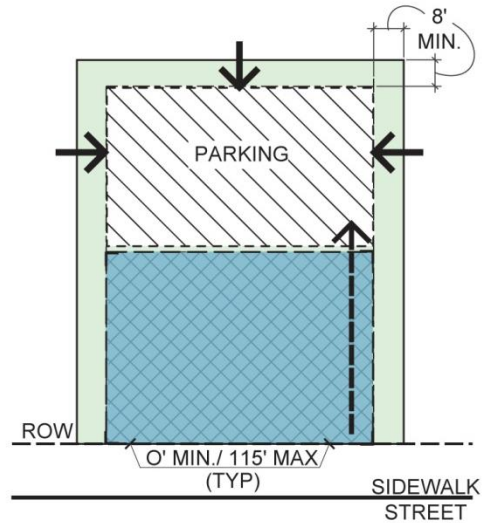
(6.) Points of permitted access to the parking indicated by arrows.

(7.) Hedges, garden walls, or knee walls may be built on property lines or as the continuation of building walls. A garden wall, hedge or knee wall a minimum 2.5' in height, maximum 3.5' in height, shall be installed along any street frontage adjacent to parking areas. Knee walls should be built of brick, stone or other decorative masonry material, or should be built of wrought iron or other decorative metal, and shall generally match the architectural style of Marvin.

(8.) Parking areas on adjacent lots shall be connected with vehicular and pedestrian connections wherever practical.

(9.) Trash containers shall be located in a rear parking area (see Parking Regulations) and shall be screened from the right-of-way per standards set forth in Article 11. Exception to this provision applies where the building is located on public school property within the Civic ("CIV") district and the building is screened and buffered from a contiguous residential district by a Type A Buffer Yard per the standards and specifications appearing in Article 11 of this Ordinance.

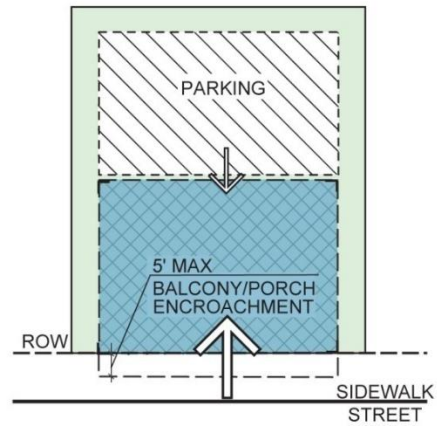
(10.) Mechanical equipment at ground level shall be placed on the parking lot side of the building away from buildings on adjacent sites and shall be screened from view by either an opaque screen or fence, or a Type D Buffer Yard per standards set forth in Article 11.



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Encroachment and Pedestrian Access.

(11.) Balconies, bay windows, arcades, awnings and porches at an upper level and their supports at ground level are permitted and encouraged within the sidewalk as shown by the shaded area. Encroachments affixed to the building and horizontally protruding more than 6” from the face of the building must have a minimum 7’6” clearance from the finished grade. Encroaching canopies should cover the entire sidewalk within the permitted distance shown by the shaded area.



(12.) For buildings set back of the sidewalk, balconies, stoops, stairs, porches, bay windows, and awnings are permitted to encroach into front setback area up to 8’.

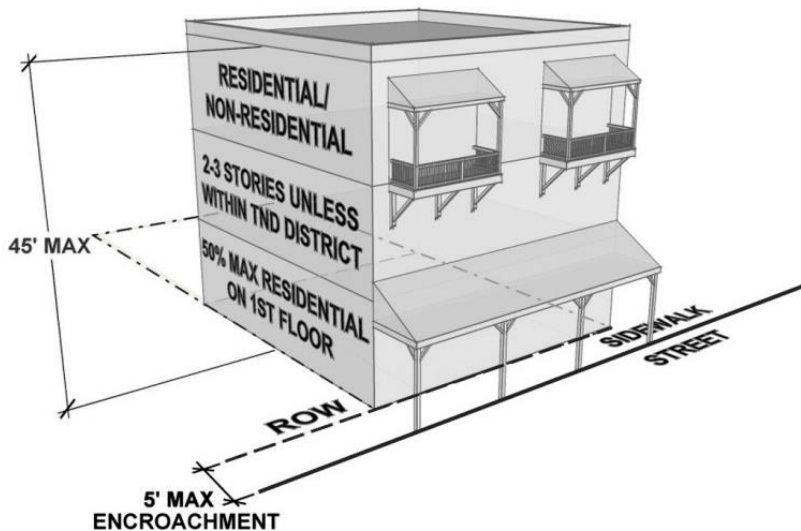
(13.) Main pedestrian access to the building is from the street (indicated by larger arrow). Secondary access may be from parking areas (indicated by smaller arrow).

(14.) Mechanical equipment exceeding 16 square feet shall not encroach into any required setback.

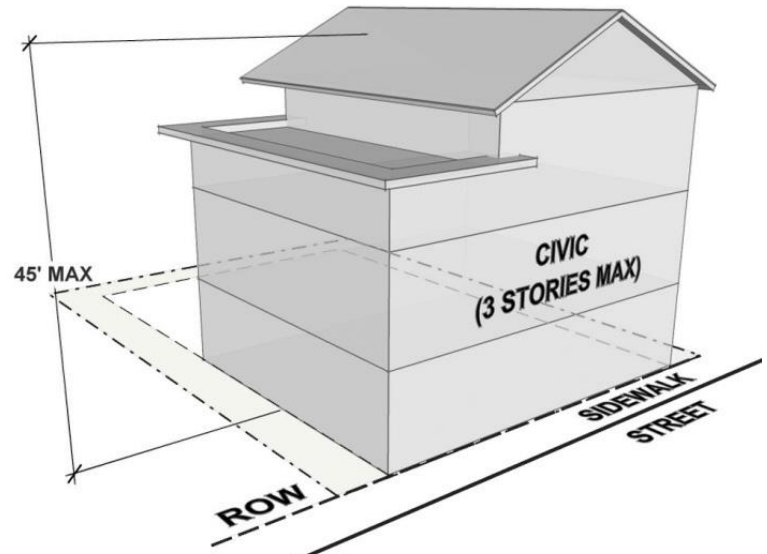
9.5-3 Civic Building Type.

Permitted Height.

(1.) For buildings with flat roofs, building height shall be measured as the vertical distance from the mean elevation of the existing grade to the highest finished roof surface. The height of parapet walls is not counted in the building height calculations and may vary depending upon the need to screen mechanical equipment.



- (2.) For buildings with pitched roofs, building heights shall be measured as the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights.
- (3.) Building height to the ridge may vary depending on the roof pitch.
- (4.) Buildings shall have a maximum height of 45 feet.



Architectural Standards.

- (5.) Principles:
 - (a.) To perpetuate the unique building character of the Village and its environs, and to re-establish its local identity, development shall generally employ building styles that are compatible with the architectural vocabulary of the area in their external treatment.
 - (b.) Building elevations fronting or visible from public streets shall be clad with masonry, wood, stucco, or similar material. Vinyl siding shall not comprise a street fronting building face to maintain compatibility with structures within the Village.
 - (c.) The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment to maintain compatibility with structures within the Village.
 - (d.) Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration to maintain compatibility with structures within the Village.
 - (e.) Schools, churches, and government buildings shall be built so that they terminate a street vista whenever possible, and shall be of sufficient design quality to create visual anchors for the community and serve as focal points for the neighborhood to maintain compatibility with structures within the Village.

(6.) Configurations:

- (a.) Two wall materials may be combined horizontally on one facade. The “heavier” material should be below the “lighter” material and the “heavier” material can cover the first floor only (i.e. brick below wood siding) to maintain compatibility with structures within the Village.
- (b.) Street level windows should be un-tinted to maintain compatibility with structures within the Village. Tinted glass with a minimum visual transmittance factor of 35 is permitted. Mirrored or reflective glass is not permitted in any location. Clear textured glass is allowed in restrooms with windows. Stained glass or decorative art glass is permitted.
- (c.) Windows shall be of square or vertical proportion. Special windows may be circular or regular polygons.
- (d.) Flat roof lines are permissible.

(7.) Techniques:

- (a.) Windows should be set to the inside of the building face wall to maintain compatibility with structures within the Village.
- (b.) All rooftop equipment shall be screened from view from public Right-of-Ways by a building material that matches the structure or is visually compatible with the structure. The screening apparatus should be incorporated as part of the architectural theme to maintain compatibility with structures within the Village.

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9.6 Shop-front Commercial Lot and Building Type

9.6-1 Description. The shop-front building is a small-scale structure that can accommodate a variety of uses. The structure is typically less than 15,000 square feet of gross leasable area. A group of shop-front buildings can be combined to form a mixed-use neighborhood center. Individual shop-front buildings can be used to provide some small-scale commercial service, such as a convenience store or restaurant, in close proximity to homes. Traditional commercial buildings in southern towns provide good examples. Hotels, inns, and conference centers may be placed in shop-front or mixed-use buildings. Structures shall be designed to encourage pedestrian activity and interest. When located at the end of a block or other appropriate location, structures shall be designed to terminate vistas.

The photograph is an example located in Davidson, North Carolina for illustration purposes only and is not intended to regulate lot/building styles, patterns, or forms.



9.6-2 Shop-front Lot Type.

Building Placement, Parking, and Vehicle Access.

- (1.) Buildings will range from 10' to 18' behind the street curb-line in Mixed Use ("MU"), Main Street ("MS"), and "TNDO" districts. Within the limits described above, front setbacks will vary depending upon site conditions. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings on the same block permit a larger setback. Setbacks should be used in a manner that encourages pedestrian activity. For example, squares or spatially defined plazas within building setback areas can act as focal points for pedestrians.
 - (a.) Corners: Setback at street corners will generally replicate frontage conditions. Side setbacks on a minor residential street may be less than the front dimension.
- (2.) Side and rear setbacks will vary according to side and rear buffer requirements as set forth in Article 11, with a minimum 0-foot setback when no buffer is required.
- (3.) Building facades shall be generally parallel to frontage property lines. Buildings in all locations should relate the principal façade to the sidewalk and public space of the street.
- (4.) Parking shall be located primarily to the rear of the building; side-yard parking shall occupy no more than 25% of the primary frontage line and shall not be placed in any side-yard abutting an intersecting street. Where dimensions of

existing lots restrict parking behind buildings, the limitations on side-yard parking may be modified.

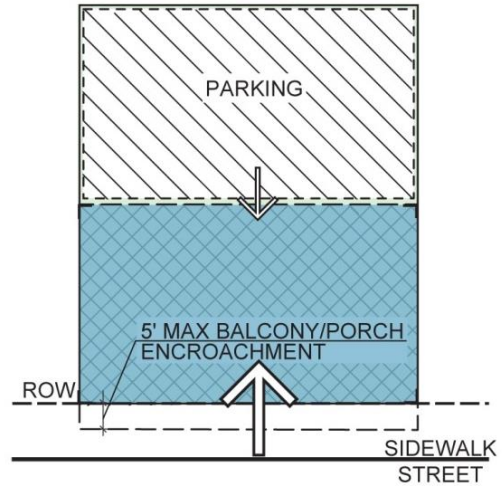
- (5.) Hedges, garden walls, or knee walls may be built on property lines or as the continuation of building walls. A garden wall, hedge or knee wall a minimum 2.5' in height, maximum 3.5' in height, shall be installed along any street frontage adjacent to parking areas. Knee walls should be built of brick, stone or other decorative masonry material, or should be built of wrought iron or other decorative metal and shall generally match the architectural style of Marvin.
- (6.) Parking areas on adjacent lots shall be connected with vehicular and pedestrian connections wherever practical.
- (7.) Trash containers shall be located in a rear parking area (see Parking Regulations, Article 12) and shall be screened from the right-of-way with a Type D Buffer Yard per standards set forth in Article 11.
- (8.) Mechanical equipment at ground level shall be placed on the parking lot side of the building away from buildings on adjacent sites and shall be screened from view by an opaque screen or fence.
- (9.) Building facades at street frontage lines shall be pedestrian oriented and of pedestrian scale. The building's design shall promote pedestrian activity and pedestrian-driven commerce. The sidewalk shall be an extension of the street level businesses' operations. As such, pedestrians should be able to preview businesses' merchandise and/or dine from the sidewalk. Business activities shall not impede on the required pedestrian travel widths and shall not encroach more than 5 feet into the sidewalk.

Encroachments and Pedestrian Access to Building.

- (10.) Balconies, bay windows, arcades, awnings and porches at an upper level and their supports are permitted and encouraged within the sidewalk as shown by the un-shaded area. Encroachments affixed to the building and horizontally protruding more than 6" from the face of the building must have a minimum 7'6" clearance from the finished grade. Encroaching canopies should cover the entire sidewalk within the permitted distance shown by the un-shaded area.

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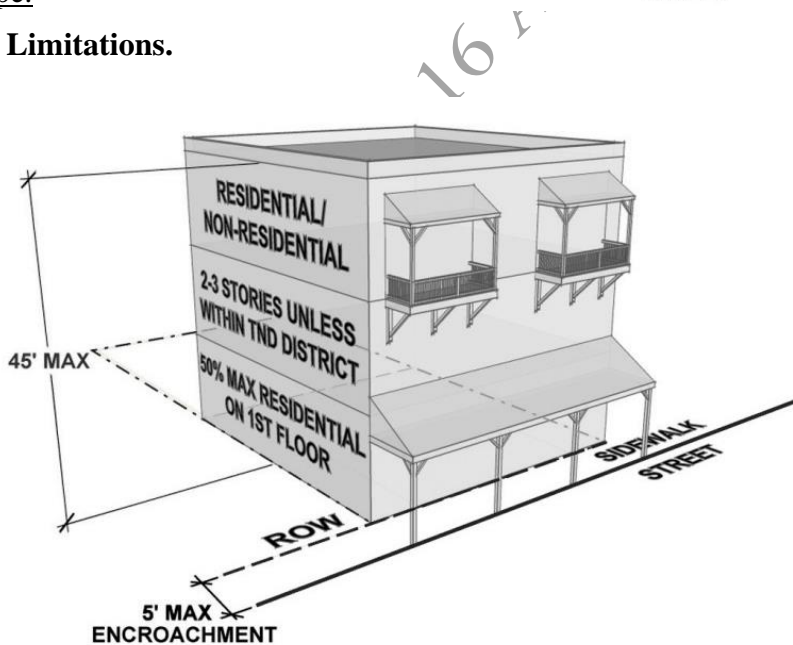
(11.) Primary pedestrian access into the building shall be from the street frontage line (indicated by larger arrow). Secondary access may be from parking areas (indicated by smaller arrows).



9.6-3 Shop-front Building Type.

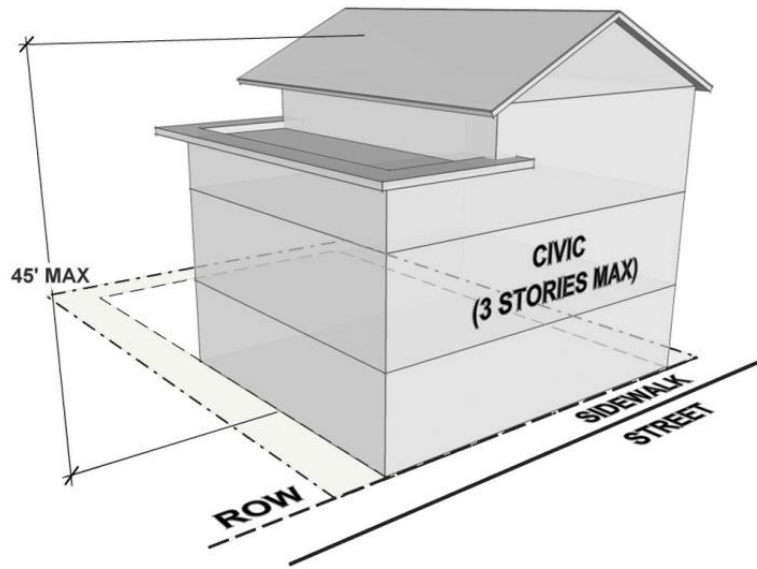
Permitted Height and Use Limitations.

(1.) For buildings with flat roofs, building height shall be measured as the vertical distance from the mean elevation of the existing grade to the highest finished roof surface. The height of parapet walls is not counted in the building height calculations and may vary depending upon the need to screen mechanical equipment.



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(2.) For buildings with pitched roofs, building heights shall be measured as the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights.



(3.) Building height to the ridge may vary depending on the roof pitch.

(4.) Buildings shall have no less than 2 stories. Buildings shall have no more than 3 stories, unless the building is in a “TNDO” district, in which case the maximum number of stories and maximum building height is regulated by the procedure for “TNDO” approval in Article 7 of this Ordinance.

(5.) Buildings shall have no more than 50% of the 1st floor in residential use.

Architectural Standards.

(6.) Principles:

- (a.) To perpetuate the unique building character of the Village and its environs, and to re-establish its local identity, development shall generally employ building styles that are compatible with the architectural vocabulary of the area in their external treatment.
- (b.) Building elevations fronting or visible from public streets shall be clad with masonry, wood, stucco, or similar material. Vinyl siding shall not comprise a street fronting building face to maintain compatibility with structures within the Village.
- (c.) The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment to maintain compatibility with structures within the Village.
- (d.) Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration to maintain compatibility with structures within the Village.
- (e.) Drive-through customer services, if permitted in the district, must be located at the rear of the building or on a side which does not abut a street to maintain compatibility with structures within the Village.

- (f.) Trailers (mobile and/or manufactured units) may not be used as permanent workplace buildings.
- (7.) Configurations:
 - (a.) Two wall materials may be combined horizontally on one facade. The “heavier” material should be below the “lighter” material and the “heavier” material can cover the first floor only (i.e. brick below wood siding) to maintain compatibility with structures within the Village.
 - (b.) Street level windows adjacent to public sidewalks shall be un-tinted to maintain compatibility with structures within the Village. Tinted glass with a minimum visual transmittance factor of 35 is permitted in all other instances. Mirrored or reflective glass is not permitted in any location.
 - (c.) Windows shall be of square or vertical proportion. Special windows may be circular or regular polygons.
- (8.) Techniques:
 - (a.) Windows should be set to the inside of the building face wall to maintain compatibility with structures within the Village.
 - (b.) All rooftop equipment shall be screened from view from public Right-of-Ways by a building material that matches the structure or is visually compatible with the structure. The screening apparatus should be incorporated as part of the architectural theme to maintain compatibility with structures within the Village.

9.7 Urban Workplace Lot and Building Type

9.7-1 Description. The urban workplace building may be a large structure (15,000+ square feet) and can have one or multiple tenants. Office, light industrial, and commercial tenants are typical. Southern mill villages often provide examples of how these buildings can reasonably coexist with other businesses and homes. These buildings serve as employment centers and commercial service locations. The buildings will provide space for industry and large offices, as well as hotels, conference facilities, and large retail uses such as a full service grocery store. Structures shall be designed to serve as key focal points and to establish the design template for the area. When located at the end of a block or other appropriate location, structures shall be designed to terminate vistas.

The photograph below is an example for illustration purposes only and is not intended to regulate lot/building styles, patterns, or forms.

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9.7-2 Urban Workplace Lot Type.

Building Placement, Parking, and Vehicle Access.

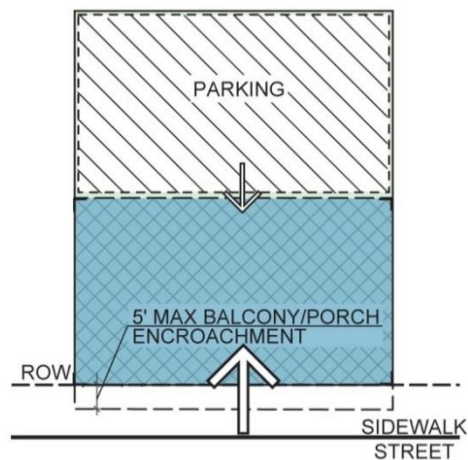
- (1.) Buildings will range from 10' to 18' behind the street curb-line in Mixed Use ("MU"), Main Street ("MS"), and "TNDO" districts. Within the limits described above, front setbacks will vary depending upon site conditions. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings on the same block permit a larger setback. Setbacks should be used in a manner that encourages pedestrian activity. For example, squares or spatially defined plazas within building setback areas can act as focal points for pedestrians.
 - (a.) Corners: Setback at street corners will generally replicate frontage conditions. Side setbacks on a minor residential street may be less than the front dimension.
- (2.) Side and rear setbacks will vary according to side and rear buffer requirements as set forth in Article 11, with a minimum 0-foot setback when no buffer is required.
- (3.) Front and rear building facades shall be generally parallel to frontage property lines. The façade shall be determined by the massing of the building. Buildings in all locations should relate the principal façade to the sidewalk and public space of the street.
- (4.) Parking shall be located primarily to the rear of the building; side-yard parking shall occupy no more than 35% of the primary frontage line and shall not be placed in any side-yard abutting an intersecting street. Where dimensions of

existing lots restrict parking behind buildings, the limitations on side-yard parking may be modified.

- (5.) Hedges, garden walls, or knee walls may be built on property lines or as the continuation of building walls. A garden wall, hedge or knee wall a minimum 2.5' in height, maximum 3.5' in height, shall be installed along any street frontage adjacent to parking areas. Knee walls should be built of brick, stone or other decorative masonry material, or should be built of wrought iron or other decorative metal, and shall generally match the architectural style of Marvin.
- (6.) Parking areas on adjacent lots shall be connected with vehicular and pedestrian connections wherever practical.
- (7.) Trash containers shall be located in a rear parking area (see Parking Regulations, Article 12) and shall be screened from the right-of-way with a Type D Buffer Yard per standards and specifications set forth in Article 11.
- (8.) Mechanical equipment at ground level shall be placed on the parking lot side of the building away from buildings on adjacent sites and shall be screened from view by either an opaque screen or fence, or a Type D Buffer Yard per standards and specifications set forth in Article 11.
- (9.) Building facades at street frontage lines shall be pedestrian oriented and of pedestrian scale. The building's design shall promote pedestrian activity and pedestrian-driven commerce. The sidewalk shall be an extension of the street level businesses' operations. As such, pedestrians should be able to preview businesses' merchandise and/or dine from the sidewalk. Business activities shall not impede on the required pedestrian travel widths and shall not encroach more than 5 feet into the sidewalk.

Encroachments and Pedestrian Access to Building.

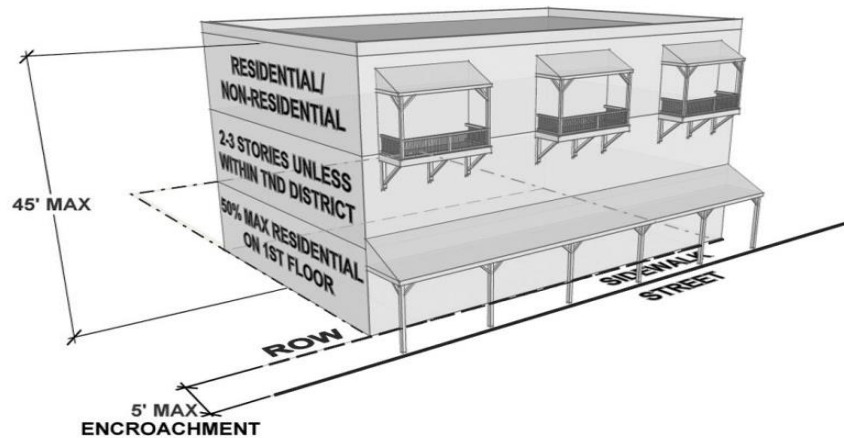
- (10.) Balconies, bay windows, arcades, awnings and porches at an upper level and their supports are permitted and encouraged within the sidewalk as shown by the un-shaded area. Encroachments affixed to the building and horizontally protruding more than 6" from the face of the building must have a minimum 7'6" clearance from the finished grade. Encroaching canopies should cover the entire sidewalk within the permitted distance shown by the un-shaded area.
- (11.) Primary pedestrian access into the building shall be from the street frontage line (indicated by larger arrow). Secondary access may be from parking areas indicated by smaller arrows).



9.7-3 Urban Workplace Building Type.

Permitted Height and Use Limitations.

- (1.) For buildings with flat roofs, building height shall be measured as the vertical distance from the mean elevation of the existing grade to the highest finished roof surface. The height of parapet walls is not counted in the building height calculations and may vary depending upon the need to screen mechanical equipment.
- (2.) For buildings with pitched roofs, building heights shall be measured as the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights.
- (3.) Building height to the ridge may vary depending on the roof pitch.
- (4.) Buildings shall have no less than 2 stories. Buildings shall have no more than 3 stories, unless the building is in a “TNDO” district, in which case the maximum number of stories and maximum building height is regulated by the procedure for “TNDO” approval in Article 7 of this Ordinance.
- (5.) Buildings shall have no more than 50% of the 1st floor in residential use.



Architectural Standards.

- (6.) Principles:
 - (a.) To perpetuate the unique building character of the Village and its environs, and to re-establish its local identity, development shall generally employ building styles that are compatible with the architectural vocabulary of the area in their external treatment.
 - (b.) Building elevations fronting or visible from public streets shall be clad with masonry, wood, stucco, or similar material. Vinyl siding shall not comprise a street fronting building face to maintain compatibility with structures within the Village.
 - (c.) The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment to maintain compatibility with structures within the Village.
 - (d.) Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale,

height, and configuration to maintain compatibility with structures within the Village.

- (e.) Drive-through customer services, if permitted in the district, must be located at the rear of the building or on a side which does not abut a street to maintain compatibility with structures within the Village.
- (f.) Trailers (mobile and/or manufactured units) may not be used as permanent workplace buildings.

(7.) Configurations:

- (a.) Two wall materials may be combined horizontally on one facade. The “heavier” material should be below the “lighter” material and the “heavier” material can cover the first floor only (i.e. brick below wood siding) to maintain compatibility with structures within the Village.
- (b.) Street level windows adjacent to public sidewalks shall be un-tinted to maintain compatibility with structures within the Village. Tinted glass with a minimum visual transmittance factor of 35 is permitted in all other instances. Mirrored or reflective glass is not permitted in any location.
- (c.) Windows shall be of square or vertical proportion. Special windows may be circular or regular polygons.

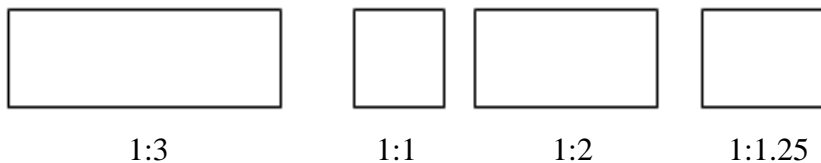
(8.) Techniques:

- (a.) Windows should be set to the inside of the building face wall to maintain compatibility with structures within the Village.
- (b.) All rooftop equipment shall be screened from view from public Rights-of-Way by a building material that matches the structure or is visually compatible with the structure. The screening apparatus should be incorporated as part of the architectural theme to maintain compatibility with structures within the Village.

9.7-4 Building Standards and Anti-Monotony Standards for Urban Workplace Buildings.

Massing and Rhythm

- (1.) To insure a consistent scale and compatible character of each and every building, massing and rhythm shall be considered in the site design. Examples of appropriate height to width ratios are depicted in the following below. A single large dominant building mass shall be avoided in new buildings and, to the extent reasonable and feasible, in development projects involving changes to the mass of existing buildings.



- (2.) Horizontal masses shall not exceed a height-width ratio of 1:3 without substantial variation in massing that includes a change in height and projecting or recessed elements. Changes in mass shall be related to entrances, the integral structure, and/or the organization of interior spaces and not merely for cosmetic purposes.



Sample building with acceptable massing composition

Height

- (3.) Building height shall be regulated in accordance with Section 9.8-3(A) of this Article.

Scale and Roofline

- (4.) The goal for scale is to be reiterated in regard to height. The scale of buildings must be such that street edges are defined and relate to human proportions. This scale can be achieved through the use of architectural detailing on the first floor of buildings so that larger buildings are broken up into smaller units, by maintaining height limits, by using large picture windows along front facades and by using plantings around the buildings.
- (5.) A range of roof forms is acceptable as long as they are compatible with the architectural character, scale, and height of surrounding buildings. Mansard roofs are not permitted except in the Agricultural (“AG”) district.

Fenestration

- (6.) Fenestration includes the structural openings to buildings, including doors and windows, to intuitively guide people toward their destination and improve emergency response.
- (7.) All buildings shall have their principal entrance opening to a street, square, plaza, or sidewalk. Access from the public sidewalk, street right-of-way or driveway to the principal structure shall be provided through an improved surface. Buildings shall comply with this standard for all buildings that provide a non-vehicular service to customers. Exempt uses include vehicle fueling stations, vehicle sales and vehicle repair.
- (8.) The first floor of all buildings shall be designed to reduce automobile dependency and encourage pedestrian-scale activity by the use of windows and doors. These openings should be arranged so that uses are visible and/or accessible to both the sidewalk and street. A minimum of fifty percent (50%) of the length and twenty-five percent (25%) of the surface of the primary structure(s) shall be in public entrances or windows. No more than fifty (50) percent of the surface of the building shall be windows.

Access

- (9.) Structures should be sited so that the primary access is from the street front sidewalk leading to the parking area. In the event that a structure is located on a U.S. or State Numbered Highway, the *Planning, Zoning & Subdivision Administrator* may permit the primary access to be located facing the parking area when this option is deemed not to impede public safety and found aesthetically desirable to achieve the description of purpose stated in Section 9.8-1 of this Article.
- (10.) All street level retail uses with sidewalk frontage shall be furnished with an individual entrance and direct access to the sidewalk in addition to any other access which may be provided.
- (11.) Doors shall be recessed into the face of the building to prevent doors from operating outward into and/or obstructing the public sidewalk. An entryway shall not be less than fifteen (15) square feet.

Articulation

- (12.) To improve distinction of buildings and various building spaces along long walls viewed from sharp angles and at long distances, the following standards shall apply:
- (a.) No wall that faces a street or connecting walkway shall have a blank, uninterrupted length exceeding twenty (20) feet.



- (13.) All building walls must include at least two of the following:
- (a.) change in plane,
 - (b.) change in texture or masonry pattern,
 - (c.) windows, or
 - (d.) Include an equivalent aspect that subdivides the wall into proportions such as an articulated base with a height no more than ten (10) feet.
- (14.) In the event that actual doors and windows are not feasible because of the nature of the use of the building, side or rear walls that face walkways should include false windows and door openings defined by the following:
- (a.) Frames,
 - (b.) Sills,
 - (c.) lintels, or

- (d.) Proportioned modulations of the wall.
- (15.) All sides, including the rear, of the building shall include materials and design characteristics consistent with those on the front.
- (16.) Use of inferior or lesser quality materials on side or rear walls is prohibited except for areas where public access is prohibited by the proprietor.
- (17.) In the event that canopies, awnings or other similar appurtenances are used, the following standards shall apply:
 - (a.) Such appurtenances shall be constructed of materials designed to full-fill the principles of the standards herein.
 - (b.) Any appurtenance may extend from the building up to eighty (80%) percent of the width of the sidewalk area or nine feet, whichever is less.
 - (c.) In no case shall any such facility extend beyond the curb line of the street, nor shall it interfere with maintenance of bio-retention pits with street trees for stormwater management, or maintenance of street lights or street signs.
 - (d.) Minimum clearance of seven (7) feet above sidewalk shall be maintained.

Materials

- (18.) All buildings shall be constructed of durable fire retardant and wind resistant materials to prevent hazards to persons and/or property. These materials include brick, either plain or painted, horizontal fiber-cement siding, wood shingle, stone, or concrete-based stucco. All trim materials shall be stone, cast stone, cast concrete, or painted wood.
- (19.) It is recommended that the primary structure be neutral in color, i.e. light grays, browns, beiges, whites or earth tones and not of colors that are distractive to motorists or cause concern among proximate proprietors of diminished property value or customer discomfort. The trim may be of various contrasting colors to that of the primary structure.
- (20.) Where any sloped roofs are utilized, they shall be covered with high profile asphalt shingles, natural clay tiles, slate, concrete tiles (with natural texture and color), ribbed metal, or shingles.
- (21.) Finish materials of buildings, signage, gasoline pump canopies and other accessory structures, shall be compatible with the architectural character of the principal structure(s) through compliance with the following guidelines:
 - (a.) all buildings, including gasoline pump canopies, shall utilize a consistent architectural style;
 - (b.) differing buildings, businesses, or activities within the same development may be distinguished by variations;
 - (c.) Sides and backs of buildings shall be as visually distinguishable as the front through the design of roof lines, architectural detailing, and landscaping features. Non-public and restricted access areas may be exempted from this provision upon review by the Planning, Zoning & Subdivision Administrator.

9.8 Highway Lot Type and Building Type Standards

- 9.8-1 Description. This building type generally comprises fast food retail, drive through banks, motels, industry, and other highway dependent uses. These regulations are designed to bring these building types into a framework of Village streets and provide for an aesthetically pleasing suburban environment. Structures should be designed to present an interesting and uniquely Marvin design to the passing motorist. Access shall be designed to not impede safe traffic movement.

The photograph is an example located in Kannapolis, North Carolina for illustration purposes only and is not intended to regulate lot/building styles, patterns, or forms.



- 9.8-2 Highway Lot Type Standards.

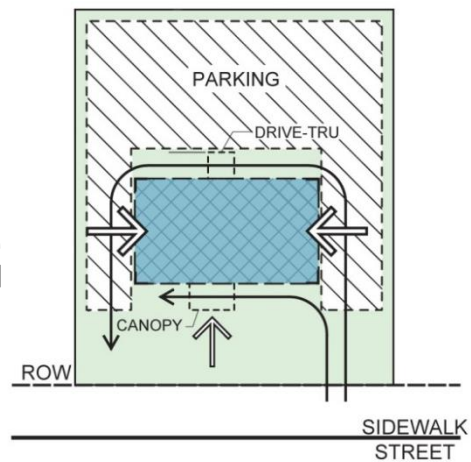
Building Placement, Parking, and Vehicle Access.

- (1.) Buildings will be 12' to 115' behind street ROW. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings on the same street within 500 feet of the proposed building may permit a larger setback.
- (2.) Side and rear setbacks will vary according to side and rear buffer requirements as set forth in Article 11, with a minimum 12-foot setback when no buffer is required.
- (3.) Building facades shall be generally parallel to frontage property lines.
- (4.) Parking shall be located to the rear and/or side of the building. Side-yard parking may occupy no more than 35% of the principal frontage line and shall be buffered from the street according to the buffer requirements as set forth in Article 11. Parking shall not be placed in any side-yard abutting an intersecting street. Where dimensions of existing lots restrict parking behind buildings, the limitations on side-yard parking may be modified.
- (5.) Hedges, garden walls, or knee walls may be built on property lines or as the continuation of building walls. A garden wall, hedge or knee wall minimum 2.5' in height, maximum 3.5' in height, shall be installed along any street frontage adjacent to parking areas. Knee walls should be built of brick, stone or other decorative masonry material, or should be built of wrought iron or other decorative metal, and shall generally match the architectural style of Marvin.

- (6.) Parking areas on adjacent lots shall be connected with vehicular and pedestrian connections wherever practical.
- (7.) Trash containers shall be located in the rear parking area and shall be screened from the right-of-way per standards set forth in Article 11.
- (8.) Mechanical equipment at ground level shall be placed on the parking lot side of building away from buildings on adjacent sites and shall be screened from view per standards set forth in Article 11.

Vehicular Circulation and Pedestrian Access.

- (9.) Main pedestrian access to the building may be from the side (indicated by the larger arrows) and shall not be from the rear. If the primary pedestrian access is from the side of the building, secondary pedestrian access must be from the front (indicated by the smaller arrow). However, primary pedestrian access to the building may be from the front.
- (10.) Drive-through, gasoline and fuel pumps, and auto-oriented service facilities shall be located to the rear of the building.
- (11.) Entrance canopies (for motels, etc.) shall be oriented towards the primary street.
- (12.) Typical vehicular circulation movement is indicated by thin line arrows.



9.8-3 Highway Building Type Standards.

Permitted Height and Uses.

- (1.) For buildings with flat roofs, building height shall be measured as the vertical distance from the mean elevation of the existing grade to the highest finished roof surface. The height of parapet walls is not counted in the building height calculations and may vary depending upon the need to screen mechanical equipment.
- (2.) For buildings with pitched roofs, building heights shall be measured as the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights.
- (3.) Building height to the ridge may vary depending on the roof pitch.
- (4.) Building height is limited to 50 vertical feet. Exemption to this provision applies where the building is located within business or employment centers within the Industrial (IND) district on local streets and the building is a minimum of 300 feet from major thoroughfare(s) appearing on the approved thoroughfare plan.

Architectural Standards.

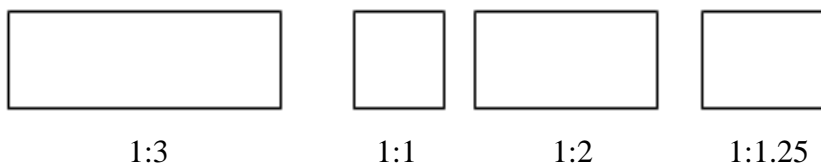
- (5.) Principles:

- (a.) Building elevations fronting or visible from public streets shall be clad with masonry, wood, stucco, or similar material. Metal paneling may not comprise a street fronting building face to maintain compatibility with structures within the Village, exception to this provision applies where the building frontage is located within business or employment centers within the Industrial (IND) district on local streets not visible from designated thoroughfare(s) upon the approved thoroughfare plan.
 - (b.) All walls not visible from a public right-of-way may be constructed of cinder block, brick, wood or vinyl siding, or metal paneling.
 - (c.) Buildings in all locations should relate a principal facade to the sidewalk and public space of the street.
 - (d.) Corners: Setback at street corners will generally replicate frontage conditions.
 - (e.) Trailers (mobile and/or manufactured units) may not be used as permanent highway buildings.
- (6.) Configurations:
- (a.) Two wall materials may be combined horizontally on one façade. The “heavier” material should be below the “lighter” material (i.e. brick below wood siding) to maintain compatibility with structures within the Village.
 - (b.) Street level windows should be un-tinted to maintain compatibility with structures within the Village. Tinted glass with a minimum visual transmittance factor of 35 is permitted. Mirrored or reflective glass is not permitted in any location.
- (7.) Techniques:
- (a.) All rooftop equipment shall be screened from view from public Right-of-Ways by a building material that matches the structure or is visually compatible with the structure. The screening apparatus should be incorporated as part of the architectural theme to maintain compatibility with structures within the Village.

9.8-4 Building Standards and Anti-Monotony Standards for Highway Buildings.

Massing and Rhythm

- (1.) To insure a consistent scale and compatible character of each and every building, massing and rhythm shall be considered in the site design. Examples of appropriate height to width ratios are depicted in the following below. A single large dominant building mass shall be avoided in new buildings and, to the extent reasonable and feasible, in development projects involving changes to the mass of existing buildings.



- (2.) Horizontal masses shall not exceed a height-width ratio of 1:3 without substantial variation in massing that includes a change in height and projecting or recessed

elements. Changes in mass shall be related to entrances, the integral structure, and/or the organization of interior spaces and not merely for cosmetic purposes.



Sample building with acceptable massing composition

Height

- (3.) Building height shall be regulated in accordance with Section 9.8-3(A) of this Article.

Scale and Roofline

- (4.) The goal for scale is to be reiterated in regard to height. The scale of buildings must be such that street edges are defined and relate to human proportions. This scale can be achieved through the use of architectural detailing on the first floor of buildings so that larger buildings are broken up into smaller units, by maintaining height limits, by using large picture windows along front facades and by using plantings around the buildings.
- (5.) A range of roof forms is acceptable as long as they are compatible with the architectural character, scale, and height of surrounding buildings. Mansard roofs are not permitted except in the Agricultural (“AG”) district.

Fenestration

- (6.) Fenestration includes the structural openings to buildings, including doors and windows, to intuitively guide people toward their destination and improve emergency response.
- (7.) All buildings shall have their principal entrance opening to a street, square, plaza, or sidewalk. Access from the public sidewalk, street right-of-way or driveway to the principal structure shall be provided through an improved surface. Buildings shall comply with this standard for all buildings that provide a non-vehicular service to customers. Exempt uses include vehicle fueling stations, vehicle sales and vehicle repair.
- (8.) The first floor of all buildings shall be designed to reduce automobile dependency and encourage pedestrian-scale activity by the use of windows and doors. These openings should be arranged so that uses are visible and/or accessible to both the sidewalk and street. A minimum of fifty percent (50%) of the length and twenty-five percent (25%) of the surface of the primary structure(s) shall be in public entrances or windows. No more than fifty (50) percent of the surface of the building shall be windows.

Access

- (9.) Structures should be sited so that the primary access is from the street front sidewalk leading to the parking area. In the event that a structure is located on a U.S. or State Numbered Highway, the *Planning, Zoning & Subdivision Administrator* may permit the primary access to be located facing the parking area when this option is deemed not to impede public safety and found aesthetically desirable to achieve the description of purpose stated in Section 9.8-1 of this Article.
- (10.) All street level retail uses with sidewalk frontage shall be furnished with an individual entrance and direct access to the sidewalk in addition to any other access which may be provided.
- (11.) Doors shall be recessed into the face of the building to prevent doors from operating outward into and/or obstructing the public sidewalk. An entryway shall not be less than fifteen (15) square feet.

Articulation

- (12.) To improve distinction of buildings and various building spaces along long walls viewed from sharp angles and at long distances, the following standards shall apply:
 - (a.) No wall that faces a street or connecting walkway shall have a blank, uninterrupted length exceeding twenty (20) feet.



- (13.) All building walls must include at least two of the following:
 - (a.) change in plane,
 - (b.) change in texture or masonry pattern,
 - (c.) windows, or
 - (d.) Include an equivalent aspect that subdivides the wall into proportions such as an articulated base with a height no more than ten (10) feet.
- (14.) In the event that actual doors and windows are not feasible because of the nature of the use of the building, side or rear walls that face walkways should include false windows and door openings defined by the following:

- (a.) Frames,
 - (b.) Sills,
 - (c.) lintels, or
 - (d.) Proportioned modulations of the wall.
- (15.) All sides, including the rear, of the building shall include materials and design characteristics consistent with those on the front.
- (16.) Use of inferior or lesser quality materials on side or rear walls is prohibited except for areas where public access is prohibited by the proprietor.
- (17.) In the event that canopies, awnings or other similar appurtenances are used, the following standards shall apply:
- (a.) Such appurtenances shall be constructed of materials designed to full-fill the principles of the standards herein.
 - (b.) Any appurtenance may extend from the building up to eighty (80%) percent of the width of the sidewalk area or nine feet, whichever is less.
 - (c.) In no case shall any such facility extend beyond the curb line of the street, nor shall it interfere with maintenance of bio-retention pits with street trees for stormwater management, or maintenance of street lights or street signs.
 - (d.) Minimum clearance of seven (7) feet above sidewalk shall be maintained.

Materials

- (18.) All buildings shall be constructed of durable fire retardant and wind resistant materials to prevent hazards to persons and/or property. These materials include brick, either plain or painted, horizontal fiber-cement siding, wood shingle, stone, or concrete-based stucco. All trim materials shall be stone, cast stone, cast concrete, or painted wood.
- (19.) It is recommended that the primary structure be neutral in color, i.e. light grays, browns, beiges, whites or earth tones and not of colors that are distractive to motorist or cause concern among proximate proprietors of diminished property value or customer discomfort. The trim may be of various contrasting colors to that of the primary structure.
- (20.) Where any sloped roofs are utilized, they shall be covered with high profile asphalt shingles, natural clay tiles, slate, concrete tiles (with natural texture and color), ribbed metal, or shingles.
- (21.) Finish materials of buildings, signage, gasoline pump canopies and other accessory structures, shall be compatible with the architectural character of the principal structure(s) through compliance with the following guidelines:
- (a.) all buildings, including gasoline pump canopies, shall utilize a consistent architectural style;
 - (b.) differing buildings, businesses, or activities within the same development may be distinguished by variations;
 - (c.) Sides and backs of buildings shall be as visually distinguishable as the front through the design of roof lines, architectural detailing, and landscaping features. Non-public and restricted access areas may be exempted from this provision upon review by the Planning, Zoning & Subdivision Administrator.

ARTICLE 10

USES WITH ADDITIONAL STANDARDS AND SPECIAL USES

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Recommended by Planning Board 16 April 2024

ARTICLE 10

USES WITH ADDITIONAL STANDARDS AND SPECIAL USES

10.1 Uses with Additional Development Standards

10.1-1 Purpose. Certain uses provide services and benefits for residents of and visitors to the Village of Marvin. The convenient location of these uses is necessary to their success and the function of the community. Due to the potential impacts of these uses, certain additional standards are necessary to ensure that they do not adversely impact neighboring uses or the community as a whole. This section identifies the uses that require additional standards and establishes the standards they must meet.

10.1-2 Standards Established. The following Uses with Additional Standards and the standards they must meet are hereby established.

10.1-3 Accessory Dwelling Units.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards.

(1.) One (1) *Accessory Dwelling Unit* shall be permitted only on a lot containing a single dwelling unit (the principal dwelling) and conforming accessory structures in any single-family zoning district.

(2.) The *Accessory Dwelling Unit* shall not be considered a separate unit for the purpose of determining minimum lot size or maximum density.

(3.) Home occupations may be located within the *Accessory Dwelling Unit*.

(4.) The maximum gross floor area for the *Accessory Dwelling Unit* shall be 900 SF or 40% of the gross floor area of the principal structure, whichever is less. Variances shall not allow the gross floor area of the *Accessory Dwelling Unit* to exceed 1200 SF nor shall the size of the *Accessory Dwelling Unit* exceed 50 percent of the gross floor area of the principal dwelling unit.

(5.) The *Accessory Dwelling Unit* may be located within same structure as the principal dwelling unit or it may be a separate structure. If within the same structure as the principal dwelling unit, the *Accessory Dwelling Unit* may have a separate entrance. If the *Accessory Dwelling Unit* is located in a separate structure, the following standards shall apply:

(a.) The accessory structure housing the *Accessory Dwelling Unit* must be located behind the principal dwelling. On corner lots, the accessory structure housing the *Accessory Dwelling Unit* may be located on the corner street side of and behind the principal dwelling but must be oriented to the front street (same

- orientation as principal dwelling).
- (b.) Vehicular access to the *Accessory Dwelling Unit* shall be via the same drive that provides access to the principal structure unless the *Accessory Dwelling Unit* is located on a corner or through lot. If located on a corner or through lot, a secondary drive may provide access to the *Accessory Dwelling Unit*, but the secondary drive shall not be on the same street as the drive providing access to the principal dwelling.
- (6.) One (1) parking space may be provided for the *Accessory Dwelling Unit*. The parking space shall be located in the same area as the parking provided for the principal dwelling unit unless the lot is a corner or through lot and a separate drive provides access to the *Accessory Dwelling Unit*.
- (7.) The design and construction of the accessory structure housing the *Accessory Dwelling Unit* shall be compatible with the design and construction of the principal dwelling unit. To ensure compatibility, the following standards shall be met:
- (a.) The design of the accessory structure housing the *Accessory Dwelling Unit* shall be of the same architectural style as that of the principal dwelling unit.
 - (b.) The roof style and pitch of the accessory structure housing the *Accessory Dwelling Unit* shall be the same as that of the principal dwelling unit.
 - (c.) The exterior building materials used for the accessory structure housing the *Accessory Dwelling Unit* shall be the same as those used for the principal dwelling unit. When the principal dwelling unit is predominantly brick or stone, the use of smooth wood or fibrous cement siding for the accessory structure housing the *Accessory Dwelling Unit* is appropriate to reinforce the ancillary and secondary nature of the *Accessory Dwelling Unit*.
 - (d.) Windows and doors used for the accessory structure housing the *Accessory Dwelling Unit* shall be the same style and design as those used for the principal dwelling unit. Window and door placement (fenestration) on the accessory structure housing the *Accessory Dwelling Unit* shall mimic that of the principal dwelling unit.
 - (e.) Exterior paint colors for the accessory structure housing the *Accessory Dwelling Unit* shall be the same as (or complementary to) those for the principal dwelling unit.
- (8.) The use of manufactured dwellings, mobile homes, travel trailers, campers, or similar units as an *Accessory Dwelling Unit* is prohibited.
- (9.) The *Accessory Dwelling Unit* shall not be deeded and/or conveyed to separate and/or distinct ownership separately from the principal dwelling unit.

10.1-4 Automobile/Boat/Equipment Repair Service.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards.

- (1.) Vehicles awaiting repair shall not be parked in public right-of-way.
- (2.) No outdoor automobile/boat work areas are to be located in front yard setback area.
- (3.) All outdoor automobile/boat work areas and/or vehicle storage areas shall be screened from adjacent uses with a six (6) foot tall opaque fence and a type D buffer (see Article 11); plantings shall be on the exterior side of the fence.

10.1-5 Automobile Towing and Storage Service.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards.

- (1.) No more than 30 automobiles shall be stored at an automobile towing and storage service at a time.
- (2.) The automotive storage area must be screened with a six-foot-tall opaque fence and a type C buffer (see Article 11); plantings shall be on the exterior side of the fence.
- (3.) No outdoor disassembly or salvaging is permitted.

10.1-6 Bank, Savings and Loan, Credit Union.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards.

- (1.) Drive-through facilities shall be located at the rear of the building
- (2.) No more than 2 drive-through lanes shall be permitted
- (3.) Drive-through facilities shall be screened from adjacent uses with a type D buffer (see Article 11).
- (4.) ATM may be located at side or front of building only if a walk-up facility.

10.1-7 Batting Cages, Outdoor.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) Fencing, netting, or other control measures shall be provided around the perimeter of the batting area to prevent balls from leaving the area.
- (2.) Hours of operation 7:00 AM – 10:00 PM.

10.1-8 Bed-and-Breakfast Inn (Tourist Home).

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards

- (1.) *Bed-and-Breakfast Inn* establishments (*Tourist Homes*) shall be located a minimum of 500 feet from other *Bed-and-Breakfast Inn* establishments (*Tourist Homes*). In calculating the 500-foot distance between *Bed-and-Breakfast Inn* establishments (*Tourist Homes*), measurements shall be taken from the closest property line of the existing *Bed-and-Breakfast Inn* establishment (*Tourist Home*) lot to the closest property line of the lot of the proposed *Bed-and-Breakfast Inn* establishment (*Tourist Home*). Existing, legally established *Bed-and-Breakfast Inn* establishments (*Tourist Homes*) that do not meet this separation requirement of 500 feet are permitted to expand within the subject property to the maximum limits allowed under this chapter, as long as all applicable development standards are met.
- (2.) The owner shall reside on the property a majority of the calendar year.
- (3.) The minimum lot area for a *Bed-and-Breakfast Inn* establishment (*Tourist Home*) shall be 20,000 square feet.
- (4.) The maximum number of guest rooms provided by the *Bed-and-Breakfast Inn* establishment (*Tourist Home*) shall be fourteen (14).
- (5.) Accessory structures shall not be utilized for guest accommodation purposes as part of a *Bed-and-Breakfast Inn* establishment (*Tourist Home*).
- (6.) Passive recreation-related outdoor activities such as tea-time are permitted outside the principal structure or any accessory structure(s), but all other activities and functions designed to serve and entertain guests shall take place only within the principal structure on properties of one acre or less.
- (7.) The length of stay of any guest shall not exceed thirty (30) successive calendar days, with a minimum interval between stays of ninety (90) days.
- (8.) No home of less than 3,000 heated square feet shall be used for a *Bed-and-Breakfast Inn* establishment (*Tourist Home*).
- (9.) Off-street parking shall be provided as required by Article 12 of this Ordinance. Parking shall be located on the same lot on which the *Bed-and-Breakfast Inn* establishment (*Tourist Home*) is located, at the rear of the lot and screened with a

type C buffer (see Article 11) from adjacent properties and from the street except where separated from adjacent properties by a minimum of seventy-five (75) feet.

- (10.) Signage shall be limited to a single *Pole Sign*, subject to the regulations of Article 17. The sign shall be located in the front yard and, if lit, shall be indirectly lighted.
- (11.) Exterior lighting shall be residential in nature and shall not be directed towards adjacent properties.
- (12.) Activities and functions at the *Bed-and-Breakfast Inn* establishment (*Tourist Home*) shall be provided for overnight guests only and shall be limited to breakfast and an afternoon and/or evening refreshment. No commercial activities other than providing lodging for registered guests shall be permitted.
- (13.) The construction and operation of the *Bed-and-Breakfast Inn* establishment (*Tourist Home*) shall comply with N.C. State Building Code requirements.

10.1-9 Car Wash.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) Building(s) shall be at least 75 feet from any interior side or rear property line which adjoins property either zoned for or abutting a residential use. A minimum six-foot-high opaque fence and a type A buffer shall be provided adjacent to all property zoned for residential uses, with the plantings on the exterior side of the fence.
- (2.) All washing operations shall be contained in a building.
- (3.) Specific areas shall be provided for the manual drying, waxing, polishing and vacuuming of vehicles where these services are offered on the site. These areas shall not conflict with on-site circulation patterns.
- (4.) The outdoor service area of a car wash shall be placed and screened in accordance with the standards for on-site parking.
- (5.) Hours of operation shall be between 8:00 a.m. and 8:00 p.m. when directly adjoining developed residentially zoned property.
- (6.) Adequate provision shall be made for the safe and efficient disposal and/or recycling of waste products and runoff.

10.1-10 Cemetery or Mausoleum.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) A minimum of three (3) contiguous acres shall be required to establish a cemetery or mausoleum not located on the same tract of land as a religious institution.
- (2.) Principal access must be from a collector street or higher capacity street.
- (3.) Tombstones, crypts, monuments, burial plots and mausoleums must be located at least 25 feet from any street right-of-way or 16 feet from abutting property.
- (4.) Buildings for maintenance, management, rent and/or sale of cemetery plots must conform to a building type permitted in the zoning district.

10.1-11 Religious Institutions (Church, Synagogue, Mosque, or Place of Worship).

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) Churches, synagogues, and other places of worship shall meet the standards for civic building and lot types.
- (2.) Exterior lighting shall be directed or screened so as to protect the privacy of the private living areas and associated open spaces of adjacent residential properties. All exterior lighting shall be full cut-off fixtures.
- (3.) *Accessory Dwelling Units* for persons associated with or employed by the church, synagogue, mosque, or place of worship may be provided at a ratio of 1 unit for each 1 acre of site; these limits do not apply to the placement of convents, rectories, parsonages or similar uses on the site.
- (4.) Accessory uses such as religious institution offices, religious bookstores serving the immediate congregation, parking lots, family life centers, multi-purpose facilities, outdoor recreational facilities, cemeteries, mausoleum, and day care centers on the same site or sites contiguous to the principal use shall be permitted wherever religious institutions are permitted and shall meet the civic building and lot type, or another building and lot type permitted in the zoning district. Similar uses on non-contiguous sites or on a site separated from the principal use by a public street shall be considered principal uses in their own right and be regulated as such. Tombstones, crypts, monuments, burial plots and mausoleums in accessory cemeteries shall be located at least 25 feet from any street right-of-way or 16 feet from abutting property.
- (5.) Religious institution accessory uses which are not permitted as principal uses in a zoning district shall adhere to the following restrictions:
 - (a.) No merchandise or merchandise display shall be visible from outside the building; and

(b.) Signage shall be limited to a single *Pole Sign*, subject to the regulations of Article 17. The sign shall not be located in the front yard and, if lit, shall be indirectly lighted.

(6.) Except as noted in subsection 10.1-11(B)4., above, accessory uses not permitted as principal uses (including television stations, radio stations, and/or sports complexes) are prohibited. This provision shall in no way restrict accessory use family life centers and multipurpose facilities, a part of whose function may include recreation and sports activities.

(7.) Application for a zoning permit shall include a comprehensive site plan that addresses the required standards for the main site and all abutting holdings unless deemed un-necessary by the *Planning, Zoning & Subdivision Administrator*.

10.1-12 Club or Lodge.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards

(1.) Building(s) must conform to a building type permitted in the zoning district.

(2.) Clubs and/or lodges selling alcoholic beverages shall be a minimum of 200 feet from Religious Institutions.

(3.) Activities shall occur between the hours of 8:00 AM and 2:00 AM.

10.1-13 Country Club with or without Golf Course

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

(1.) Building(s) must conform to a building type permitted in the zoning district.

(2.) Parking shall be screened from residential uses and/or districts with a type C buffer (see Article 11).

(3.) Exterior lighting shall be directed or screened so as to protect the privacy of the private living areas and associated open spaces of adjacent residential properties. All exterior lighting shall be full cut-off fixtures.

(4.) No outdoor activity shall continue past the hour of 10:00 PM.

10.1-14 Day Care Center for Children or Adults (6 or more).

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) A *Day Care Center* must meet a permitted building and lot type for the district in which it is to be located.
- (2.) *Day Care Centers* for children must provide play space in accordance with the regulations of North Carolina Department of Human Resources. The outdoor play space must be enclosed on all sides by building, and/or permitted types of walls or fences; it may not include driveways, parking areas, or land otherwise unsuited for children's play space; play space may not be in the established front yard.
- (3.) There is no limit on the hours of operation of a *Day Care Center*, but it shall not serve any client on a continuous 24-hour basis.

10.1-15 Day Care Center, Home Occupation for less than 6 persons.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) The *Day Care Center, Home Occupation* operation must be located within the residential dwelling unit occupied by the operator of the service. Preschool instruction and daytime care is limited to five (5) persons not related to the operator.
- (2.) *Day Care Center, Home Occupations* for children shall provide play space in accordance with the regulations of the North Carolina Department of Human Resources.
- (3.) Outdoor play space must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas, or land otherwise unsuited for children's play space; it is prohibited in any established building setback from a street.
- (4.) No chain link fences shall be permitted in the front yard. Chain link and similar fencing materials located in the side and rear yards shall be planted on the exterior side with evergreen shrubs minimum 3 feet in height and 6 feet on center at installation, or be obscured by a comparable screening treatment.
- (5.) A *Day Care Center, Home Occupation* must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.
- (6.) There are no specific limitations on the hours of operation of a *Day Care Center, Home Occupation*, but no outdoor play shall be permitted twenty minutes after sun-set.

10.1-16 Dormitories.

(A.) Zoning District where additional standards below apply: “CIV”

(B.) Standards:

- (1.) Must be located on the campus of secondary or post-secondary school.
- (2.) The dormitories must be administered and/or managed by the secondary or post-secondary school on whose campus they are located.
- (3.) Buildings shall comply with the building type standards permitted in the Civic District.

10.1-17 Drive-through Window as Accessory Use.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) Drive-through service window, stacking lane(s), and circulation are prohibited in the established front setback of the principal building, or in an established side yard which abuts a street.
- (2.) Drive-through service window, stacking lane(s), and circulation are treated as components of on-site parking for the purposes of buffering.
- (3.) The length of on-site stacking lane(s), taken together, shall be a maximum of 200 feet if window access is provided directly from a major or minor arterial; a maximum of 100 feet if window access is provided directly from a street of lesser capacity.
- (4.) The drive-through lane(s) must be distinctly marked by special striping, pavement markings, or traffic islands. A separate circulation drive must be provided for passage around and escape from the outermost drive-through service lane.
- (5.) Buffering is not required for walk-up service accessories such as depositories and ATM's.
- (6.) One drive-through service window and/or automated service device may be permitted.
- (7.) Drive-through service windows and/or automated devices shall be mitigated by the provision of four (4) electric vehicle charging devices per window and/or device to mitigate the air quality impact of a motor vehicle at idle.

10.1-18 Golf Course (see Country Club with Golf Course, Section 10.1-13).

10.1-19 Golf Driving Range.

(A.) Zoning Districts where the additional standards for this use below are applicable are

identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) Fencing, netting, or other control measures shall be provided around the perimeter of the driving range to prevent balls from leaving the area unless on site buffering is provided to prevent balls from entering any adjacent and/or occupied and/or improved property.
- (2.) The hours of operation will be no earlier than 8:00 a.m. and no later than 11:00 p.m.

10.1-20 Raceway (Go-Cart, Motorcycle, &/or Automobile).

(A.) Zoning District where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards.

- (1.) A minimum separation of 30 feet, fully vegetated, shall be provided between any use area and any abutting property line. The vegetation shall form a permanent semi-opaque screen between the use area and adjacent property.
- (2.) Any use area shall be located a minimum of 200 feet from any residential or mixed-use district.
- (3.) The site shall be screened from view at street(s) within 200 feet of the use area by a masonry wall or a solid wood fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least 8 feet at maturity; if security fencing of chain link or similar material is provided, it shall be placed on the interior side of the vegetation and wall or fence.
- (4.) The hours of operation will be no earlier than 8:00 a.m. and no later than 8:00 p.m.

10.1-21 Home Occupation.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) No display of goods, products, or services, or other advertising shall be visible from outside the dwelling, except that home occupations shall be allowed one pole sign in accordance with the provisions of Article 17, and such sign shall not be illuminated.
- (2.) Home occupations shall be principally conducted by residents of the dwelling. However, a maximum of one full-time equivalent non-resident of the dwelling may be employed as part of the home occupation.

- (3.) On premise retail sales shall not be a component of the home occupation.
- (4.) A maximum of 25 percent of the gross floor area of the dwelling unit may be used for the home occupation. If the home occupation is housed in an accessory structure, the square footage of the accessory structure shall not exceed 25 percent of the square footage of the principal structure (home).
- (5.) Only one vehicle principally used in connection with the home occupation shall be parked or stored on premise. Such a vehicle shall not display any signage designed to be visible beyond the property boundaries. Such a vehicle shall not be parked in a conspicuous place and shall be stored in a conforming on-site parking space meeting the provisions of Article 12.
- (6.) No equipment or process shall be used in connection with the home occupation that creates noise, vibrations, glare, fumes, odors, or electrical interference off premises.
- (7.) In addition to required parking as stipulated in Article 12, one additional off-street parking space shall be provided for use in conjunction with the home occupation.
- (8.) Instruction in music, dancing, art, or similar subjects shall be limited to no more than five (5) students at one time.
- (9.) The home occupation shall not materially increase the traffic that is found in its vicinity when the use is not in operation. Pursuant to this, a maximum of six individuals per day may visit the home occupation with the exception of the instruction occupations addressed in 10.1-21(B)(8) above.

10.1-22 Junked Motor Vehicle Storage as Accessory Use.

- (A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.
- (B.) Standards:
 - (1.) Any vehicle meeting the definition of "motor vehicle, junked" shall be stored or placed in the side or rear yard of the property in such a manner so as to be totally screened from view from any street and/or from any adjacent residential, mixed use, or civic zoned property. Total screening shall be provided by placement of the vehicle behind a building and/or by plant materials, fences, berms, or a combination thereof with a minimum height of six (6) feet.
 - (2.) Open storage of more than one such vehicle shall require classification as a junkyard, salvage yard, auto parts use and shall meet the conditions for such use as set forth elsewhere in this Article.
 - (3.) More than one such vehicle may be stored within a completely enclosed building.

10.1-23 Kennels or Pet Grooming with Outdoor Pens or Runs.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) The pens, runs, and/or other facility for the outdoor containment of animals shall be at least 400 feet from abutting property located in a residential or mixed-use district.
- (2.) The pens, runs, and/or other facility for the outdoor containment of animals shall be buffered from abutting property in a residential or mixed-use district with a type B buffer (see Article 11).

10.1-24 Multi-Family Development.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) The multi-family development shall not exceed a total of seventy-two (72) dwelling units without separation of parcels by a public street or park.
- (2.) The maximum permitted density for the multi-family development shall be fourteen and one-half (14.5) units per acre or as limited by Permitted Residential Density standards listed in Article 8.
- (3.) The permitted building and lot types for the multi-family development in a single-family area shall be the detached house and the attached house building and lot types.
- (4.) All parking for the multi-family development shall be located behind the building. The parking area shall be screened from adjacent properties and from the street with a minimum of a type C buffer (see Article 11).
- (5.) The buildings in the multi-family development shall be architecturally compatible with single family structures on the street on which the multi-family building is proposed. Elements that shall be incorporated into the design of the multi-family building to ensure architectural compatibility are:
 - (a.) The multi-family building shall be constructed of building materials similar to those used on single family structures on the street.
 - (b.) The roof pitch of the multi-family building shall be the same as that of the single-family structures on the street.
 - (c.) The fenestration of the multi-family building by location and size of windows and doors shall be similar to that of the single-family homes on the street.
 - (d.) Color renderings of the proposed building must be submitted with the

application to ensure architectural compatibility.

- (6.) No multi-family building shall be located closer than 36 feet to an existing multi-family building or development. The distance shall be measured along centerline of streets from the edge of the property proposed for development to the closest edge of the property on which the existing multi-family building or development is located.
- (7.) Notification of public meetings at which multi-family developments will be considered shall be provided to owners of all properties located within 250 feet of the property for which the development is proposed.

10.1-25 Nursing Home, Assisted Living.

- (A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.
- (B.) Standards:
 - (1.) The facility shall provide centrally located shared food preparation, food service, and dining areas.
 - (2.) Common recreation, social, and service facilities shall be provided at a minimum rate of thirty (30) square feet per dwelling unit or per rooming unit.
 - (3.) All facilities shall be solely for the use of residents and their guests.
 - (4.) Facilities for administrative services and limited medical services for the exclusive use of the resident shall be located on the site.

10.1-26 Parks and Recreation Facilities, Public.

- (A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.
- (B.) Standards:
 - (1.) Overflow parking (in addition to required parking) must be designed on the site plan and be kept available to handle all traffic from special events such as softball tournaments and outdoor concerts.
 - (2.) All parks greater than ten (10) acres shall have primary access to a collector or higher capacity street.
 - (3.) Lighting, with the exception of lighting for ball fields and tennis courts, shall be full cut-off fixtures.

10.1-27 Special Events and Temporary Structures.

- (A.) Zoning Districts where additional standards below apply: See Article 15
- (B.) Standards: See Article 15

10.1-28 School, Elementary or Secondary.

(A.) Zoning District where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

(1.) Minimum lot size:

(a.) Kindergarten (only): One acre.

(b.) K-12: Two acres.

(2.) Minimum setback standards:

(a.) Front: Twice that for permitted uses in the respective zoning district.

(b.) Side: 25 feet.

(c.) Rear: 25 feet.

(3.) Building type shall be civic building.

(4.) Parking and active recreation areas shall not be located within the required building setbacks.

(5.) Primary access shall be provided from arterial streets. Local residential streets shall not be used for primary access.

(6.) Site lighting shall be full cut-off fixtures.

10.1-29 Swim and Tennis Club.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

(1.) The minimum area shall be two (2) acres. The minimum area shall be one (1) acre if located as part of a common area within a development.

(2.) There shall a minimum fifty (50) foot separation (distance) between clubhouse, swimming pool, lighted tennis court, or athletic field and any adjacent residentially-zoned property.

(3.) Outdoor swimming pools shall be protected by a non-climbable type fence, or equal enclosure, a minimum four (4) feet in height and equipped with a self-closing and positive self-latching gate provided with hardware for permanent locking.

(4.) Site lighting shall be full cut-off fixtures. If proof is provided that such lighting is inadequate for the tennis courts, the *Planning, Zoning & Subdivision Administrator* may approve other lighting for the tennis courts only.

10.1-30 Temporary Construction Storage and/or Office.

(A.) Zoning Districts where additional standards below apply: See Article 15

(B.) Standards: See Article 15

10.1-31 Veterinary Service with Outdoor Kennels.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance

(B.) Standards:

(1.) The pens, runs, and/or other facility for the outdoor containment of animals shall be at least 400 feet from abutting property located in a residential or mixed-use district.

(2.) The pens, runs, and/or other facility for the outdoor containment of animals shall be buffered from abutting property in a residential or mixed-use district with a type B buffer (see Article 11).

10.1-32 Micro Wireless Facilities.

(A.) Zoning Districts where additional standards below apply: All zoning districts

(B.) Standards

(1.) Micro Wireless Facilities are permitted on buildings and other existing structures (other than off-premise signs) which do not require an increase in height to accommodate the facility. Electric distribution poles may be extended in height in residential zoning districts to the lesser of 20 feet above the vegetative canopy in the vicinity of the site as determined by the *Planning, Zoning & Subdivision Administrator*, or 80 feet in height. Such extensions shall qualify as an existing structure for purposes of this section. Such height extensions of electric distribution poles shall only be permitted if no other distribution pole within 1,320 feet of the proposed site has been extended in height above the average pole height on the same distribution line as documented by the utility owning such poles.

(2.) All antennas associated with Micro Wireless Facilities mounted on a building or other existing structure (other than a utility pole) shall be flush-mounted against the side of the building or structure and camouflaged to match or complement the color and architectural treatment of the surface on which they are mounted.

(3.) Antennas associated with a Micro wireless (telecommunication) facility mounted on a utility pole must be mounted atop the pole or flush mounted against the sides of the pole, and shall be colored to match or complement the color of the utility pole and shall be mounted in as unobtrusive a manner as possible.

- (4.) Antennas associated with a Micro wireless (telecommunication) facility may not be collocated on a tower or other support structure used by an amateur radio operator.
- (5.) Equipment enclosures associated with Micro Wireless Facilities mounted on a building or other existing structure (other than a utility pole) shall be mounted inside the building or structure, attached to an exterior surface, or placed underground or on a concrete pad on the ground outside the building or structure. If mounted on an exterior surface, the enclosures shall be colored or camouflaged to match or complement the color and architectural treatment of the surface on which they are mounted. If placed on a concrete pad on the ground, the enclosures shall be screened so as to make them unobtrusive.
- (6.) Equipment enclosures associated with a Micro wireless (telecommunication) facility mounted on a utility pole, must be mounted on the utility pole; provided, however, if combiners are used to allow collocation by sharing of an antenna or antenna array and pole-mounting of equipment enclosures cannot be accommodated on the pole, the combiner and additional equipment enclosures may be placed underground or on a concrete pad on the ground. If placed on a concrete pad on the ground, such additional equipment enclosures shall be screened so as to make them unobtrusive.
- (7.) All cabling and wiring connecting antennas, equipment enclosures, and other components of a Micro wireless (telecommunication) facility shall be colored or concealed in a manner as to render them unobtrusive.
- (8.) Micro Wireless Facilities located in a local historic district or on a historic landmark shall require a certificate of appropriateness from the historic resources commission.
- (9.) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.
- (10.) A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless (telecommunication) facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the Village in conjunction with other wireless (telecommunication) facilities, the applicant may certify that such licenses remain in full force and effect.
- (11.) As part of its application each applicant for a Micro wireless (telecommunication) facility shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the

facility upon abandonment or cessation of operations. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the Village for all costs it incurs to perform any work required of the applicant by the agreement that the applicant fails to perform. A \$5,000.00 performance guarantee in accordance with Sub-section 16.1-9 of this Ordinance shall be required in conjunction with the maintenance/removal agreement. The applicant and its successors and assigns shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of its maintenance/removal agreement have been satisfied. Private business users operating a single wireless (telecommunication) facility at their principal place of business and governmental users are exempt from the bond requirement.

- (12.) Abandoned or unused wireless (telecommunication) facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless (telecommunication) facility pursuant to this provision, the Village shall give 30 days' written notice of its intention to do so to the permittee at its last known address.

10.1-33 Wireless (telecommunication) facility, concealed.

(A.) Zoning Districts where additional standards below apply: All zoning districts.

(B.) Standards:

- (1.) Concealed wireless (telecommunication) facilities are permitted on buildings and alternative structures (other than off-premise signs and wireless (telecommunication) facilities).
- (2.) For purposes of this section, antennas mounted on an electric transmission tower shall qualify as a concealed wireless (telecommunication) facility provided antennas associated with such a facility do not extend more than ten feet above the top of the supporting structure nor more than two feet from the sides of the structure. Equipment enclosures associated with such a facility may be mounted on the structure or placed underground or on the ground. If placed on the ground, equipment enclosures shall be placed on a concrete pad and screened so as to make them unobtrusive.
- (3.) For purposes of this section, antennas mounted on an electric distribution tower, street lighting pole or traffic light pole shall qualify as a concealed wireless (telecommunication) facility provided antennas associated with such a facility do not extend more than ten feet above the top of the supporting structure nor more

than two feet from the sides of the structure, and equipment enclosures associated with the facility occupy less than 60 cubic feet. Equipment enclosures associated with such a facility may be mounted on the structure or placed underground or on the ground on a concrete pad. Electric distribution poles may be extended in height in R/MST zoning district to the lesser of 20 feet above the vegetative canopy in the vicinity of the site as determined by the *Planning, Zoning & Subdivision Administrator* or 80 feet in height. Such extensions shall qualify as an existing structure for purposes of this section. Such height extensions of electric distribution poles shall only be permitted if no other distribution pole within 1,320 feet of the proposed site has been extended in height above the average pole height on the same distribution line as documented by the utility owning such poles.

- (4.) Panel antennas associated with concealed wireless (telecommunication) facilities may not exceed eight feet in height. If flush-mounted on the side of a building or alternative structure, antennas shall be camouflaged to match or complement the color and architectural treatment of the surface. Antennas extending above the roof line of a building shall be concealed behind an RF-transparent parapet wall or facade which is camouflaged to match or complement the color and architectural treatment of the building or structure. Such parapet walls or facades shall not extend more than ten feet above the roof line. Where a parapet wall is at least eight feet in height, omnidirectional (whip-type) antennas may extend above the parapet wall by a distance equal to the height of the parapet wall.
- (5.) Antennas associated with a concealed wireless (telecommunication) facility may not be collocated on a tower or other support structure used by an amateur radio operator.
- (6.) Electronic equipment associated with concealed wireless (telecommunication) facilities may be placed inside a building or, if placed on a rooftop, all equipment enclosures shall be mounted behind a parapet wall or facade which is camouflaged to match or complement the color and architectural treatment of the building. If placed on the ground on a concrete pad, except as provided in subsection 10.1-33(B)(4) above, equipment enclosures shall be screened so as to make them unobtrusive.
- (7.) All cabling and wiring connecting antennas, equipment enclosures, and other components of concealed wireless (telecommunication) facilities shall be colored or concealed in a manner as to render them unobtrusive.
- (8.) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.

- (9.) Applicants for concealed wireless (telecommunication) facilities shall first be encouraged to consider properties owned by the Village or Union County, or instrumentalities thereof, before considering private properties. Public properties shall be subject to the same restrictions and standards of appropriateness as private properties. All such public agencies or instrumentalities shall retain discretion as to whether to make a specific property available for wireless (telecommunication) facilities and to make determinations with respect to site capacity, aesthetics, or suitability of such facilities.
- (10.) A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless (telecommunication) facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the Village in conjunction with other wireless (telecommunication) facilities, the applicant may certify that such licenses remain in full force and effect.
- (11.) As part of its application, each applicant for a concealed wireless (telecommunication) facility shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the facility within 180 days of the abandonment or cessation of operations of the facility. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the Village of Marvin for all costs it incurs to perform any work required of the applicant by the agreement that it fails to perform. A \$5,000.00 performance guarantee in accordance with Sub-section 16.1-9 of this Ordinance shall be required in conjunction with the maintenance/removal agreement. The applicant and its successors and assigns shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of the maintenance/removal agreement have been satisfied. Private business users operating a single wireless (telecommunication) facility at their principal place of business and governmental users are exempt from the bond requirement.
- (12.) Abandoned or unused wireless (telecommunication) facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless (telecommunication) facility pursuant to this provision, the Village shall give 30 days' written notice of its intent to do so to the permittee at its last known address.

10.1-34 Wireless (telecommunication) facility, Collocated.

(A.) Zoning districts where additional standards below apply: All zoning districts.

(B.) Standards:

- (1.) Application fees for a collocated wireless (telecommunication) facility shall be as established by the Village of Marvin.
- (2.) Wireless (telecommunication) facilities may be collocated on any structure which hosts one or more existing permitted and approved wireless (telecommunication) facilities provided, however, that the proposed collocated wireless facility must meet equipment enclosure and antenna size restrictions for the type of facility and zoning district in which the existing facility was approved (i.e., Micro and concealed wireless (telecommunication) facilities). The structure on which the wireless (telecommunication) facilities are to be located may be improved, rehabilitated, or altered structurally to accommodate the proposed collocation, provided that the height of a nonconforming structure is not increased and provided further that the proposed collocation complies with all other requirements of this chapter and other applicable laws and regulations.
- (3.) Where collocation is proposed by use of a combiner (allowing two or more commercial wireless service providers to share a common antenna or antenna array), an equipment enclosure which houses only the combiner and amplifiers may exceed the maximum permitted dimensions for other types of equipment enclosures up to a maximum of 70 cubic feet.
- (4.) Antennas associated with a collocated wireless (telecommunication) facility may not be collocated on a tower or other support structure used by an amateur radio operator.
- (5.) Collocated wireless (telecommunication) facilities shall be designed to meet the following standards:
 - (a.) Use of dual-band/multi-band antennas (to allow sharing of antennas or antenna arrays by wireless providers using different frequency bands) or by using combiners (to allow antenna sharing by users of the same frequency band) is encouraged in order to minimize the height of support structures and the visual impact of multiple collocated antennas or antenna arrays.
 - (b.) Antennas associated with a collocated wireless (telecommunication) facility shall be mounted so as to present the smallest possible silhouette, profile, or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:
 - (i.) Compact dual-polarized antennas in a cylindrical unicell arrangement extending less than two feet from the structure, and mounted atop the tower;

- (ii.) Panel antennas flush-mounted against the tower; and
 - (iii.) Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the tower.
- (c.) No collocated wireless (telecommunication) facility located on a wireless (telecommunication) facility shall have constructed thereon, or attached thereto in any way, any platform, catwalk, crow's nest, triangular framework, or like structures or equipment, except during periods of construction or repair. Curved or straight davit arms or brackets used for antenna mounting shall be connected to the tower at the base of the arms or brackets only and such arms or brackets (and any antennas or hardware mounted thereon) shall not be physically interconnected with any similar arm or bracket.
- (d.) All equipment enclosures and other improvements accessory to a collocated wireless (telecommunication) facility shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair. No equipment enclosure shall exceed 12 feet in height. Ground mounted equipment shall be screened from view with a row of evergreen trees and/or shrubs planted in a landscape strip with a minimum width of five feet, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- (e.) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.
- (f.) Equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight feet in height. The fence may be topped with barbed wire. The *Planning, Zoning & Subdivision Administrator* may require as a condition of approval that the fencing be screened by appropriate landscaping or other means, or may waive or modify the fencing requirement if he/she determines that doing so will enhance the overall appearance of the facility without any compromise in safety or security.
- (g.) Signage at any ground-based portion of a collocated wireless (telecommunication) facility site shall conform to the following provisions:
- (i.) A sign listing the name of the wireless telecommunication service provider operating the site, the site name or number and an emergency telephone number shall be posted at or near the entrance to the site so as to be readily visible to persons outside the site's security fencing.
 - (ii.) Equipment hazard warning and informational signs are permitted.

- (iii.) The posting of any other signs or advertising is prohibited at any wireless (telecommunication) facility or upon any wireless (telecommunication) facility.
- (6.) A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless (telecommunication) facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the Village in conjunction with other wireless (telecommunication) facilities, the applicant may certify that such licenses remain in full force and effect.
- (7.) As part of its application, each applicant for a collocated wireless (telecommunication) facility shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the collocated facility within 180 days of the abandonment or cessation of operations of the collocated facility. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the Village of Marvin for all costs it incurs to perform any work required of the applicant by the agreement that it fails to perform. A \$5,000.00 performance guarantee in accordance with Sub-section 16.1-9 of this Ordinance shall be required in conjunction with the maintenance/removal agreement when a separate equipment shelter is constructed to house the equipment for the collocated wireless (telecommunication) facility. A \$3,000.00 performance guarantee in accordance with Sub-section 16.1-9 of this Ordinance shall be required in conjunction with the maintenance/removal agreement when the equipment for the collocated telecommunications facility is housed in an existing equipment shelter. The applicant and its successors and assigns shall be required to continue such bond or other security until such time as the collocated facility has been removed and all other requirements of the maintenance/removal agreement have been satisfied. Private business users operating a single wireless (telecommunication) facility at their principal place of business and governmental users are exempt from the bond requirement.
- (8.) Abandoned or unused wireless (telecommunication) facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless (telecommunication) facility pursuant to this provision, the Village shall give 30 days' written notice of its intention to do so to the permittee at its last known address.

- (9.) Collocated wireless (telecommunication) facilities shall not be constructed unless the facility owner has general liability coverage of at least \$1,000,000.00. The owner of a collocated wireless (telecommunication) facility shall provide the Village with a certificate of insurance showing evidence of its coverage and the certificate shall contain a requirement that the insurance company notify the Village 30 days prior to the cancellation, modification or failure to renew the insurance coverage required.
- (10.) Modifications shall be permitted upon existing Wireless Support Structure (telecommunications tower) facilities provided, they do not exceed any of the following criteria:
- (a.) Increase in vertical height of the greater of either: 1) ten percent (10%), or 2) the height of one additional antennae array with separation from the nearest existing array of not more than twenty (20) vertical feet; provided the maximum height of 200 vertical feet is not exceeded.
 - (b.) Addition of an appurtenance protruding the greater of either: 1) more than twenty (20) feet, or 2) more than the width of the wireless support structure at the elevation of the appurtenance, unless:
 - (i.) necessary to shelter an antenna, and/or
 - (ii.) necessary to connect the antenna to the tower via cable
 - (c.) Increasing the square footage of the existing equipment compound by more than 2,500 square feet; provided all applicable minimum yard area, buffering and screening provisions are maintained.
- (11.) (Reserved)

10.1-35 Pawnshop or Used Merchandise Store.

- (A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.
- (B.) Standards:
- (1.) The owner shall comply with all applicable portions of NCGS Chapter 66, Article 45, Part 1: Pawnbrokers and Cash Converters.
 - (2.) Hours of operation: 8:00 A.M. until 8:00 P.M.
 - (3.) No outdoor storage or display of merchandise or goods.
 - (4.) No “unsightly window display” of appliances, tools, or housewares.
 - (5.) No window tinting.
 - (6.) Five hundred (500) feet of separation between pawnshops, measured in a straight line between front door entrances (inclusive of rights of way).
 - (7.) No pornographic or sexually explicit material sales on site.

10.1-36 Manufactured Dwelling/Home (MHO and/or replacement of existing unit on individual lot).

(A.) Zoning District where additional standards below apply: MHO and all zoning districts when replacing an existing manufactured dwelling per Article 22.5-2.

(B.) Standards:

- (1.) Manufactured Dwellings (Homes) on individual lots, not within a Manufactured Dwelling (Home) Park, may be multi-sectional or single-wide Manufactured Dwellings (Homes).
- (2.) The Manufactured Dwelling (Home) shall conform to the construction standards of the United States Department of Housing and Urban Development (HUD) and bear the HUD tag and/or data plate.
- (3.) The manufactured dwelling (home) shall have the towing apparatus, wheels, axles, and transporting lights removed.
- (4.) The manufactured dwelling (home) shall be set-up in accordance with the standards established by the North Carolina Department of Insurance for permanent installations.
- (5.) A continuous masonry foundation shall be installed under the perimeter, unpierced except for required ventilation, access and utility purposes.
- (6.) A permanent front porch of at least thirty-two (32) square feet in area shall be constructed within eight (8) inches of the finished floor elevation and be fully underpinned with masonry, equal to the permanent foundation in item 10.1-36(B)(5) above, to completely conceal the area beneath the porch and the Manufactured Dwelling (Home). All secondary entrances and exits to the Manufactured Dwelling (Home) shall also have concrete or masonry steps to the finished grade.
- (7.) The front of the Manufactured Dwelling (Home) shall be parallel to the front property line, except on corner lots.

10.1-37 Outdoor Storage.

(A.) Applicable to any Zoning Districts where Table 8.1, appearing in Article 8 of this Ordinance includes the Outdoor Storage of either:

- (1.) materials associated with a use listed with additional standards, or
- (2.) vehicles including boats, trailers, recreational vehicles, automobiles, motorcycles, and/or trucks under 10,000 lb. GVWR for personal use, but not commercial use vehicles.

(B.) Exclusions include licensed motor vehicles titled to a resident and/or occupant of the property, provided such vehicles are not in violation of the provisions of Section 10.1-22 of this Article.

(C.) Standards:

- (1.) In all zoning districts where storage of bulk materials, inventory, customer owned property, and/or equipment is stored outdoors more than three (3) consecutive calendar days the site shall:
 - (a.) consist of a minimum of one (1) acre for uses other than Utility Substations;
 - (b.) provide for the screening and buffering along all site perimeter of the area designated for Outdoor Storage on an approved site plan with a Type D Buffer Yard, except where the site abuts an adjacent Zoning District requiring the provision of a Buffer Yard in accordance with Table 11.1 appearing in Article 11 of this Ordinance.

10.1-38 Solar Energy System (SES).

- (A.) This section applies to the construction of any new SES within the zoning jurisdiction of the Village.
- (B.) An SES established prior to the effective date of this chapter shall be exempt.
Exception: Modification to an existing SES that increases the SES area by more than 5% of the original footprint or changes the solar panel type (e.g. photovoltaic to solar thermal) shall be subject to this chapter.
- (C.) Maintenance and repair are not subject to this section.
- (D.) This chapter does not supersede regulations from local, state, or federal agencies.
- (E.) Aviation notification. The following requirements apply only to Level 1, Level 2, and Level 3 systems over one-half an acre in size:
 - (1.) A map analysis showing a radius of five nautical miles from the center of the SES with any airport operations within this area highlighted shall be submitted with permit application.
 - (2.) For consideration of potential impacts to low altitude military flight paths, notification of intent to construct the SES shall be sent to the NC Commanders Council at least 30 days before the CUP/SUP hearing for Level 3 SESs and at least 45 days before starting construction for applicable Level 1 and Level 2 SESs. Notification shall include location of SES (i.e. map, coordinates, address, parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, and the like), and the area of system (e.g. five acres). Proof of delivery of notification and date of delivery shall be submitted with permit application.
 - (3.) The latest version of the Solar Glare Hazard Analysis Tool (SGHAT) shall be used per its user's manual to evaluate the solar glare aviation hazard. The full report for each flight path and observation point, as well as the contact information for the Zoning Administrator, shall be sent to the authority indicated below at least 30 days before the CUP/SUP hearing for Level 3 SESs and at least 45 days before starting construction for Level 1 and Level 2 SESs. Proof of delivery of notification and date of delivery shall be submitted with permit application.

- (a.) Airport operations at airports in the National Plan of Integrated Airport Systems (NPIAS) within five nautical miles of the center of SES: provide required information to the Federal Aviation Administration's (FAA) Airport District Office (ADO) with oversight of North Carolina.
- (b.) Airport operations at airports not in the NPIAS, including military airports, within five nautical miles of the center of SES: provide required information to the NC Commanders Council for military airports and to the management of the airport for non-military airports.
- (4.) Any applicable SES design changes (e.g. module tilt, module reflectivity, and the like) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the contact specified in divisions (E)(3)(a) and (E)(3)(b) above for accurate records of the as-built system.
- (F.) Level 1 SESs are a permitted use provided they meet the applicable height, setback, aviation notification, and related district standards.
- (G.) Level 2 and Level 3 solar energy system requirements. These requirements are in addition to height, setback, aviation notification, and applicable district standards.
- (1.) Site plan. A site development plan in accordance with Section 7.7 of this Ordinance shall be submitted to the *Planning, Zoning & Subdivision Administrator* demonstrating compliance with setback and height limitations, applicable zoning district requirements such as lot coverage, and applicable requirements of this section.
- (2.) Visibility.
- (a.) Level 1 SESs shall be constructed with buffering as required by the applicable zoning district or development standards.
- (b.) Level 2 & 3 SESs shall be constructed with buffering as required by the applicable zoning district or development standards such that a complete visual separation is achieved from adjoining uses of a lower intensity (or residential uses).
- (c.) Public signage (i.e. advertising, educational, and the like) as permitted by local signage ordinance, including appropriate or required security and safety signage.
- (d.) If lighting is provided at site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or the night sky. Motion sensor control is preferred.
- (3.) Decommissioning.
- (a.) A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted with the permit application.
- (i.) Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, and the like).
- (ii.) Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations.
- (iii.) Restoration of property to condition prior to development of the SES.
- (iv.) The timeframe for completion of decommissioning activities.
- (v.) Description of any agreement (e.g. lease) with the landowner regarding decommissioning.
- (vi.) The party currently responsible for decommissioning.
- (vii.) Plans for updating this decommissioning plan.

- (b.) Prior to the issuance of a building permit, the owner of a SES site shall provide a surety or performance bond that renews automatically or irrevocable letter of credit in favor of the Village in an amount equal to the estimated removal cost of the solar collectors, cabling, electrical components, and any other associated facilities, less the salvage value of the equipment prior to construction. A bond certificate must be submitted to the Land Management Department each year verifying the bond has been properly renewed. If the SES owner elects to use a letter of credit, it shall be issued by a federally chartered bank with a branch office in central North Carolina. The bond or letter of credit shall remain in full force and effect until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the conditional use permit.
- (c.) Before final electrical inspection, provide evidence that the decommissioning plan was recorded with the Register of Deeds.
- (4.) Parcel line setbacks. Dimensional requirements and setbacks to SES equipment, excluding any security fencing, poles, and wires necessary to connect to facilities of the electric utility, must comply with the underlying zoning district requirements in § 155.054. However:
 - (a.) Sight distance. Ground-mounted SES must also not impair sight distance for safe access to or from the property or other properties in the vicinity.
 - (b.) Screening. Level 1 SESs are subject to screening requirements typically applied to accessory utility systems (HVAC, dumpsters, and the like).
 - (c.) Height. The height of systems will be measured from the highest natural grade below each solar panel. Height limitations exclude utility poles and any antennas constructed for the project.
 - (i.) Roof-mounted. Per underlying zoning district.
 - (ii.) Ground-mounted Level 1. Ground-mounted Level 1 systems shall be limited to ten feet maximum height.
 - (iii.) Ground-mounted Level 2 & 3. Ground-mounted Level 2 & 3 systems shall be limited to 20 feet maximum height.
 - (d.) The parcel line setback to ground-mounted SES equipment, excluding any security fencing, poles, and wires necessary to connect to facilities of the electric utility shall be as required for Principal Structures in all districts.
- (5.) Prevention of clustering.
 - (a.) No new SES shall be allowed within one geodesic mile of an existing or previously permitted SES within the corporate limits of the Village or within the Village's extraterritorial jurisdiction.
 - (b.) No new SES will be allowed inside the corporate limits of the Village or within the Village's extraterritorial jurisdiction, within 400 feet of a main entrance into the Village.

10.1-39 Recreational Vehicle Park and/or Campground.

(A.) Zoning District: AG

(B.) Standards:

- (1.) Minimum area: Five (5) acres.

- (2.) The minimum number of spaces shall be 15 and the maximum number of spaces shall be 180.
- (3.) Minimum setback: 70 feet from all public rights-of-ways and property lines.
- (4.) Occupancy: No more than one recreational vehicle, towed or self-propelled, shall be parked or set-up on any one space.
- (5.) Duration: No individual Recreational Vehicle or camper may occupy any one or more spaces within the Recreational Vehicle and/or Campground Park for more than one-hundred-fifty (150) calendar days per year.
- (6.) Access standards:
- (a.) No space shall have direct vehicular access to a public street;
 - (b.) All spaces shall directly abut a private street in the park;
 - (c.) Each space shall have adequate access, with a minimum access width of 20 feet.
- (7.) Recreational Areas and Facilities: Recreational areas and facilities to serve the needs of the anticipated population within the park shall be provided and shall consist of at least:
- (a.) A play lot for preschool children (2-5) containing a minimum size of 1,200 square feet within 500 feet of every space; and
 - (b.) One or more playgrounds for school-age children (5-12), teens and adults, containing a minimum of one acre per 40 spaces;
 - (c.) Recreation areas shall not be in an area used for septic tank fields.
- (8.) There shall be no sales of recreational vehicles in the park, other than units established and previously occupied for a minimum of 90 consecutive days on-site.
- (9.) Drainage and Grading:
- (a.) The spaces shall be located on ground with an elevation that is not susceptible to flooding and which is graded to prevent any water from ponding or accumulating on or around the park. Where storm drainage pipes are located in adjacent streets, underground drainage facilities with connections to the storm drainage system shall be provided for the park.
 - (b.) Each space shall be graded and grassed to prevent erosion and provide adequate storm drainage away from the recreational vehicle pad.
 - (c.) The surface slope of the stand or pad shall not exceed 3%.
 - (d.) No banks, except along drainage ditches, shall have a slope steeper than three feet to one foot (3:1).
- (10.) Garbage and Refuse Disposal: All refuse shall be stored in conveniently located, leak-proof containers with tight-fitting lids. Containers shall be provided in sufficient number and capacity for proper storage of all refuse. Racks or concrete

platforms shall be provided on which to store containers for refuse. The containers, racks, and/or platforms shall be so designed as to prevent tipping, to minimize spillage and container deterioration, and to facilitate cleaning. Dumpsters shall be required in lieu of individual containers in areas where municipal water or sewer are available. All refuse shall be collected at least weekly, or more often if the need is indicated.

(11.) Registration: It shall be the duty of the operator to keep an accurate register containing a record of all occupants. The register shall contain the following information:

- (a.) Name, address and space number of each occupant;
- (b.) The date the recreational vehicle and/or camping vehicle entered the park;
- (c.) The license number of each recreational vehicle and/or car, truck, etc. with state of issuance, makes, and type of vehicle.

(12.) The operator shall keep the register available at all times for inspection by the Code Administrator, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register.

(13.) Park Manager Residence: A single-family detached dwelling may be provided for the manager of the park.

(14.) Pre-existing Dwellings: Pre-existing dwellings on the site may remain.

(15.) Design Requirements Applicable to Recreational Vehicle and/or Campground Parks: The following design requirements apply to Recreational Vehicle and/or Campground Parks:

- (a.) Minimum Recreational Vehicle Space Size: A space shall consist of a minimum of 1,800 square feet and shall have a width of at least 25 feet along the full length and location of the pad hosting the Recreational Vehicle.
- (b.) Every Recreational Vehicle and/or Campground space shall be clearly numbered and established on the ground by permanent monuments or markers.

(c.) Each Recreational Vehicle space shall contain:

- (i.) a properly graded and compacted surface no less than 14 feet by 48 feet constructed of concrete, brick, flagstone or other hard surface material a minimum of 672 square feet in area;
- (ii.) a hard surface walkway a minimum of two feet wide leading from the patio to the parking space or road;

(d.) Additions: Prefabricated structures specifically designed by the manufacturer for extensions and any other addition such as awnings, racks, steps, portable porches and furnishings may be added to any space provided they are removed when the Recreational Vehicle/Camper departs the site for more than 24 hours.

- (e.) Construction and Design of Private Streets:
- (i.) Private entrance, collector, and interior streets with no parking or minor cul-de-sac streets with no parking shall meet the minimum design standards for private streets as set forth in the Village of Marvin Technical Standards and Specifications Manual for rural (ditch type) cross-sections;
 - (ii.) One-way minor streets with no parking (acceptable only if less than 500 feet total length and serving less than 15 Recreational Vehicle and/or Campground spaces) shall have a 20-foot minimum clear emergency vehicle access easement with 12-foot minimum paved surface;
 - (iii.) all private streets shall have signage in accordance with Village standards for safety and identification;
 - (iv.) Private streets shall be lighted at night with cut-off fixtures to avoid light more than twelve (12) linear feet into any Recreational Vehicle or Campground tent space.
- (f.) Park Access: If a Recreational Vehicle and/or Campground park has more than one (1) direct access to a public street, such access points shall be no less than 200 feet apart and no closer than 300 feet to a public street intersection.
- (g.) Parking:
- (i.) One parking spaces, a minimum of 10 feet by 20 feet, shall be provided within each Campground tent site space;
 - (ii.) All parking spaces shall be paved or covered with four inches (4") of crushed stone;
 - (iii.) No parking shall be allowed on private entrance and collector streets.
- (h.) Landscaping: Landscaping shall be provided throughout the park with ample trees and shrubs to provide shade and break up open areas. All banks and open areas shall be grassed.
- (i.) Removal of Rubbish: All cut or fallen trees, stumps, or rubbish shall be or removed from the Recreational Vehicle and/or Campground park.
- (j.) Utilities Installation: Each space located within a park shall comply with the current North Carolina Regulations for utility services for appurtenance manufacture and installation and must be inspected to assure compliance prior to occupancy.
- (i.) All utilities shall be installed underground except where extreme conditions of topography make this requirement unreasonable.
 - (ii.) Placement of utilities serving the Recreational Vehicle and/or Campground space shall comply with the NC Building Code for Plumbing.
 - (iii.) Minimum electrical service of 50 ampere, 120-volt single phase shall be provided to each Recreational Vehicle space. The service panel and

location as well as all wiring shall be in accordance with the National Electrical Code.

- (iv.) Each Recreational Vehicle and/or Campground park shall obtain water from a public water supply when available, and when unavailable, from a source approved by the Union County Health Department. The water supply and pressure shall be adequate for the park requirements. Water for drinking, cooking, laundry, and general sanitary uses for each individual Recreational Vehicle and/or Campground space shall be obtained only from faucets or other plumbing connections located within each Recreational Vehicle and/or Campground space.
- (v.) Each Recreational Vehicle and/or Campground Park shall be provided with an adequate sewage disposal system, either by connection to a public sewer or a septic tank constructed in compliance with the regulations of the Union County Board of Health. All sewage wastes from toilets, showers, bathtubs, lavatories, wash basins, refrigerator drains, sinks, faucets, and water-using appliances not herein mentioned shall be piped into the Recreational Vehicle and/or Campground Park sewage disposal system.
- (k.) Liquified Propane (LP gas) Tanks: Each Recreational Vehicle and/or Campground space that requires the use of LP gas shall be furnished with a painted, prefabricated metal stand. Said stand may be attached to or provided by the person registered to occupy the space.

(This space left blank intentionally.)

10.2 Special Uses

10.2-1 Purpose. Certain uses may wish to locate in the Village of Marvin and its area of jurisdiction, which, due to their size and/or operation, have impacts that could adversely impact neighboring uses or the community as a whole. Due to the potential impacts of these uses, they must meet certain conditions to ensure that they do not adversely impact neighboring uses or the community as a whole. This section identifies the uses that require conditions and establishes the conditions they must meet. A Special Use Permit must be granted for these uses in accordance with the procedures set forth in Article 7.

10.2-2 Special Uses Established. The following Special Uses and the minimum conditions they must meet are hereby established.

10.2-3 Adult Establishment.

(A.) Zoning District where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Conditions:

(1.) No lot containing an adult use shall be located within a 1,200-foot radius of any lot containing another adult use.

(2.) No lot containing an adult use shall be located within a 1,200-foot radius of any residential or mixed-use zoning district.

(3.) No lot containing an adult use shall be located within a 1,200-foot radius of any dwelling unit, church or place of worship, school, library, licensed child care center, public recreation center, or public park or playground.

(4.) The required distance shall be measured from the closest edge of the property occupied by an adult use to the closest edge of the property occupied by a protected use, zone, or by another adult use. Provided, however, that if an adult use is located in a multi-tenant facility, the distance shall be measured from the closest edge of the portion of the facility occupied by such use.

(5.) No more than one adult establishment may be located within the same structure or on the same lot.

(6.) In the interest of public health and safety, mini-motion picture booths shall be constructed without doors, and shall orient the customer entrance of each booth toward the principal sales counter.

(7.) Except for permitted business identification signage, no printed material, slide, video, photograph, written text, live show, or other visual presentation shall be visible, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the adult use.

10.2-4 Agricultural Based Business Facility.

(A.) Zoning District where the conditions appearing below apply: “AG”; however, this use is also listed without supplemental standards in “IND”

(B.) Conditions:

- (1.) The facility shall be located on a lot or parcel of no less than four (4) acres and is not included in the *Bona Fide Farm* exemption.
- (2.) The facility may include agricultural, horticultural, vintner, brewing, bottling, packaging, research, manufacturing, production, and/or public venues for interactive participation and/or consumption operations of products for human consumption.
- (3.) Accessory activities may include entertainment venues, tasting rooms/bars, retail outlets, distribution facilities, and/or restaurant services in accordance with applicable laws.
- (4.) The facility shall not include feed lots, slaughtering and/or meat packaging operations.
- (5.) Buildings shall meet the following design standards:
 - (a.) Maximum footprint: 45,000 SF
 - (b.) Maximum height: 42 feet (excluding silos and related attachments)
 - (c.) Exterior building materials shall consist of wood siding, wood shingles, fiber cement siding, brick, rock, or other high-quality masonry material. No vinyl or metal siding shall be permitted.
- (6.) Minimum 300-foot distance between manure storage areas, barns, or stables and any adjacent residentially zoned property.

10.2-5 Amusement/Water Parks, Fairgrounds.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Conditions:

- (1.) Outdoor amusement facilities will be separated by a type C buffer (see Article 11) from any abutting property located in a residential or mixed-use district
- (2.) No amusement facilities, water slides, or mechanical rides shall be located within 200 feet of any abutting property located in a residential district.
- (3.) Hours of operation will be no earlier than 8:00 a.m. and no later than 10:00 midnight.

10.2-6 Asphalt Plant.

(A.) Zoning District where the conditions appearing below apply: “HIO”

(B.) Conditions:

- (1.) The facility shall be located on a lot of no less than five (5) acres.
- (2.) Access shall be from a collector or higher classification street. No trucks traffic shall be permitted on surrounding residential streets.
- (3.) A minimum of a type A buffer (see Article 11) shall be located around the perimeter of the property on which the asphalt plant is located.
- (4.) All operations other than parking shall be located a minimum of 1,000 feet from any residential or mixed-use zoning district.
- (5.) The facility shall comply with the requirements of Article 10.2-16.

10.2-7 Equestrian Facility.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Conditions:

- (1.) The facility will not be in conflict with the purpose and objectives set forth in this ordinance for the zoning district in which the facility is located.
- (2.) The facility shall be located on a lot of no less than five (5) acres.
- (3.) Outdoor riding rings may be provided as part of the facility.
- (4.) Minimum 300-foot distance between manure storage areas, barns or stables and any adjacent residentially zoned property.
- (5.) Maximum number of horses boarded is 2 per acre.
- (6.) Buildings shall meet the following design standards:
 - (a.) Maximum footprint: 15,000 SF
 - (b.) Maximum height: 42 feet (excluding silos and related attachments)
 - (c.) Exterior building materials shall consist of wood siding, wood shingles, fiber cement siding, brick, rock, or other high-quality masonry material. No vinyl or metal siding shall be permitted.

10.2-8 Group Care Facility.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Conditions:

- (1.) No such facility shall be located within one-half (1/2) mile of an existing group care facility unless located within the Civic (CIV) district and/or specifically approved within a Traditional Neighborhood Development Overlay (TNDO) district.
- (2.) The facility shall be limited to no more than thirty (30) persons.
- (3.) Buildings shall be of a type permitted in the zoning district.

10.2-9 Junkyards and/or Salvage Yards, Auto Parts.

(A.) Zoning District where the conditions appearing below apply: “IND” with “HIO”

(B.) Conditions:

- (1.) The minimum area required to establish a salvage yard shall be five (5) acres.
- (2.) A six-foot-tall opaque fence of uniform construction and a type A buffer shall be placed around the perimeter of the use; plantings shall be on the exterior side of the fence.
- (3.) No salvage yard, scrap processor, or auto wrecking shall be located within three hundred (300) feet of any residence existing or under construction at the time of installation of such operation or business.

10.2-10 Manufactured Dwelling Park.

(A.) Zoning District: MHO

(B.) Conditions:

- (1.) Minimum area: Five (5) acres.
- (2.) The minimum number of spaces shall be 15 and the maximum number of spaces shall be 180.
- (3.) Minimum setback: 70 feet from all public rights-of-ways and property lines.
- (4.) No more than one manufactured dwelling or recreational vehicle, towed or self-propelled, shall be parked or set-up on any one space.
- (5.) Access standards:
 - (a.) No space shall have direct vehicular access to a public street;
 - (b.) All spaces shall directly abut a private street in the park;
 - (c.) Each space shall have adequate access, with a minimum access width of 20 feet.
- (6.) Recreational Areas and Facilities: Recreational areas and facilities to serve the needs of the anticipated population within the park shall be provided and shall consist of at least:

- (a.) A play lot for preschool children (2-5) containing a minimum size of 1,200 square feet within 500 feet of every space; and
 - (b.) One or more playgrounds for school-age children (5-12), teens and adults, containing a minimum of one acre per 40 spaces;
 - (c.) Recreation areas shall not be in an area used for septic tank fields.
- (7.) There shall be no sales of manufactured dwelling and recreational vehicles in the park, other than units established and previously occupied for a minimum of 90 consecutive days on-site.
- (8.) Drainage and Grading:
- (a.) The spaces shall be located on ground with an elevation that is not susceptible to flooding and which is graded to prevent any water from ponding or accumulating on or around the park. Where storm drainage pipes are located in adjacent streets, underground drainage facilities with connections to the storm drainage system shall be provided for the park.
 - (b.) Each space shall be graded and grassed to prevent erosion and provide adequate storm drainage away from the manufactured dwelling or recreational vehicle pad.
 - (c.) The surface slope of the stand or pad shall not exceed 3%.
 - (d.) No banks, except along drainage ditches, shall have a slope steeper than three feet to one foot (3:1).
- (9.) Garbage and Refuse Disposal: All refuse shall be stored in conveniently located, leak-proof containers with tight-fitting lids. Containers shall be provided in sufficient number and capacity for proper storage of all refuse. Racks or concrete platforms shall be provided on which to store containers for refuse. The containers, racks, and/or platforms shall be so designed as to prevent tipping, to minimize spillage and container deterioration, and to facilitate cleaning. Dumpsters shall be required in lieu of individual containers in areas where municipal water or sewer are available. All refuse shall be collected at least weekly, or more often if the need is indicated.
- (10.) Registration: It shall be the duty of the operator to keep an accurate register containing a record of all occupants. The register shall contain the following information:
- (a.) Name, address and space number of each occupant;
 - (b.) The date the manufactured dwelling or recreational vehicle entered the park;
 - (c.) The license number of each recreational vehicle and/or car, truck, etc. with state of issuance, makes, and type of vehicle.

The operator shall keep the register available at all times for inspection by the Code Administrator, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register.

- (11.) Park Manager Residence: A single-family detached dwelling may be provided for the manager of the park.
- (12.) Pre-existing Dwellings: Pre-existing dwellings on the site may remain provided they occupy approved spaces.
- (13.) Design Requirements Applicable to Manufactured Dwelling Parks: The following design requirements apply to Manufactured Dwelling Parks:
- (a.) Minimum Manufactured Dwelling Space Size: A manufactured dwelling space shall consist of a minimum of 6,000 square feet and shall have a width of at least 45 feet at the location of the manufactured dwelling stand. Exception: A manufactured dwelling space not served by public sewer shall consist of a minimum of 40,000 square feet and shall have a width of least 120 feet at the location of the manufactured dwelling stand. Every manufactured dwelling space shall be clearly established on the ground by permanent monuments or markers.
 - (b.) Each Manufactured dwelling space shall contain:
 - (i.) a manufactured dwelling stand consisting of a properly graded and compacted surface no less than 13 feet by 60 feet;
 - (ii.) a patio space constructed of concrete, brick, flagstone or other hard surface material a minimum of 240 square feet in area;
 - (iii.) a hard surface walkway a minimum of two feet wide leading from the patio to the parking space or road;
 - (c.) Manufactured Dwelling Additions: Prefabricated structures specifically designed by the manufacturer for manufactured dwelling extensions and any other addition meeting the NC Building Code may be added to any manufactured dwelling provided that setback within the space can be met and a building permit is obtained.
 - (d.) Construction and Design of Private Streets:
 - (i.) Private entrance, collector, and interior streets with no parking or minor cul-de-sac streets with no parking shall meet the minimum design standards for private streets as set forth in the Village of Marvin Technical Standards and Specifications Manual;
 - (ii.) One-way minor streets with no parking (acceptable only if less than 500 feet total length and serving less than 15 manufactured dwelling stands) shall have a 20-foot minimum right-of-way with 12-foot minimum paved surface;
 - (iii.) all private streets shall have signage in accordance with Village standards for safety and identification;
 - (iv.) Private streets shall be lighted at night with cut-off fixtures meeting the standards of the Village for streetlights.

- (e.) Park Access: If a manufactured dwelling park has more than one (1) direct access to a public street, such access points shall be no less than 200 feet apart and no closer than 300 feet to a public street intersection.
- (f.) Parking:
- (i.) Two parking spaces, a minimum of 9 feet by 18 feet, shall be provided within each manufactured dwelling space;
 - (ii.) All parking spaces shall be paved or covered with four inches (4") of crushed stone;
 - (iii.) No parking shall be allowed on private entrance and collector streets.
- (g.) Landscaping: Landscaping shall be provided throughout the park with ample trees and shrubs to provide shade and break up open areas. All banks and open areas shall be grassed.
- (h.) Removal of Rubbish: All cut or fallen trees, stumps, or rubbish shall be or removed from the manufactured dwelling park.
- (i.) Utilities Installation: Each manufactured dwelling located within a park shall comply with the current North Carolina Regulations for manufactured dwelling in both manufacture and installation and must be inspected to assure compliance prior to occupancy.
- (i.) All utilities shall be installed underground except where extreme conditions of topography make this requirement unreasonable.
 - (ii.) Placement of utilities serving the manufactured dwelling stand shall comply with the NC Building Code for Plumbing.
 - (iii.) Minimum electrical service of 200 ampere, 120-240 volt single phase shall be provided to each manufactured dwelling stand. The service panel and location as well as all wiring shall be in accordance with the National Electrical Code.
 - (iv.) Each manufactured dwelling shall be required to connect to the utilities provided at each manufactured dwelling space.
 - (v.) Each manufactured dwelling park shall obtain water from a public water supply when available, and when unavailable, from a source approved by the Union County Health Department. The water supply and pressure shall be adequate for the park requirements. Water for drinking, cooking, laundry, and general sanitary uses for each individual manufactured dwelling shall be obtained only from faucets or other plumbing connections located within each manufactured dwelling.
 - (vi.) Each manufactured dwelling park shall be provided with an adequate sewage disposal system, either by connection to a public sewer or a septic tank constructed in compliance with the regulations of the Union County Board of Health. All sewage wastes from toilets, showers, bathtubs,

lavatories, wash basins, refrigerator drains, sinks, faucets, and water-using appliances not herein mentioned shall be piped into the manufactured dwelling park sewage disposal system.

(j.) Fuel Oil Drum: Each manufactured dwelling that requires the use of fuel oil shall be furnished with an oil drum having a minimum capacity of one hundred fifty (150) gallons, set upon a painted, prefabricated metal stand.

(k.) Manufactured Dwelling Design Standards: Each manufactured dwelling shall have a roof pitch of at least 5 feet of rise for each 12 feet of horizontal run and a minimum width of 12 feet.

10.2-11 Petroleum and Petroleum Products, Fuel Oil Sales (including bio-fuel) Storage and/or Transfer Facilities.

(A.) Zoning District where the conditions appearing below apply: “IND” with “HIO”

(B.) Conditions:

- (1.) Minimum lot area shall be five (5) acres.
- (2.) Use shall comply with all federal and state standards. Verification of compliance or ability to comply shall be provided with the application submitted to the Village of Marvin.
- (3.) The use shall be buffered from adjacent properties and public streets with a type B buffer (see Article 11).
- (4.) Hazardous Industry Overlay District (HIO) conditions and standards apply.
- (5.) The facility shall comply with the requirements of Article 10.2-16.

10.2-12 Sewage Treatment Plant.

(A.) Zoning District where the conditions appearing below apply: “IND”

(B.) Conditions:

- (1.) Minimum site area shall be ten (10) acres.
- (2.) All buildings, lagoons, outdoor treatment areas, and other facilities shall be located at least 1,000 feet from residential and mixed-use zoned property.
- (3.) Use shall comply with all federal and state standards. Verification of compliance or ability to comply shall be provided with the application submitted to the Village of Marvin.
- (4.) Use shall be managed and operated by a municipality, county, or other governmental entity.

10.2-13 Shooting Range.

(A.) Zoning District where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Conditions:

- (1.) Access shall be controlled to prevent unregulated entrance to firing area.
- (2.) Projectiles, bullets, and/or ammunition cannot exit either a building and/or property upon discharge from a firearm.
- (3.) All waste material generated from the discharge of firearms on-site containing lead or other toxic materials must be safely gathered and stored such that contaminants do not leave the property on which they are accumulated until safeguarded from human and/or environmental contact and disposed of in a licensed facility for the disposal or re-use/re-cycling of such materials.

10.2-14 Wireless Support Structure (Telecommunications Tower).

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Conditions:

- (1.) Wireless Support Structure (telecommunications towers) in the Main Street (MS) district must be a monopole design that does not exceed one-hundred and fifty (150) feet in height from average adjacent grade.
- (2.) The Village may elect to retain outside consultants or professional services to review a special use application for a Wireless Support Structure (telecommunications towers) and to make recommendations on relevant issues including, but not limited to, verification of the applicant's due diligence, analysis of alternatives, conditions of approval, and compliance with state and federal rules and regulations at the applicant's expense.
- (3.) In addition to the notice requirements found elsewhere in this Ordinance, the applicant for a special use permit for a Wireless Support Structure (telecommunications towers) shall be required to notify by regular mail all property owners within a one-quarter mile (1,320 feet) radius of the proposed location of any evidentiary hearing on the application at least ten days prior to the hearing. The *Planning, Zoning & Subdivision Administrator* may require the applicant to conduct a crane or balloon test to simulate the height of the proposed tower. Notice of the dates and times of such tests shall be mailed by the applicant to all property owners within a one-quarter mile (1,320 feet) radius of the proposed location at least ten days prior to the primary test date. The notice shall state primary and alternate test dates, as well as a range of dates for testing in the event of extended periods of inclement weather. The *Planning, Zoning & Subdivision Administrator* shall review and approve the sufficiency of the notice prior to mailing and, as part of its application, the applicant will be required to submit a certificate of mailing and attach a copy of the notice and a list of the

addresses to which it was sent. In the event the applicant shall seek to increase the height of a proposed Wireless Support Structure (telecommunications towers), or move its location more than 150 feet laterally, from that stated in the original notices, additional notice shall be required to be given in accordance with the above provisions and all time-periods shall run from the date of supplemental notification.

- (4.) Public properties shall be subject to the same restrictions and standards of appropriateness as private properties. All such public agencies or instrumentalities shall retain discretion as to whether to make a specific property available for Wireless Support Structure (telecommunications towers) and to make determinations with respect to site capacity, aesthetics, or suitability of such facilities.
- (5.) Wireless Support Structure (telecommunications towers) proposed on public right-of-way under the ownership or control of the North Carolina Department of Transportation or the Village of Marvin shall be limited to a height no greater than 50 feet and typical highway lighting towers in both height and appearance and shall be clustered amongst or near such towers so as to be unobtrusive. If any portion of a Wireless Support Structure (telecommunications towers) located on such properties is used to mount cameras, instruments, sensors or antennas for governmental use, and the same structure supports or incorporates commercial wireless telecommunication facilities, the governmental use shall be deemed incidental or accessory to the commercial use and the entire facility shall be treated as a commercial use for purposes of this section.
- (6.) It is the policy of the Village to encourage collocation and the use of existing structures where appropriate. In furtherance of that policy objective, the following provisions shall apply to an application for a special use permit for a Wireless Support Structure (telecommunications tower):
 - (a.) A special use application for a Wireless Support Structure (telecommunications towers) shall not be approved if an electric transmission tower is located above, or no less than 25 feet below, the ground elevation of and within the search radius and/or ring of a proposed wireless (telecommunication) facility, unless the applicant can demonstrate one or more of the following:
 - (i.) That sufficient easements or other interests in real property cannot be obtained to accommodate the wireless (telecommunication) facility;
 - (ii.) That the electric utility owning the electric transmission tower is unwilling to allow its use for wireless facilities;
 - (iii.) That the applicant is unable to gain sufficient ingress and egress to the electric transmission tower;

- (iv.) That the existing use of the electric transmission tower would interfere with the operations of the applicant as documented by a qualified and licensed North Carolina engineer and the interference cannot be prevented;
- (v.) That the planned equipment would exceed the structural capacity of the electric transmission tower as documented by a qualified and licensed North Carolina professional engineer, and the electric transmission tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
- (b.) Electric transmission towers may be increased in height to that allowed for Wireless Support Structure (telecommunications towers) in the district in which the electric transmission tower is located if the Board of Adjustment determines such height extension is preferable to placement of a new Wireless Support Structure (telecommunications towers) in that area.
- (c.) A special use application for a Wireless Support Structure (telecommunications towers) shall not be approved unless the equipment planned for the proposed tower cannot be accommodated on existing or approved wireless (telecommunication) facilities, buildings or alternative structures more than 30 feet in height (after first considering electric transmission towers) within a one-quarter mile (1,320 foot) radius of the proposed Wireless Support Structure (telecommunications towers) due to one or more of the following reasons:
- (i.) The planned equipment would exceed the structural capacity of the existing or approved tower, building or alternative structures, as documented by a qualified and licensed North Carolina professional engineer, and the existing or approved tower, building or structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.
- (ii.) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment on the towers, buildings or alternative structures, as documented by a qualified and licensed North Carolina engineer, and the interference cannot be prevented at a reasonable cost.
- (iii.) Existing or approved towers, buildings or other structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed North Carolina professional engineer.
- (iv.) Other unforeseen reasons that make it infeasible to locate the planned telecommunication equipment upon existing or approved towers, buildings

or alternative structures.

- (d.) Antennas associated with a wireless (telecommunication) facility may not be collocated on a tower or other support structure used by an amateur radio operator.
- (e.) No wireless (telecommunication) facility shall interfere with usual and customary radio and television reception excepting broadcast facilities as provided for in the regulations of the FCC.
- (7.) All wireless (telecommunication) facilities must comply with FCC and FAA regulations.
- (8.) A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the Wireless Support Structure (telecommunications tower) and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the Village in conjunction with other wireless (telecommunication) facilities, the applicant may certify that such licenses remain in full force and effect.
- (9.) As part of its application, each applicant for a Wireless Support Structure (telecommunications towers) shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the facility within 180 days of the abandonment or cessation of operations of the facility. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the Village of Marvin for all costs it incurs to perform any work required of the applicant by the agreement that it fails to perform. A \$5,000.00 performance guarantee in accordance with Sub-section 16.1-9 of this Ordinance shall be required in conjunction with the maintenance/removal agreement. The applicant and its successors and assigns shall be required to continue such performance guarantee until such time as the facility has been removed and all other requirements of the maintenance/removal agreement have been satisfied. Private business users operating a single wireless (telecommunication) facility at their principal place of business and governmental users are exempt from the bond requirement.
- (10.) Abandoned or unused wireless (telecommunication) facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless (telecommunication) facility pursuant to this provision, the Village shall give 30 days written notice of its intention to do so to the permittee at its last known

address.

- (11.) All wireless (telecommunication) facilities shall comply with FAA lighting requirements. In addition, in a specific instance, the Village may impose lighting requirements for a tower that is not required by FAA regulations to be lit.
- (12.) Except as otherwise provided herein, minimum setbacks for wireless (telecommunication) facilities shall be in accordance with the setback requirements set forth in the development standards for the district in which the location of the tower is proposed. In addition, wireless (telecommunication) facilities must be set back from any residentially zoned or residentially used properties a distance equivalent to one-half the height of the tower being erected. The Board of Adjustment may reduce the setback requirement upon a showing by the applicant that there are special physical circumstances or conditions affecting the proposed site such that the strict application of the setback requirement would not allow the most effective use of the proposed site to minimize the visual impact of the wireless (telecommunication) facility.
- (13.) Wireless (telecommunication) facilities shall be buffered from adjacent properties with a buffer which, at a minimum, meets the requirements of a Type B buffer as described in Article 11 of this ordinance, regardless of adjacent zoning district classifications or uses.
- (14.) No wireless (telecommunication) facility shall be located:
- (a.) On top of buildings; or
 - (b.) In a locally or nationally designated historic area or property or on a nationally or locally designated historic structure or building. Nor shall a Wireless Support Structure (telecommunications tower) be located such that it adversely impacts the historic integrity of a locally or nationally designated historic area, property, or structure.
- (15.) In cases where an applicant is required to perform an environmental assessment (EA) or an environmental impact statement (EIS) under the National Environmental Policy Act or the National Historic Preservation Act, such EA or EIS shall be submitted as part of its application for a special use permit. An application for a special use permit will not be deemed complete until any required EA or EIS has been submitted to the Village.
- (16.) Wireless (telecommunication) facilities shall not be constructed unless the company erecting the tower has general liability coverage of at least \$1,000,000.00. The owner of a wireless (telecommunication) facility shall provide the Village with a certificate of insurance showing evidence of its coverage and the certificate shall contain a requirement that the insurance company notify the Village 30 days prior to the cancellation, modification or failure to renew the insurance coverage required.

- (17.) Wireless (telecommunication) facilities shall be designed to meet the following standards:
- (a.) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment. The Board of Adjustment may condition approval on the use of specific concealment techniques where it determines that doing so is necessary or desirable.
 - (b.) Guyed towers are prohibited. Commercial Wireless Support Structures (telecommunications towers) shall be of a monopole design unless the Board of Adjustment determines that an alternative design would better blend in to the surrounding environment.
 - (c.) Use of dual-polarized antennas which electronically combine the functions of transmit and receive antennas (rather than spatial diversity antenna arrays which rely on antennas being physically separated), dual-band/multi-band antennas (allowing two or more providers of different types of commercial wireless services to share a common antenna), and use of combiners (allowing antenna sharing by providers using the same frequency band) are encouraged.
 - (d.) Antennas shall be mounted on Wireless Support Structure (telecommunications towers) so as to present the smallest possible silhouette, profile, or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:
 - (i.) Compact dual-polarized antennas in a cylindrical uni-cell arrangement extending no more than two feet from the sides of the supporting structure and mounted atop the tower;
 - (ii.) Panel antennas flush-mounted against the tower;
 - (iii.) Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the tower.
 - (e.) No Wireless Support Structure (telecommunications towers) shall have constructed thereon, or attached thereto in any way, any platform, catwalk, crow's nest, triangular framework, or like structures or equipment, except during periods of construction or repair. Curved or straight davit arms or brackets used for antenna mounting shall be connected to the tower at the base of the arms or brackets only and such arms or brackets (and any antennas or hardware mounted thereon) shall not be physically interconnected with any similar arm or bracket.
 - (f.) All equipment enclosures and other improvements accessory to a Wireless Support Structure (telecommunications towers) shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair. No equipment enclosure may

exceed 12 feet in height. Ground mounted equipment shall be screened from view with a minimum "B" buffer (see Article 11), except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

- (18.) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.
- (19.) Wireless Support Structure (telecommunications towers), equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight feet in height. The fence shall not be topped with barbed wire. The Board of Adjustment may require as a condition of approval that the fencing be screened by appropriate landscaping or other means. The Board of Adjustment may waive or modify the fencing requirement if it determines that doing so will enhance the overall appearance of the facility without any compromise in safety or security.
- (20.) Wireless (telecommunication) facilities shall have a flat gray or galvanized finish unless the Board of Adjustment determines another color scheme would be a preferable aesthetic alternative.
- (21.) No two Wireless Support Structure (telecommunications towers) shall be constructed within 1,320 feet of each other unless documentation is provided to the *Planning, Zoning & Subdivision Administrator* to show that collocation on towers within the 1,320 feet is not technically feasible.
- (22.) No wireless (telecommunication) facility shall be permitted that exceeds 200 feet in height.
- (23.) Signage at any wireless (telecommunication) facility site shall conform to the following provisions:
- (a.) A sign listing the name of the wireless telecommunication service provider operating the site, the site name or number and an emergency telephone number shall be posted at or near the entrance to the site so as to be readily visible to persons outside the site's security fencing.
 - (b.) Equipment hazard warning and informational signs are permitted.
 - (c.) The posting of any other signs or advertising is prohibited at any wireless (telecommunication) facility or upon any wireless (telecommunication) facility.
- (24.) The Board of Adjustment may require any other conditions deemed necessary or desirable to ameliorate the impact of the tower on the adjacent properties and uses. Such conditions shall include but are not limited to: the height of the tower; the construction or type of tower; lighting; and collocation of the antennas and

facilities of different parties on a single tower.

- (25.) A special use approval for a Wireless Support Structure (telecommunications towers) shall become null and void if the facility is not constructed and placed in service within twenty-four months of the date of approval provided, however, that the special use approval may be extended one time for six months if substantial construction has commenced before the end of the initial twenty-four month period.
- (26.) Modifications shall be permitted upon existing Wireless Support Structure (telecommunications tower) facilities provided they do not exceed any of the following criteria:
- (a.) Increase in vertical height of the greater of either: 1) ten percent (10%), or 2) the height of one additional antennae array with separation from the nearest existing array of not more than twenty (20) vertical feet; provided the maximum height of 200 vertical feet is not exceeded.
 - (b.) Addition of an appurtenance protruding the greater of either: 1) more than twenty (20) feet, or 2) more than the width of the wireless support structure at the elevation of the appurtenance, unless:
 - (i.) necessary to shelter an antenna, and/or
 - (ii.) necessary to connect the antenna to the tower via cable
 - (c.) Increasing the square footage of the existing equipment compound by more than 2,500 square feet; provided all applicable minimum yard area, buffering and screening provisions are maintained.

10.2-15 Electronic Gaming Operation, Including Game Rooms, Coin Operated Video Game Room

(A.) Zoning District where the conditions for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Conditions:

- (1.) Separation from Residential Zoning - Electronic Gaming Operations (whether principal uses, or accessory to another use) shall be located no closer than 500 feet in any direction from any property zoned for residential use.
- (2.) Separation from Certain Uses - No Electronic Gaming Operation shall be located within 1,500 feet in any direction from any other Electronic Gaming Operation, or from any cemetery, Group Living facility, religious institution, public or private child care center or child care facility, public or private school or non-profit club. This required separation shall apply whether the above uses are principal or accessory uses.
- (3.) Major Gateway Setbacks - All Electronic Gaming Operations shall maintain a two hundred (200) foot setback along the gateway corridors listed below. The setback shall be measured perpendicular to the existing road right-of-way and

shall extend one mile inward from the Village limit line. For the purposes of this standard a major gateway is identified as an entry way into the zoning jurisdiction along the NC 52 transportation corridor.

- (4.) Measurement - All measurements in this Section shall be from the outer building walls of the proposed use to the nearest property line of the above specified uses, and such measurement shall be in a straight line without regard to intervening structures.
- (5.) Hours of Operation, Access and Visibility - No Electronic Gaming Operations shall engage in business prior to 10:00 a.m. or after 12:00 midnight. During hours of operation, electronic gaming operations shall be open for direct, unobstructed access by police, fire and emergency response personnel. All entrance doors shall remain unlocked while patrons are on the premises. All Electronic Gaming Operations terminals, computers, machines, and/or gaming stations shall be open and visible from the exterior front of the establishment.
- (6.) Age Restrictions - No person or entity engaged in Electronic Gaming Operations shall allow, permit or condone any person under the age of eighteen (18) to be upon the premises while patrons are engaged in Electronic Gaming Operations.
- (7.) Signage - Signage shall meet all the requirements of Article 17. Sign Regulations and the following requirements. No signs shall be posted on the windows of the property which are visible from the exterior of the development. No neon or other effects which simulate the appearance of neon, nor any flashing, chasing, undulated, or other variable lighting effects shall be used in connection with any use hereunder where such lighting effect would be visible from the exterior of the establishment. All rules of the electronic games shall be displayed prominently within the establishment.
- (8.) Parking - Parking shall be provided at the rate of one (1) space per full time employee and one (1) space per gaming terminal and/or electronic gaming machine in the establishment and in accordance with Article 12 Off-street Parking, Stacking and Loading Areas.
- (9.) Maximum Number of Terminals - The maximum number of terminals, computers, machines, and/or gaming stations permitted within an Electronic Gaming Operation is twenty (20).
- (10.) Compliance with Other Regulations - The Electronic Gaming Operation shall be subject to any Village of Marvin privilege license fees, and shall be subject to all other standards of the Village of Marvin and State of North Carolina as applicable

10.2-16 Hazardous Industries

(A.) Zoning District where the conditions appearing below apply: “IND” with “HIO”

(B.) Conditions:

- (1.) Minimum Building/Parking Lot/Storage Area Setbacks:
 - (a.) The minimum building/parking/storage area setbacks shall be as follows:
 - (i.) From any arterial or collector street right-of-way – 500 feet
 - (ii.) From any local street right-of-way – 500 feet

- (iii.) From an interior lot line adjacent to a school or day care facility – 500 feet
- (iv.) From an interior lot line adjacent to a residential zoning district – 500 foot
- (v.) From an interior lot line adjacent to a non-residential zoning district – 250 foot.

(2.) Building Height Requirements:

- (a.) The maximum building height for a structure adjacent to a residential or commercial zoning district shall be no greater than 40 feet
- (b.) The maximum building height for a structure adjacent to an industrial zoning district – no height restrictions.

(3.) Additional Requirements:

- (a.) Any such Hazardous industry facility shall be serviced by a public water and wastewater system.
- (b.) Any such Hazardous industry facility shall be enclosed with a security fence of adequate height and structure that would reasonable prohibit access to the site by the general public. All security gates and/or gate houses shall be set back a minimum of 50 feet from the public right-of-way line.
- (c.) All *Chemical Bulk Storage Structures and/or Areas* housing the storage of bulk liquid and/or Hazardous or toxic materials shall be set back from any property line a minimum of 550 feet.
- (d.) There shall be no industry created noise more than 50 decibels as measured at the property line and no objectionable noise due to extreme frequency, beat frequency, intermittence or shrillness.
- (e.) There shall be no industry created ground vibration measurable at any lot line of an industrial unit.
- (f.) There shall be no industry created air pollution including:
 - (i.) No noxious odors; no noxious, toxic or corrosive gases or fumes.
 - (ii.) No smoke of a density in excess of #1 on the Ringelmann Chart. In cases of smoke other than black in color, and approved density scale equivalent to the Ringelmann Chart shall be used.
 - (iii.) No dust or other particulate matter emitted in excess of 0.85 pounds per 1,000 pounds of gases adjusted to 12% carbon dioxide. There shall be no surface or subsurface discharge or disposal of any wastes, either liquid or in any form without prior approval of the Oversight Board.
 - (iv.) There shall be no unusual fire or explosion hazards. Based on the National Board of fire insurance rates which classifies industrial units as Class I, Class II, and Class III, the following shall apply:
 1. No special controls on a manufacturing unit determined to be Class I other than under [3] below.
 2. Class II and Class III manufacturing units shall be contained in a building designed and constructed in accordance with its class and according to provisions of the building code published by the Building

Officials and Code Administrators, International [BOCA], 1313 East 60th Street, Chicago, Illinois, 60637.

3. Machinery or equipment shall be treated as necessary to eliminate hazards.
 4. Uses which are customarily incidental and accessory to the principal use shall be permitted including, but not limited to: dwelling quarters for watchmen and caretakers employed on the premises, recreation areas and facilities for persons employed by industries within the same district's boundaries, restaurants, warehouses and commercial uses that are permitted in the "C-701" Commercial District.
- (v.) Businesses that produce, store or use Hazardous materials, as defined by the Environmental Protection Agency's (EPA) Hazardous Substances or Prior Pollutants lists shall be allowed only when the items listed in Section 154.111 are met.
- (vi.) Miscellaneous Prohibitions:
1. Any interference with any other process, equipment, appliance or devices and any mechanical, electrical or other equipment which could create such interference shall have all necessary shielding or other protection.
 2. In any industrial unit or accessory all operations and storage, other than for passenger vehicles of visitors and employees, trucks and over the road vehicles, shall be within an entirely enclosed building or structure. Exemption: Outside storage of bulk or large raw materials which are fireproof if enclosed by a security fence with provisions for visual inspection and where screened from public view in its entirety from adjacent properties and public streets/roadways.
- (g.) Operations and Closure Plans Required:
- (i.) An emergency operations plan shall be developed and be on file at the Village of Marvin and Union County Emergency Management Offices and reviewed for update annually. An operations plan shall be submitted to include:
1. The date of commencement of operations and their expected duration;
 2. Proposed hours and days of operation;
 3. A complete description of operation, including source of materials, method of compaction, type of sealing proposed to be used, types and number of equipment to be used and disposal of by-products;
 4. Any phasing schedule of operations and relationship among phases,
 5. Operating practices to be followed to ensure compliance with regulations of this ordinance, and;
 6. Complete assessment by the local Fire Department in conjunction with local emergency management agencies that all necessary equipment, training, and personnel are available at the emergency response level to adequately handle all emergency scenarios.

- (ii.) A closure plan shall be prepared and submitted in accordance with United States Environmental Protection Agency (USEPA) guidelines as part of the application for a zoning map amendment to establish the HIO district.
- (h.) Hazardous Chemical Notification and Inventory Reporting
 - (i.) EPCRA Section 311-312 applies to any facility at which a Hazardous chemical, as defined by the Occupational Safety and Health Act, is present in an amount exceeding a specified threshold. These facilities must submit -- to the SERC, LEPC, and local fire department -- material safety data sheets (MSDSs) or lists of MSDSs and Hazardous chemical inventory forms (also known as Tier I and II forms). This information helps the local government respond in the event of a spill or release of the chemical.
- (i.) Emergency Notification and Agriculture
 - (i.) EPCRA requires businesses that store threshold amounts of chemicals that are subject to OSHA's Hazardous Communication Standard to submit information -- including facility point of contact and the Material Safety Data Sheets (or a list of those chemicals) -- to state and local authorities in order to facilitate emergency planning and response. Annual reporting to state and local authorities is required for all covered facilities that have those chemicals in amounts above threshold. Hazardous chemicals used in routine agricultural operations and fertilizers held for resale by retailers is excluded.
- (j.) Toxic Chemical Release Inventory Reporting:
 - (i.) EPCRA Section 313 requires manufacturing facilities included in SIC codes 20 through 39 to submit an annual toxic chemical release report if they have 10 or more employees and if they manufacture, process, or use specified chemicals in amounts greater than threshold quantities. This report, commonly known as Form R, covers releases and transfers of toxic chemicals to various facilities and environmental media, and allows EPA to compile the national Toxic Release Inventory (TRI) database.

10.2-17 Marijuana and/or Cannabis Operation, Including Distribution and/or On-premise Consumption Only

(A.) Zoning District where the conditions for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Conditions:

- (1.) Separation from Residential Zoning - Marijuana and/or Cannabis Operations (whether principal uses, or accessory to another use) shall be located no closer than 1,000 feet in any direction from any property zoned for residential use.
- (2.) Separation from Certain Uses - No Marijuana and/or Cannabis Operation shall be located within 1,500 feet in any direction from any other Marijuana and/or Cannabis Operation, or from any cemetery, Group Living facility, religious institution, public or private child care center or child care facility, public or

private school or non-profit club. This required separation shall apply whether the above uses are principal or accessory uses.

- (3.) Major Gateway Setbacks - All Marijuana and/or Cannabis Operations shall maintain a two hundred (200) foot setback along the gateway corridors listed below. The setback shall be measured perpendicular to the existing road right-of-way and shall extend one mile inward from the Village limit line. For the purposes of this standard a major gateway is identified as an entry way into the zoning jurisdiction along the NC 52 transportation corridor.
- (4.) Measurement - All measurements in this Section shall be from the outer building walls of the proposed use to the nearest property line of the above specified uses, and such measurement shall be in a straight line without regard to intervening structures.
- (5.) Hours of Operation, Access and Visibility - No Marijuana and/or Cannabis Operations shall engage in business prior to 8:00 a.m. or after 12:00 midnight. During hours of operation, Marijuana and/or Cannabis operations shall be open for direct, unobstructed access by police, fire and emergency response personnel. All entrance doors shall remain unlocked while patrons are on the premises.
- (6.) Age Restrictions - No person or entity engaged in Marijuana and/or Cannabis Operations shall allow, permit or condone any person under the age of eighteen (18) to be upon the premises.
- (7.) Signage - Signage shall meet all the requirements of Article 17. Sign Regulations and the following requirements. No signs shall be posted on the windows of the property which are visible from the exterior of the development. No neon or other effects which simulate the appearance of neon, nor any flashing, chasing, undulated, or other variable lighting effects shall be used in connection with any use hereunder where such lighting effect would be visible from the exterior of the establishment.
- (8.) Compliance with Other Regulations - The Marijuana and/or Cannabis Operation shall be subject to any Village of Marvin business other standards of the Village of Marvin and State of North Carolina as applicable.

10.2-18 Brewery, Microbrewery.

(A.) Zoning District where the conditions for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Conditions:

- (1.) The principal use is the production of malt beverages for retail sales for on-premises and off-premises consumption in accordance with ABC permit requirements set forth in G.S. 18B-1001 as amended and issuance of on-premises malt beverage permit for breweries as authorized by G.S. 18B-1104 as amended and all other laws pursuant to G.S. 18B, as amended.

- (2.) Accessory uses may include and be limited to only: retail sales; food and beverage consumption; entertainment; games; a tasting room; event room; and loading area with no outside storage.
- (3.) A minimum of 30% of the microbrewery's floor area shall have operating brewing equipment that produces beer for retail sales. This percentage shall be satisfied at the time a Certificate of Occupancy inspection is conducted and shall be maintained thereafter.
- (4.) Exterior guest areas shall not have amplified sound equipment.
- (5.) A microbrewery shall not require a membership, cover or minimum charge for admittance or service.

Recommended by Planning Board 16 April 2024

ARTICLE 11

LANDSCAPE REQUIREMENTS AND TREE PROTECTION

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ARTICLE 11

LANDSCAPE REQUIREMENTS AND TREE PROTECTION

11.1 Purpose

The regulations set forth in this Article are intended to reduce tree canopy loss and implement urban forest management improvements through requirements for tree protection, tree preservation, the planting of trees and the maintenance of existing and newly planted trees within the Village of Marvin. Additionally, this Article will establish minimum standards for the design of landscapes so as to improve the community aesthetically, economically, and environmentally. The requirements are intended to enhance the quality of life through sustainable urban forest practices and increase the benefits trees provide, including, but not limited to the following.

- (A.) Absorption of carbon dioxide and returning oxygen
- (B.) Reduction of soil erosion and increase in rainwater infiltration
- (C.) Provision of shade for cooling
- (D.) Screening of noise, dust, glare, and visual intrusions
- (E.) Reduction of storm-water runoff
- (F.) Reduction of risk for both wild fires and structure fires
- (G.) Maintenance and improvement of Village appearance and aesthetics
- (H.) Provision of habitat for wildlife
- (I.) Preservation, protection, and enhancement of the natural environment
- (J.) To enhance the environment and visual character of the Village of Marvin: to safeguard property values of adjacent properties, to protect public and private investments, and promote high-quality development within the village.
- (K.) To use landscaping to add beauty and value to property in the Village of Marvin by enhancing home sites, parking lots, and new commercial and industrial developments through the installation of trees and vegetation.
- (L.) To use trees, shrubs, and plants to mitigate the ill effects associated with land development and land uses by filtering noise, dust, and fumes, modifying the rate of stormwater runoff and soil erosion; reducing glare from vehicle headlights and parking lot area lighting; and providing shade and reducing the heat-island effect of large asphalt parking lots.
- (M.) To encourage tree planting, tree mitigation and landscaping as a means of safeguarding, improving and protecting the village's environment, ecological balance and aesthetic environment of the community.

(N.) To reduce incompatibility between zoning districts and different land use intensities and type. To lessen the adverse impacts of more intense land uses upon adjacent residential areas and other less intense land uses through the utilization of landscaping and buffer yards; thereby reducing the ill effects of expansive paving, outside storage, and parking lots on the surrounding area.

11.2 Administration

The following personnel have responsibility for administering and enforcing the provisions of this section:

- (A.) The *Planning, Zoning & Subdivision Administrator* shall have responsibility for overseeing the administration of this Article.
- (B.) The *Public Works Administrator* shall have responsibility and control over all trees and shrubbery planted or growing upon Village property including public street right-of-way.
- (C.) The *Planning, Zoning & Subdivision Administrator* shall have the authority to enforce the standards of this Article in the event of compliance failure. The *Planning, Zoning & Subdivision Administrator* shall also have responsibility and control over all regulated, unsafe, and diseased trees located on public and private property.

11.3 Applicability

The provisions of this article shall apply to the following:

11.3-1 All new major subdivisions with four (4) or more new lots, all new non-residential developments, and all new multi-family developments with four (4) or more units except for those projects listed under Exemptions below.

11.3-2 Changes in use, expansions, and new buildings for already existing residential, non-residential, or mixed-use developments as per the following:

- (A.) Changes in use to a higher intensity, such as a change from residential to commercial. The requirements shall be applicable to the entire lot;
- (B.) All non-residential expansions of buildings, except the first three thousand (3,000) square feet of gross leasable area. The requirements of this article shall be applicable only to the expansion area;
- (C.) Expansions exceeding 50 percent of the pre-expansion floor area must bring the entire site into compliance, super-ceding 11.3-2(B);
- (D.) Renovations with a total cost exceeding 50 percent of the appraised value of the

building as established by the Union County Tax Office. The value of any expansions or reconstruction of such structures over a three-year period shall be considered in calculating the 50 percent threshold.

11.3-3 Vehicular use areas shall be subject to the landscape requirements as outlined under the Parking Lot Landscape Requirements as follows:

- (A.) Any new parking lot with six (6) or more spaces;
- (B.) Expanded portions of existing parking lots which are less than 50 per cent of the total vehicular use areas shall landscape the area included in and around the expansion;
- (C.) Expansions exceeding 50 percent of the paved area must bring the entire vehicular use area into compliance with the Parking Lot Landscape Requirements;
- (D.) Existing unpaved parking lots which are paved or existing paved lots which are demolished and repaved must bring the entire vehicular use area into compliance with the Parking Lot Landscape Requirements.

11.3-4 Any land disturbing activities or tree removal shall require a Tree Disturbance Permit as per section 11.10 of this Article.

11.4 Exemptions:

The provisions of this Article shall not apply to the uses and activities listed below. Any applicable requirements of Article 19 apply:

11.4-1 Properties within and abutting the Main Street (MS) District shall be exempt from the buffer and tree conservation area requirements but are still required to meet the street trees and parking lot landscaping requirements;

11.4-2 Property lines abutting utility easements in excess of sixty (60) feet in width and all railroad rights-of-way;

11.4-3 Property lines abutting dedicated street rights-of-way, which have remained unopened for a period of at least fifteen (15) years;

11.4-4 Tree removal on an area of three thousand (3,000) square feet or less, after the *Planning, Zoning & Subdivision Administrator* has determined that such a removal is not associated with a forthcoming development proposal and will not be inconsistent with any plan previously approved by the Village; however, watershed and/or soil erosion requirements may still apply if triggered;

11.4-5 Property covered by an active forestry management plan prepared by a North Carolina Registered Forester, provided that documentation has been furnished to the

11.5 Landscape Plan Procedure

11.5-1 Landscape Plan Approval Required. An applicant must receive approval of a landscape plan prepared by a Registered Landscape Architect from the *Planning, Zoning & Subdivision Administrator* prior to grading or before site work may begin.

11.5-2 Installation of Plant Materials Required. Installation of plant material shall occur prior to the issuance of a Certificate of Occupancy, except as provided in 11.5-3.

11.5-3 Performance Guarantee In lieu of Installation of Plant Materials.

(A.) If at the time of a request for a Certificate of Compliance, the required planting areas are not complete the developer may provide a performance guarantee in accordance with G.S. 160D-804.1, guaranteeing the installation of the plant materials if the following conditions are met:

- (1.) Plant materials are unavailable,
- (2.) Completion of the planting areas would jeopardize the health of the plant materials, or
- (3.) Weather conditions prohibit completion of the planting areas.

The Performance Guarantee shall be in an amount equal to 125 percent of the estimated cost of the required plant materials including plant materials, installation and two-year feeding program, acceptable to the Village. The *Planning, Zoning & Subdivision Administrator* may accept a valid contract assignable to the Village containing a ninety-day (90) termination and/or cancellation notice to the Village by any party exercising such action incorporated therein for the remaining materials and turn-key installation, as a form of cost estimation. The performance guarantee shall secure the installation of the plant materials as shown on the approved landscape plan. The performance guarantee shall remain in full force and effect until such time as the installation of plant materials is completed, inspected, and accepted by the Village of Marvin. Failure to maintain the required performance guarantee shall result in the revocation of the approval of the site development plan and any permits issued as a result of the plan approval. The performance guarantee shall be renewed by the applicant unless all parties, including the Village, agree not to renew it at least sixty (60) days prior to its scheduled expiration date.

A temporary construction easement permitting the Village of Marvin or its designee(s) to access the property for the purpose of installing the guaranteed plant materials shall be provided with the performance guarantee. The temporary construction easement shall be valid until all guaranteed plant materials have been installed and approved by the Village. The temporary construction easement shall

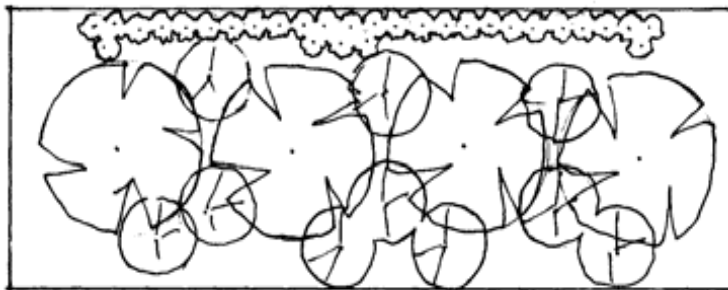
bind all successive owners until the guaranteed plant materials have been installed and approved by the Village.

(B.) Failure to initiate installation of the plant materials within one year of the date the performance guarantee was accepted by the Village of Marvin may result in the Village, at its sole discretion, directing and/or installing the plant materials, with the cost to be paid from the performance guarantee. The performance guarantee shall, if requested by the Village, pay all or any portion of the performance guarantee to the Village up to the amount needed to complete the installation of the plant materials based on an estimate by the Village as described in 11.5-3(A) above. The Village at its discretion may spend such portion of said funds as deemed necessary to complete all or any portion of the required plant installation. The Village shall return to the developer any funds not spent in completing the plant installation, less reasonable administrative, professional and legal services cost resulting from the failure of the developer. Default on a project does not release the developer from responsibility for the completion of the plant installation. The Village may release a portion or all of any performance guarantee as the plant installation is completed and approved by the Village. In the event the amount of the performance guarantee on hand is insufficient to pay for completion of the plant installation, the property owner shall pay to the Village of Marvin the total amount of the insufficiency. If the Village is not re-paid in full, the amount of the insufficiency shall be the basis for a claim against the property and constitute a lien on the property in favor of the Village upon filing with the Register of Deeds.

11.6 Landscape Requirements

The following buffer yards are hereby established and shall be required where applicable:

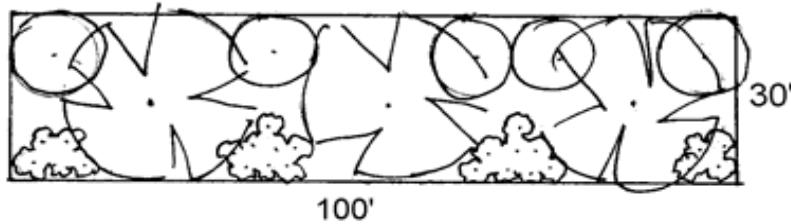
Type A Buffer Yard: A high-density screening buffer to substantially block visual contact between adjacent uses with a minimum of 90% opacity.



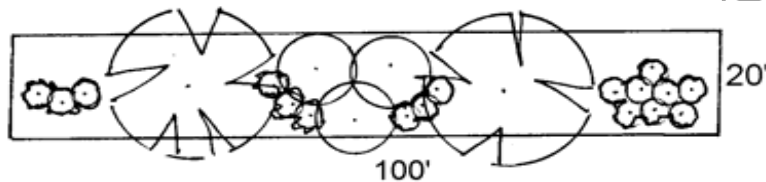
40'

100'

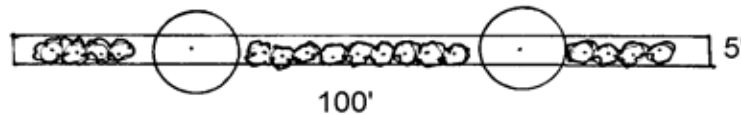
Type B Buffer Yard: A medium-density screening buffer to partially block visual contact between uses with a minimum of 60% opacity.



Type C Buffer Yard: A low-density screen intended to partially block visual contact between uses with a minimum of 60% opacity.



Type D Buffer Yard: A peripheral planting strip intended to separate uses, provide vegetation in densely developed areas, and to enhance the appearance of individual properties.



11.6-1 Buffering and Screening of Different Districts. Buffer yards, in accordance with section 11.3 above, to separate development in certain districts from adjacent districts are specified in Table 11.1 below. The buffer yards are required on the sides and rear of property being developed abutting the identified adjacent district. The following buffer yards shall be provided when property in an identified development district abuts one or more of the identified adjacent districts. To determine the required buffer yard for a development, first identify the development district in which the development is to be located. Then identify the adjacent district abutting the proposed development to determine the type buffer yard applicable to the project.

DEVELOPMENT DISTRICT	ADJACENT DISTRICT	BUFFER YARD REQUIRED
“RR”, “IND”, “HIO”	All other districts	Type A
“MU”, “C-16”, VSR”	“SFR”, “RR”, “CIV”, “TNDO”	Type B
“HD”, “MS”, “CIV”	“SFR”, “RR”	Type C
“VSR”	“HD”, “MS”, “MU”, “C-16”	Type C
“HD”, “MS”, “C-16”	“MU”, “IND”	Type C
“SFR”, “RR”, “TNDO”	All other districts	Type C
“MU”	“HD”, “MS”, “C-16”, “VSR”	Type D

Plantings shall be provided in buffer yards as indicated in Table 11.2 below:

Buffer Yard Type	Average Width (ft.)	Minimum/Maximum Width (ft.)	Evergreen Tree Rate per 100 lf	Canopy Tree Rate	Understory Tree Rate	Shrubs Rate
Type A Yard	40	35/65	8	4/100 lf 25 feet on center	10/100 lf 10 feet on center	33/100 lf 3 feet on center
Type B Yard	30	25/50	6	3/100 lf	5/100 lf	25/100 lf
Type C Yard	20	15 /40	4	2/100 lf	3/100 lf	17/100 lf
Type D Yard	5	5/10	0		2/100 lf	18/100 lf

(A.) Buffer Yard Alternative Standards and Conditions.

- (1.) The minimum buffer width for all buffer yards except the Type D yard may be reduced by 30% with the use of an opaque wall or fence constructed of masonry, stone or pressure treated lumber providing such reductions do not disturb the Critical Root Zone (CRZ) of existing trees. The wall or fence should be a minimum of five (5) feet in height. The wall or fence shall be set back from the property line a minimum of five (5) feet and shall be planted with half the

required plantings, including all types of shrubs and trees required, on the outside of the wall or fence (facing the adjacent property).

- (2.) Understory trees shall be substituted for canopy trees at the rate of two (2) understory trees for every canopy tree to be planted within fifteen (15) feet of an overhead utility line.
 - (3.) Canopy trees may be substituted for shrubs at the rate of one (1) canopy tree for eight (8) shrubs and understory trees may be substituted for shrubs at the rate of one (1) understory tree for five (5) shrubs if approved by the *Planning, Zoning & Subdivision Administrator*.
- (B.) Location of Buffer Yard. Required trees and shrubs shall not be installed in street rights-of-way. Required trees and shrubs may be placed in water quality conservation easements, electric utility easements below overhead lines, and in drainage maintenance and utility easements upon approval by the *Planning, Zoning & Subdivision Administrator*.
- (C.) Setback Less Than Buffer Yard. If the required building setback is less than the required buffer yard width, the building setback shall reduce the required planting yard width only alongside the building. The planting rate of the required planting yard shall still apply.
- (D.) Encroachments Permitted in Required Planting Yards. The following are permitted in required planting yards provided the landscaping requirements are met and there is no interference with any sight area: Cornices, steps, canopies, overhanging eaves and gutters, windowsills, bay windows or similar architectural features, at-grade patios, chimneys and fireplaces, fire escapes, fire balconies, and fire towers may project not more than two and one-half (2 1/2) feet into any required planting yard, but in no case shall be closer than three (3) feet to any property line or handicap ramps except for porches and landings.
- (E.) Obstructions. Landscaping shall not be placed in the sight visibility triangle which would obstruct the view of motorists using any street, driveway, or parking aisle.

11.6-2 Screening of Dumpsters, Outdoor Storage, and Utility Structures. All dumpsters, loading docks, outdoor storage areas over 40 square feet, and utility structures must be screened if they are visible to adjacent public or private streets or any adjacent properties. Screening of a dumpster shall not be required in the Industrial District, unless the dumpster is located within one hundred (100) feet of an existing non-industrial land use. Screening options include:

- (A.) A single opaque material wall or fence with a minimum height of 6 feet.

(B.) A combination of opaque materials, berming, and/or evergreen landscaping spaced at 8 feet on center that provides the required screening effect. The combination of opaque materials, berming, and/or evergreen landscaping shall have a minimum height of 6 feet within three (3) years of planting.

(C.) The wall(s) of a principal or accessory structure may also count for screening.

(D.) Chain-link fencing with woven slats of opaque material is *not* acceptable.

11.6-3 Street Trees. Street trees are required along all street frontages for all new developments described in Sections 11.3-1 and 11.3-2, unless excepted in Section 11.4. Trees are required at the following rate:

(A.) One large maturing tree is required for every 62 linear feet of street frontage. If overhead utilities are present, planting of one small maturing tree for every 40 linear feet of property abutting a street is required.

(B.) Where the street abuts a parking lot over 3000 square feet in area and located within 50 feet of the edge of the pavement, shrubs shall be planted at the rate of one deciduous or evergreen shrub for every 5 linear feet of vehicular use area abutting the street in addition to the required street trees. The shrubs must achieve a minimum height of three feet at maturity.



(C.) Street trees may be evenly spaced or spaced to accommodate existing site features. Street trees shall be a minimum of fifteen (15) feet apart and a maximum of ninety (90) feet apart. No street tree shall be located more than twenty-five (25) feet from the edge of pavement.

(D.) Street trees shall be planted in the planting strip within the public right-of-way. In the Main Street (MS) and Mixed-Use (MU) Districts, the trees may be placed in tree pits with grates that are a minimum of sixteen (16) square feet.

(E.) Existing Trees: See Section 11.9 for information regarding credits for preservation of existing trees.

(F.) No more than fifteen (15) percent of the street-planting yard may be used for walkways serving individual lots, except in the MS, and MU districts. Parking, merchandise display, and off-street loading are prohibited in the street-planting yard.

11.6-4 Parking Lot Planting Areas.

(A.) Applicability. Parking lot landscaping buffers shall be required to separate parking areas from adjacent uses for new and/or expanding parking lots with six (6) or more spaces. Required canopy trees and shrubs shall be located within the parking lot and adjacent to parking spaces in planting areas between rows of parking spaces, at the end of parking bays, in tree islands, and/or around the periphery of the parking lot. The following buffer requirements shall apply to parking lots with six (6) or more spaces:

- (1.) A minimum of a type D buffer shall be provided for all parking lots with six (6) or more spaces.
- (2.) A type C buffer shall be provided along any edge of a parking lot with a minimum of six (6) spaces and occupying less than 1/2 acre that abuts an SFR, or RR zoning district.
- (3.) A type C buffer shall be provided along all edges of any parking lot with a minimum of six (6) spaces and occupying less than 1/2 acre that is located within an SFR, or RR zoning district.
- (4.) A type B buffer shall be provided along any edge of a parking lot with a minimum of six (6) spaces and occupying 1/2 acre or more that abuts an SFR, or RR zoning district.
- (5.) A type B buffer shall be provided along all edges of any parking lot with a minimum of six (6) spaces and occupying 1/2 acre or more that is located within an SFR, or RR zoning district.

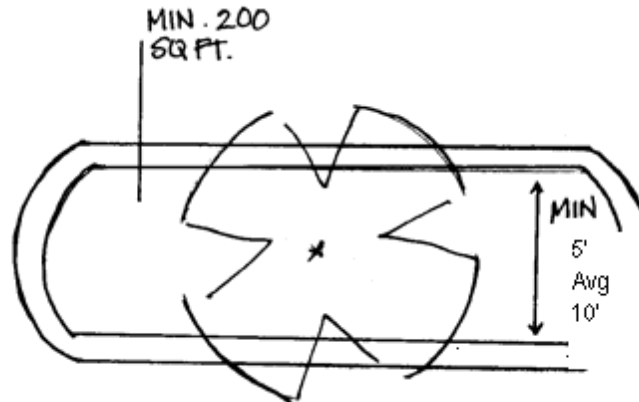
(B.) Planting Rate. For every fifteen hundred (1500) square feet of vehicular use area (VUA), one (1) deciduous tree and four (4) shrubs must be planted. At least seventy-five (75) percent of the trees shall be large maturing species. Trees and shrubs must be planted within fifteen (15) feet of the VUA to meet the requirement.

(C.) Existing Trees. See Section 11.9 for information regarding credits for preservation of existing trees in parking lots.

(D.) Reduction in Parking Requirements. To allow an existing development to retrofit parking to conform to the landscaping regulations, or for an existing or new development to preserve trees within or adjacent to a parking lot, the number of

required off-street parking spaces may be reduced by the *Planning, Zoning & Subdivision Administrator* by up to ten (10) percent.

- (E.) Tree Islands and Medians. When more than four trees are required in a lot with interior rows, fifty (50) percent of the trees and shrubs must be planted in islands or medians located within the parking lot. The planting islands or medians shall be a minimum size of 200 square feet with no dimension smaller than five (5) feet and an average width of ten (10) feet.



- (F.) Multiple Parking Bays. When there are more than 4 bays of parking, an interior island with an average width of twenty (20) feet and a length equivalent to the parking bay shall be constructed. It should include a pedestrian walkway five (5) feet or more wide and a planted strip on one or both sides. The median should be located in such a way as to enhance pedestrian circulation within the development, leading to the entrance or to an adjacent sidewalk and/or walkway.

- (G.) Perimeter Parking. All continuous runs of fifteen (15) or more parking spaces shall be interrupted by a tree island.

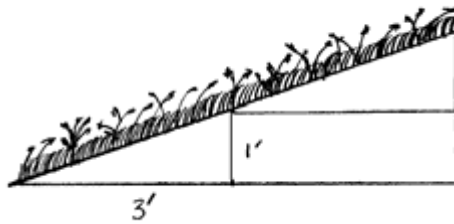
- (H.) Grouping. Shrubs and trees may be grouped or clustered in the required planting yards, except for the perimeter landscaping adjacent to parking lots, outside storage, access drives, and loading and unloading areas. The remainder of the materials shall be distributed throughout the planting yard. There shall be at least one (1) row of evergreen shrubs or evergreen understory trees in all Type A planting yards used in parking areas.

- (I.) Plant Protection. Whenever planting areas are adjacent to parking lots or drives, such areas shall be protected from damage by vehicles, lubricants, or fuels. Curbing or some other structural barrier is required to be placed around trees within five feet of a car bumper. Allowances may be made if rain gardens are incorporated into the planting area. Trees and shrubs in islands should be set back at least three feet from the curb to allow for the operation of car doors.



11.7 Reforestation of Slopes Steeper than 3:1

11.7-1 Tree Cover Required. Areas having slopes steeper than 3:1 must be reforested to provide tree cover over the entire area.



The following standards apply:

- (A.) Reforestation shall include a minimum of one (1) tree per two hundred (200) square feet of surface area and shall be made up of a mixture of deciduous hardwood and evergreen trees that are a minimum of twelve (12) inches high at planting and approved by the *Planning, Zoning & Subdivision Administrator*.
- (B.) The trunk of any required tree shall be no closer than ten (10) feet from any other existing tree.

11.8 Tree Conservation and Protection

11.8-1 Purpose of Tree Conservation Area. The purpose of the Tree Conservation Area (TCA) is to encourage the preservation of healthy trees that are four (4) inches or greater in diameter at breast height (DBH).

11.8-2 Tree Conservation Area Determination. The TCA shall be provided in accordance with the chart below. If trees of four (4) inches or greater DBH exist within or partially within these areas, such trees must be saved to the extent possible. The area will be designated a TCA and shall not be disturbed except as allowed herein below in Table 11.3.

Table 11.3 – Tree Conservation Area (TCA)

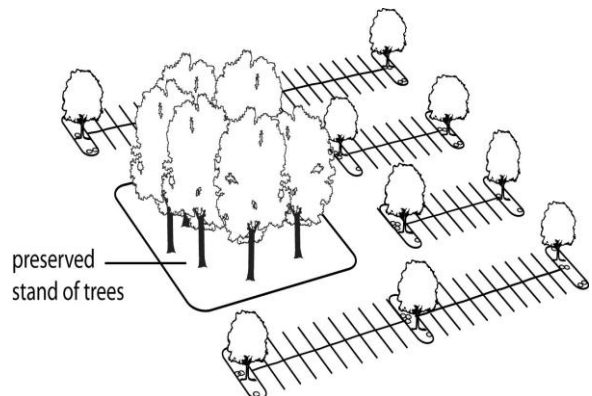
Size of Parcel	TCA Required to Include
0 – 55,000 sq. ft.	One percent (1%) of lot area and located within the required planting yard
55,000 sq. ft. – 5 acres	One and one-half percent (1.5%) of lot area. All trees four (4) inches or greater DBH that are located within the required planting yards
5.01 – 10 acres	Three percent (3%) of lot area. All trees four (4) inches or greater DBH that are located within the required planting yard or within fifteen (15) feet of the side and rear property lines, whichever is greater
Greater than 10 acres	Six percent (6%) of lot area. All trees four (4) inches or greater DBH that are located within the required planting yard or within twenty-five (25) feet of the side and rear property lines, whichever is greater

11.8-3 Tree Conservation Area Selection.

(A.) In selecting which existing tree stands are to be designated as Tree Conservation Area (TCA), the landowner shall give due consideration to building, parking lot, driveway, street, and utility location as they relate to the practicality of preservation and shall use the following tree preservation priority list:

- (1.) Existing stands of mature hardwoods as highest priority, then
- (2.) Existing stands of younger hardwoods, then
- (3.) Existing specimen trees (as determined by the *Planning, Zoning & Subdivision Administrator*), then
- (4.) Existing stands of hardwoods and Pine mix, and lastly
- (5.) Existing stands of Pine trees.

Preservation of a single Pine tree is not typically encouraged.



(B.) If it is necessary to pick among two or more stands of trees within a category listed above, then Tree Conservation Areas adjacent to the following priority list shall be used in order of significance:

- (1.) Type A buffer yards, as a first priority, then
- (2.) Type B buffer yards, then
- (3.) Type C buffer yards, then
- (4.) Type D buffer yards, then
- (5.) Street tree yards, and lastly
- (6.) Vehicular use areas

(C.) Smaller Trees: Trees less than four (4) inches DBH within the TCA may be preserved at the landowner's option and counted toward buffer yard, street tree, or vehicular use area requirements.

11.8-4 Tree Conservation Flexibility Standards. Flexibility can be granted in the following circumstances:

(A.) Trees in Sensitive Areas: If there are trees that meet the TCA requirements on other areas of the site (riparian buffers, stream corridors, floodplains, etc.), the landowner may request that up to thirty (30) percent of the required TCA be designated around such trees instead of the usual locations.

(B.) Stream Buffer Credits: Properties falling under the Stormwater Management Control Requirements, which are required to maintain an undisturbed stream buffer, may use up to thirty (30) percent of the buffer to satisfy the required TCA, provided that the undisturbed stream buffer contains trees that are a minimum of four (4) inches in DBH.

(C.) Land Dedication: Land dedicated to the Village that is contiguous to the property being developed may be used towards the tree preservation requirement, if the dedicated land contains trees that are a minimum of four (4) inches in DBH.

(D.) Reforestation Credits: In situations where TCA requirements cannot be met based on site conditions and when approved by the *Planning, Zoning & Subdivision Administrator*, reforestation efforts on the property can be used to satisfy up to fifty (50) percent of the required TCA.

(E.) Reduction in the Amount of TCA Required for Specimen Tree Preservation Within the Lot: To allow developers the flexibility to manipulate the location of required Tree Conservation Areas, and to encourage the preservation of certain specimen trees or tree stands within developed lots rather than just at the periphery, the *Planning, Zoning & Subdivision Administrator* may, at their discretion, allow the developer the right to reduce the total amount of required TCA using the following table:

Table 11.4

DBH of Existing Specimen Tree(s) in Inches	Allowable Reduction in TCA
8 – 12	5 % reduction
13 – 20	10% reduction
21 – 30	25% reduction
31+	40% reduction

(F.) Waivers: The *Planning, Zoning & Subdivision Administrator* shall have the authority to allow reduced buffer yards or to waive the buffer yard requirements to allow for a greater TCA in another area or make other exceptions, which meet the cause and intent of this section. Additionally, if the *Planning, Zoning & Subdivision Administrator* concludes that due to existing unusual or unique site characteristics, preserving some or all required trees in the TCA(s) would create an undue or unreasonable hardship, the protection of some or all of required trees in the TCA(s) may be waived.

Applicants for such a waiver shall submit their request in writing, along with any necessary site plans to demonstrate the hardship. The findings of the *Planning, Zoning & Subdivision Administrator* shall be final and binding to all parties. Appeals of the *Planning, Zoning & Subdivision Administrator's* decisions may be made to the *Board of Adjustment*, following the procedure outlined in Article 6 of this ordinance.

11.9 Tree Credits

11.9-1 Buffer Yards. All trees of appropriate size and type preserved in the Tree Conservation Area (TCA) that are within the buffer yard shall be credited toward meeting all or part of the buffer yard requirements. The protection of tree stands, rather than individual trees, is strongly encouraged.

11.9-2 Street Trees. Existing preserved trees may count toward up to 100% of the street tree requirement, providing there is no more than 65' between trees.

11.9-3 Parking Lots. For new, expanded, or rebuilt parking lots where trees are being preserved adjacent to the parking lot in order to meet the parking lot planting requirements, trees preserved in a TCA and within fifteen (15) feet of the parking lot may be used to satisfy up to fifty (50) percent of the required number of parking lot

trees. Non-TCA trees located within the parking area may count towards up to 100% of the requirement. Trees in the TCA counted toward planting yard requirements may not count for required parking lot trees.

- 11.9-4 Tree Health. No credit will be allowed for any dead tree, any tree in poor health, or any tree subjected to grade alterations. Trees should have a life expectancy of greater than ten (10) years and have a relatively sound and solid trunk with no extensive decay, major insect, or pathological problems. For the purposes of determining the health or condition of any tree, the *Planning, Zoning & Subdivision Administrator* may defer to a qualified expert with the cost of the expert to be reimbursed by the applicant.
- 11.9-5 Tree Replacement. Except for storm damage, the death of any tree used for preservation credit within two (2) years of site development shall require the landowner to plant new trees equal to the number of credited trees. After two (2) years any trees that were used for preservation credit that die shall be replaced.
- 11.9-6 Calculation of Credit. Credits are to be given in accordance with the chart below.

Table 11.5 – Tree Credits

DBH of Existing Tree(s) in Inches	Number of Trees Credited
4” – 6”	1
7”-12”	2
13”-18”	3
19”-24”	4
25”+	5

11.9-7 Protection of Existing Trees. To receive credit, trees must be protected from direct and indirect root damage and trunk and crown disturbance. The following standards shall apply:

(A.) Critical Root Zone. To preserve existing trees within the designated TCA, the Critical Root Zone (CRZ) of the trees shall be preserved. The CRZ includes a radius around the tree equal to, or at least, one foot for every one inch of DBH. It is recommended to preserve the entire CRZ of each preserved tree.

- (1.) If the entire CRZ cannot be preserved, tree roots must be cut prior to the grading of the site and no closer than 10 feet from the tree trunk.
- (2.) Disturbance within the CRZ will be allowed only on one side of the tree(s) to be saved and only with prior approval by the *Planning, Zoning & Subdivision*

Administrator.

- (3.) Construction site activities such as parking, material storage, dirt stockpiling, concrete washout, and other similar activities shall not be permitted within the TCA.
 - (4.) The same land uses can encroach in the TCA as established in the Buffer Yards Section 11.6 provided there is no disturbance to the CRZ of the preserved trees.
 - (5.) Changes that raise the grade of soil adjacent to the TCA is prohibited.
 - (6.) Utility line trenches and similar uses are prohibited within the TCA. Due to certain site conditions, where disturbance within the TCA is unavoidable, underground tunneling or directional boring of utilities is allowed on one side only. The *Planning, Zoning & Subdivision Administrator* shall be notified prior to this type of activity and an on-site meeting shall be performed to ensure compliance.
 - (7.) Protective fencing shall be installed around the TCA prior to any tree disturbing activities. Such fences shall be at least four (4) feet high and shall consist of wood lathe woven wire fencing. Fencing shall remain in place until construction is complete and other landscaping has been installed, and the *Planning, Zoning & Subdivision Administrator* has approved its removal. See the Village of Marvin Technical Standards & Specifications Manual fencing detail.
 - (8.) The TCA should be designated as such with "Tree Conservation Area" signs (in both English and Spanish) posted visibly on the outside of the fenced-in area. Signs may not be posted on the trees.
- (B.) Tree Removal within the TCA. Trees less than four (4) inches DBH not being preserved, undergrowth and plant material in poor condition may be removed from the TCA. No roots shall be removed from the TCA. Stumps may be removed only by grinding. All requests for tree removal within the TCA must have prior approval by the *Planning, Zoning & Subdivision Administrator* pursuant to the provisions of this chapter. Any tree within the TCA, including the CRZ, which the landowner chooses to remove or that must be removed due to poor health or impractical means of preservation shall be removed in a manner that is in accordance with standard arboricultural practice per American National Standards Institute (ANSI A300) standards so as to cause as little disturbance or harm to those trees intended to be saved as practical. However, in an emergency situation due to storm damage; to alleviate an immediate hazard to the health, safety, and welfare of the citizens; or to repair property damage, prior approval for tree removal in previously approved designated areas is not required.
- (C.) Tree Conservation Plan Procedures. Approval of a Tree Protection Plan is required for all projects described in Section 11.3, except those listed in Section 11.4

Exemptions and Section 11.10-2 below, and shall be submitted along with all other necessary drawings to the Technical Review Committee. Tree protection items shall be included on all grading plans, erosion control plans, and tree disturbance permit plans. Upon approval of the plan, a Tree Disturbance Permit will be issued prior to any tree-disturbing activities.

11.10 Activities Requiring a Tree Disturbance Permit

11.10-1 Purpose. Except as otherwise exempted herein, it shall be unlawful to:

- (A.) Remove, excessively prune, top-out, apply chemicals that are harmful to, or disturb any tree or the soil within the CRZ of any tree; or
- (B.) Clear vegetation from a site; or
- (C.) Begin any excavation, brushing, grubbing, stumping, grading, earth-work, utility work, remove soil, or place fill on a site within Marvin and its extraterritorial jurisdiction until the *Planning, Zoning & Subdivision Administrator* has issued a permit certifying that such activity complies with the applicable provisions of this Ordinance.

11.10-2 Applicability and Exceptions. The provisions of this section shall apply to all Land Development except:

- (A.) Routine maintenance of existing vegetation outside the public rights-of-way, such as pruning, watering and fertilizing.
- (B.) The removal of dead trees and shrubs or trees and shrubs that have been diagnosed and determined to be diseased beyond treatment, with the burden of proof being placed on the remover.
- (C.) Removal of soil or vegetation from undeveloped land to allow for non-commercial open space no greater than one-quarter (1/4) acre, providing this activity does not take place within the CRZ of any rare or specimen tree.
- (D.) Land disturbing activity normally associated with the occupancy of an existing single family or two-family dwelling.
- (E.) Any new construction or expansion of a single family or two-family dwelling requiring a building permit and involving land disturbance less than ten thousand (10,000) square feet, unless the cumulative land disturbance is over ten thousand (10,000) square feet.

11.10-3 Tree Protection Plan Requirements. A Tree Protection Plan for all development projects to which these standards apply, along with all other necessary drawings, shall

be submitted to the *Planning, Zoning & Subdivision Administrator*. Tree protection items shall be included on all demolition plans, grading plans, erosion control plans, stormwater/drainage plans, and tree disturbance permit plans. Drawings shall identify the following items.

- (A.) Boundaries of the required Tree Conservation Area (TCA)
- (B.) Required planting yard
- (C.) Protected trees within the TCA including tree size and species
- (D.) CRZ of each proposed protected tree or group of trees
- (E.) Limits of clearing
- (F.) Grading
- (G.) Trenching
- (H.) Required tree protection measures including protective fencing and signage
- (I.) Overhead and underground utilities, rights-of-way, and easement
- (J.) Areas of reforestation, if any
- (K.) Stream buffers, if any
- (L.) A complete survey of all trees on the *site* that exceed 18 inches DBH, including tree size and species.

11.10-4 Plan Notes. The following required notes shall be indicated on tree protection plans, erosion control plans, grading plans, and Tree Disturbance Permit plans in **LARGER FONT SIZE IN BOLD CAPITAL LETTERS**:

- (A.) Contact the Planning Department to set up a pre-construction meeting.
- (B.) All tree protection devices must be installed prior to inspection by the *Planning, Zoning & Subdivision Administrator* and prior to any tree disturbance activities.
- (C.) Removal or damage of trees in the conservation area will be subject to the penalties established in the Section 11.18, Enforcement, of this Ordinance.

11.10-5 Plan Review. The aforementioned plans shall be reviewed by the *Planning, Zoning & Subdivision Administrator* for conformance with applicable provisions of this section and for tree and vegetation viability. The plans will either be approved or returned for revisions. Reasons for return shall be noted on the proposed plan.

- 11.10-6 Installation of Protective Measures. All tree protection measures shall be installed prior to inspection by the *Planning, Zoning & Subdivision Administrator* or their *designee* and prior to tree disturbance.
- 11.10-7 Site Inspections. The *Planning, Zoning & Subdivision Administrator* or their *designee* will conduct follow-up site inspections for enforcement of the tree protection requirements.
- 11.10-8 Permit Display. All permits issued hereunder shall be so displayed as to be clearly visible from a public right-of-way.
- 11.10-9 Emergency Waiver. The provisions of this section are waived if compliance would hamper the rescue of life or property from immediate danger or the repair of utilities in the event of emergencies such as wind storms, ice storms, or other disasters.

11.11 Rare and Specimen Trees

- 11.11-1 Rare and Specimen Trees on Developing Land.
- (A.) Rare and specimen trees shall be shown on all Tree Protection Plans if such trees are within one hundred (100) feet of areas where soil disturbance or construction activity is proposed. In addition, these trees shall be identified and located by survey on the Tree Protection Plan if such trees are located on the development site or adjacent public property. The *Planning, Zoning & Subdivision Administrator* may visit the site to determine the accuracy of identification.
- (B.) Proposed development shall be designed to preserve rare and specimen trees. Where rare and specimen trees exist, flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces, and location of utilities shall be pursued in order to save them.
- (C.) No soil disturbance from construction, trenching, grading, paving, or storage of equipment or materials shall take place within the critical root zone of any rare or specimen tree to be preserved unless the *Planning, Zoning & Subdivision Administrator* determines there is no reasonable way the property can be developed without such disturbance or unless the proposed work will be carried out in accordance with the specifications for such work in the Marvin Technical Standards & Specifications Manual.
- (D.) No rare tree shall be removed from land being developed unless the *Planning, Zoning & Subdivision Administrator* determines there is no reasonable way the property can be otherwise developed, improved or properly maintained and the tree saved.

11.11-2 Voluntary Protection of Rare and Specimen Trees on Private Land.

Rare and specimen trees that are located on individual lots with single and two-family homes shall be protected if voluntarily registered by the property owner.

11.12 Land Being Developed Outside the Tree Conservation Area (TCA)

11.12-1 Protective Fencing.

- (A.) Vegetation located outside the TCA that is to be protected on land being developed, as indicated on a Tree Protection Plan, shall be protected by wood lathe woven wire fencing or other equally effective measures during construction activity. Such fencing shall be located and erected according to Village standards and be located as shown on the Tree Protection Plan, landscape plan and site grading plans. All land disturbing activity, storage of equipment, building material, soil, and other debris shall be kept within the area of development activity and outside of the protective fencing.
- (B.) Vegetation that is to be retained during rights-of-way clearing of single family or two-family residential subdivisions, as indicated on a Tree Protection Plan, shall be delineated by wood lathe woven wire fencing and highlighted with high visibility flagging during construction activity. Such flagging shall be located and installed according to Village standards and be located as shown on the Tree Protection Plan, landscape plan and site grading plans. The use of flagging shall be limited to those specific applications where no rare or specimen trees will be affected by development activity and the *Planning, Zoning & Subdivision Administrator* determines it to be as effective as protective fencing.
- (C.) Landscaping activities taking place after the removal of protective fencing shall be accomplished with light machinery or hand labor and in accordance with the Village of Marvin Technical Standards & Specifications Manual.

11.12-2 Treatment of Trees During Construction.

- (A.) No nails, ropes, cables, signs or fencing shall be attached to any part of any tree that is to be preserved.
- (B.) Trees that are damaged during construction shall be treated so as to promote their continued health.

11.12-3 Removal of Regulated Trees. No regulated tree shall be removed without first acquiring a permit from the *Planning, Zoning & Subdivision Administrator*. Failure to do so shall constitute a violation of this chapter and shall be subject to the penalty provisions in Section 11.18, Enforcement, of this Ordinance.

(A.) Enforcement. Upon a determination that work does not conform to the provisions of this section, the *Planning, Zoning & Subdivision Administrator* shall cause issue of a *Stop Work Order* which shall remain in effect until all corrections are made in conformance with this Ordinance.

(B.) Pre-construction Conference. Prior to the commencement of any activities requiring a permit, a pre-construction conference with the *Planning, Zoning & Subdivision Administrator* shall take place to review procedures for protection and management of all protected landscape elements identified on the landscape protection plan and to designate one or more persons as landscape protection supervisor(s).

11.13 Public Trees and Trees Interfering with Public Space – Maintenance and Protection

The following standards are hereby established for the maintenance and protection of public trees:

11.13-1 Approved Personnel. No person except an authorized employee or contractor of a public utility or other approved public personnel shall cut, prune, or remove any living tree on or in a public highway, right-of-way, public park, sidewalk, or other public property; or cut or disturb or interfere in any way with the roots of any tree on public property.

11.13-2 Owner Responsibility for Private Trees Interfering with Public Space. Every owner of any tree overhanging any street or right-of-way within the Village shall prune the branches so that such branches shall not significantly obstruct the view of any street intersection and so that there shall be a clear space of thirteen (13) feet above the street surface or eight (8) feet above the sidewalk surface. Said owners shall remove all dead, diseased or unsafe trees, or broken or decayed limbs that constitute a nuisance to the safety of the public. The Village shall have the right to prune any tree or shrub on private or public property when it constitutes a public safety hazard, interferes with pedestrian traffic or the visibility of any traffic control device, sign, or sight triangle.

11.13-3 Placement of Materials Around Plants. No person shall pile building or other material around any tree or shrub in a public right-of-way in any manner that will injure such tree or shrub.

11.13-4 Paving Adjacent to Trees. No person shall pave or place gravel, soil, or other such material within eight (8) feet of any tree on public property, unless approved by the *Planning, Zoning & Subdivision Administrator*. Plans which fail to identify an impacted tree shall not constitute a transfer of responsibility to the Village or its *Planning, Zoning & Subdivision Administrator*.

- 11.13-5 Dumping of Deleterious Matter. No person shall dump, pour or spill any oil, pesticide, or other deleterious matter upon any tree or tree space in any public rights-of-way, or keep or maintain upon any public rights-of-way, any receptacle from which any oil, pesticide, or other deleterious matter leaks or drips onto any soil, parking area, or concrete gutter so as to injure any tree on any public property.
- 11.13-6 Disposal of Materials on Public Places. No person shall use parks, sidewalks, utility easements, or other public places to dump grass clippings, tree trimmings, rocks or other organic refuse. This shall not apply to properly placed yard waste that is intended for pickup by Village of Marvin Public Services or Solid Waste crews.
- 11.13-7 Decoration, Posting and/or Advertising on Public Trees. No person shall decorate a tree or shrub in any public right-of-way, neutral ground, park, sight triangle or sidewalk, either with or without lights, or place advertising material, posters, political placards, rope, or wire on trees in public properties.
- 11.13-8 Planting of Street Trees. No part of this section is intended to prohibit the planting of street trees by adjacent property owners within tree planter strips, providing that the selection and location of said trees is in accordance with planting specifications set forth in this section and that any such planting conducted under utility lines shall be limited to planting material taken from the list of recommended small-maturing trees in the Marvin *Technical Standards & Specifications Manual*.

11.14 Hazard Trees

The following standards are hereby established for trees and shrubs determined to be hazardous.

- 11.14-1 Removal of Trees. The *Planning, Zoning & Subdivision Administrator* may order the removal of any tree, shrub, or part thereof on private or public property, which is unsafe or injurious to sewers or other public improvements, structures, or to the general public.
- 11.14-2 Right to Enter upon Property. The *Public Works Administrator* or their designee may enter upon public or private property in the Village to spray or otherwise treat any tree infected or infested by any parasite, insect, or disease to prevent the breeding or scattering of any parasite or animal pest and to prevent danger to persons or property or to trees planted on Village property.
- 11.14-3 Owner Notification and Opportunity to Correct. Prior to exercising the authority conferred by this section, the *Planning, Zoning & Subdivision Administrator* shall give the owner notice and an opportunity to correct the condition by requesting that corrective action be taken. The request shall be in writing and sent via First Class Mail to the owner of the property in question and shall be acted upon within twelve (12) days (or a lesser period of time if an imminent threat to life or property exists)

from the date of the receipt of the request. If, after twelve (12) days, the owner has not corrected the condition or undertaken action that would lead to a timely correction of the condition, the *Planning, Zoning & Subdivision Administrator* may enter upon the property, perform the work necessary to correct the condition, and bill the owner for the actual costs incurred. If the property owner fails to pay the bill for such work within thirty (30) days of such notice, the amount of the bill and any collection costs, including attorney's fees and court costs, incurred shall become a lien against the subject property and shall be collected in the same manner provided for the collection of delinquent taxes. In situations involving an immediate threat to public health, safety, or welfare, the Village may act without prior notification to the property owner.

11.15 Species Selection and Planting Techniques

In order to ensure that landscaping required by this article is suitable and is planted in the correct manner, the following selection and planting techniques are hereby established.

11.15-1 Plant Species: Species used in required planting yards and parking lots shall be of a locally adapted nature. Other species may be approved by the *Planning, Zoning & Subdivision Administrator*. See the Village of Marvin Technical Standards & Specifications Manual for: "recommended", "not recommended" and/or "prohibited species."

11.15-2 Plant Size: Specific plant sizes are listed below:

(A.) Canopy Tree Size: When mature, a canopy tree should have a minimum height of forty (40) feet and have a minimum crown width of thirty (30) feet. Canopy trees must be a minimum of two (2) inches in caliper, measured six (6) inches above grade, when planted.

(B.) Understory Tree Size: When mature, an understory tree must have a minimum height of twenty-five (25). Understory trees must be a minimum of one and one half (1.5) inches in caliper measured six (6) inches above grade at the time of installation.

(C.) Shrub Size and Type: All shrubs approved for landscaping of vehicle use areas, loading and unloading areas, and outside storage areas shall be evergreen, with a minimum size of eighteen (18) inches, spread or height, when installed and reach a minimum height of thirty-six (36) inches and a minimum spread of thirty (30) inches. Such shrubs shall be planted using required planting techniques and located parallel to the edge of parking lots, access drives, loading and unloading areas, and outside storage areas. Required shrubs in other locations, outside of the areas listed above, may be evergreen or deciduous and shall be three (3) gallon in size as per American National Standards Institute (ANSI) standards at the time of installation.

11.15-3 Planting Techniques

The following soil preparation techniques shall be used for all required landscape areas:

(A.) Soil preparation for the entire landscape yard includes the addition of organic amendments tilled to a depth of eight (8) to twelve (12) inches.

(B.) All plantings in landscape yards shall be mulched, including interior parking lot islands less than five hundred (500) square feet, to a depth of three to four (4) inches. The mulch shall be free of trash and maintained weed free thereafter.

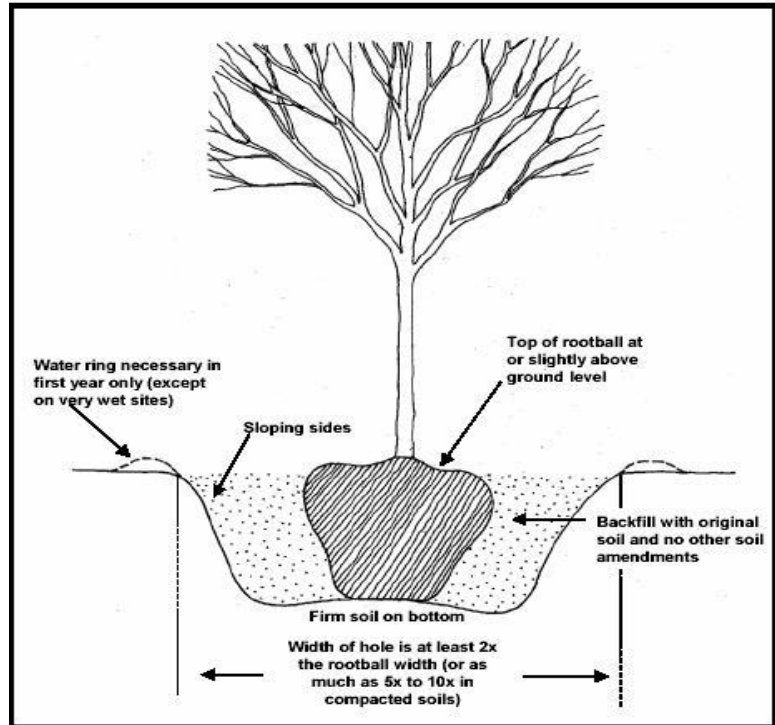
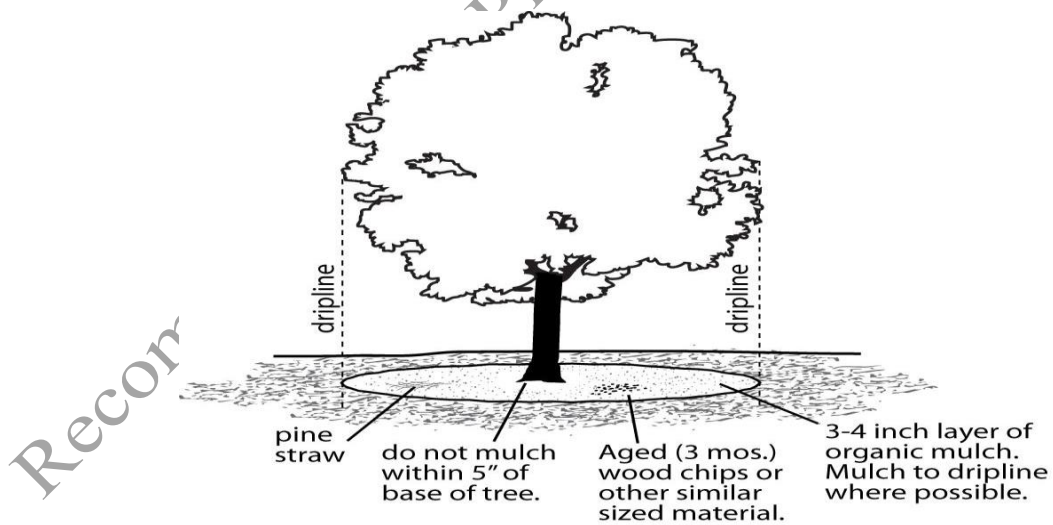


Figure 2. Recommended Tree Planting Method

The sketch below and Figure 2 above, illustrate these principles.

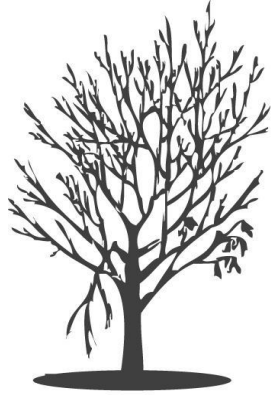


(C.) Plants, as required by this section, are to be grouped together where possible.

(D.) For establishment and survival, plants shall be watered by the landowner or contractor for the first year after planting.

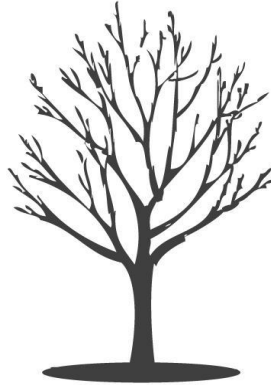
11.16 Maintenance of Regulated Planting Spaces

- 11.16-1 Owner Responsibility. The owner or lessee of the property where landscaping is required shall be responsible for the maintenance and protection of all plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris. Any dead, unhealthy, or missing plants (preserved or planted) shall be replaced with new plant material equal to the number of credited plants planted or preserved, subject to the provisions of this Ordinance. The replacement plant material shall be sized according to the requirements of this section and shall conform to the initial planting rates and standards. The replacement plant material shall be planted within one hundred eighty (180) days of the date that dead, unhealthy, or missing plants are identified. Regulated spaces include those physical areas in which trees and landscape materials are required by this section.
- 11.16-2 Failure to Maintain. Failure to maintain or replace dead, damaged, or diseased material or to repair a broken fence or wall (where such fence or wall is considered a required portion of the landscape as outlined by this section) shall constitute a violation of this Ordinance and shall be subject to the provisions in Section 11.18, Enforcement, if not replaced within 30 days of notification.
- 11.16-3 Destruction by Natural Event. In the occurrence of a natural event which destroys a large quantity of vegetation, the owner or lessee shall have 180 days to replant. Replaced plant material must be in compliance with the minimum size, spacing and quantity standards of this section.
- 11.16-4 Irrigation. It is suggested that drip irrigation, which includes drip misters, be used for required landscaping planting beds during the required establishment period. After establishment, supplemental watering can be reduced and used on an as needed basis. Traditional spray irrigation is prohibited except for turf areas.
- 11.16-5 Pruning. All required trees shall be allowed to reach their mature size and shall be maintained at their mature size. Trimming and pruning shall be done in strict accordance with the (ANSI) standards. Topping is not an acceptable pruning practice. Topping is the reduction of a tree's size using heading cuts that shorten limbs or branches back to a predetermined crown limit. The *Planning, Zoning & Subdivision Administrator* may require the removal and replacement of any tree(s) located in required planting yards or TCA's that have been topped or excessively trimmed.



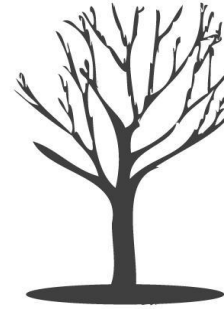
Before Pruning

Mature trees often need pruning due to crowded foliage, broken and dead branches, and asymmetrical shape.



After Proper Pruning

After pruning, trees should retain a symmetrical appearance and tree-like form. A minimum canopy spread of 20 feet must be maintained.



After Excessive Pruning

Pruning in excess of one fourth (25%) of the required canopy spread is prohibited. Tree-topping (hatracking) is prohibited.

11.17 Regulation of Tree Care Professionals

The following standards are established for tree care professionals working within the Village of Marvin and its jurisdiction.

11.17-1 Village-Owned Lands.

- (A.) It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees or trees within Village owned public rights-of-way without first applying for and procuring a Tree Disturbance Permit. Such a permit will only be granted to individuals, businesses, or companies who employ a Certified Arborist to perform or supervise all tree work.
- (B.) In order to receive a Tree Disturbance Permit, applicants must first sign an affidavit agreeing to abide by ANSI 300 Standards for tree care. Specifically, the “topping” of trees shall be prohibited except in cases where the top of the tree has been injured beyond repair by a storm or related incident.
- (C.) Before any permit shall be issued, each applicant must first file evidence of possession of liability insurance and workman’s compensation insurance, in the minimum amounts as required by the Village of Marvin, indemnifying the Village or any person injured or damage resulting from the pursuit of such endeavors as herein described.
- (D.) The *Planning, Zoning & Subdivision Administrator* is authorized to suspend or revoke the right of any person or business to perform work for the Village of Marvin that engages in work practices that do not comply with tree care standards as

specified in this section and the related ANSI Standards.

11.17-2 Private Lands.

- (A.) The Village of Marvin shall not directly regulate private companies providing tree care services on private property. However, the *Planning, Zoning & Subdivision Administrator* may direct property owners to the International Society of Arboriculture (ISA) website or other resources to assist in the location of Certified Arborists, who have specific training in tree care.

11.18 Enforcement

Enforcement of the standards and requirements set forth in this article shall be as provided below.

11.18-1 Notice and Appeal.

- (A.) Notice of Violation. The *Planning, Zoning & Subdivision Administrator* shall provide notice of the violation and any required remedies. The notice of violation shall be served by any means authorized under G.S. 1A-1, Rule 4, and the notice shall set forth the nature of the violation, the measures required to comply with this section, if compliance is at all practicable, and a reasonable time period (not less than 30 days and not to exceed 180 days) within which compliance must be met.
- (B.) Appeal. If any aggrieved party disagrees with a decision of the *Planning, Zoning & Subdivision Administrator*, such party may request a hearing within twelve (12) working days of receipt of the violation. The request must be in writing and directed to the *Board of Adjustment*. The hearing will be conducted at the next regularly scheduled meeting of the *Board of Adjustment*.
- (C.) Decision of *Board of Adjustment*. The *Board of Adjustment* may modify, amend or revise the decision appealed. The decision of the *Board of Adjustment* shall be served upon the appealing party by registered or certified mail, return receipt requested, or by hand delivery.
- (D.) Appeal to Superior Court. If any aggrieved party is dissatisfied with the decision of the *Board of Adjustment*, an appeal may be filed with the Union County Superior Court. Notice of the appeal must be filed within thirty (30) days of receipt of the *Board of Adjustment* decision. Any appeals to the Superior Court shall be in the nature of certiorari.
- (E.) Injunction. Any aggrieved party may request an injunction to preserve the status quo during the pending of any appeal in accordance with applicable North Carolina law.

11.18-2 Penalties.

- (A.) Tree Disturbance Prior to Permit Approval. The penalty for the removal of or damage to trees, prior to the issuance of a tree disturbance permit shall be a civil penalty of ten thousand dollars (\$10,000.00) per acre or prorated fraction thereof. (i.e., the civil penalty for a site of 0.35 acres that is cleared prior to approval or prior to the issuance of a tree disturbance permit is three thousand five hundred dollars (\$3,500.00)). Additionally, the Village of Marvin, under G.S. 160D-921, may deny a building permit to any landowner who clears land in anticipation of development in violation of this section for up to three (3) years after completion of the timber harvest. If it is determined that the timber harvest was a “willful violation” of this Ordinance, then the Village of Marvin reserves the right to deny development approvals for a period of two (2) years following the timber harvest.
- (B.) Removal or Damage to Individual Trees after Permit Approval: The penalty for removal of or damage to the CRZ of protected trees after the issuance of a tree disturbance permit within an approved TCA without approval by the *Planning, Zoning & Subdivision Administrator* shall result in a civil penalty as determined by the *Planning, Zoning & Subdivision Administrator*, up to the amount shown in Table 11.6 below, in addition to the replacement of those trees with quality specimens native to the Central Piedmont & Northeastern Piedmont regions of North Carolina.

Table 11.6 – Penalties for Unauthorized Tree Removal

DBH of Tree(s) Removed or Damaged	Maximum Civil Penalty	Reforestation (4 inch DBH minimum)
4 – 11.9 inches	\$800	1 tree
12 – 20.9 inches	\$1,600	2 trees
21 – 28.9 inches	\$2,400	3 trees
29 – 35.9 inches	\$3,200	4 trees
36+ inches	\$4,000	5 trees

- (C.) Removal of an Area of Trees after Permit Approval. The penalty for removal of or damage to an area of protected trees that have not been surveyed after the issuance of a tree disturbance permit within an approved TCA without approval of the *Planning, Zoning & Subdivision Administrator*, shall result in a civil penalty of ten thousand dollars (\$10,000.00) per acre or prorated fraction thereof but not less than one thousand dollars (\$1,000.00). Such areas shall be reforested at a rate one (1), two-inch caliper canopy tree per two hundred (200) square feet.

(D.) Failure to Install or Maintain Tree Protection Devices. There shall be a civil penalty of five hundred dollars (\$500.00) per day for failure to install or maintain approved tree protection measures sufficient to protect the TCA beginning with the date the citation is issued and ending when the site is in compliance. The property owner may be subject to any penalties for damage under Section 11.18-2 above.

(E.) Failure to Comply with the provisions of Section 11.6 Landscape Requirements. There shall be a penalty of five hundred dollars (\$500.00) per day for failure to install required landscape material or to replace dead landscape material beginning with the date the citation is issued and ending when the site is in compliance.

(F.) Civil Penalties Considered Restorative. Civil penalties assessed under this section are considered restorative; intended to provide compensation to the Village for costs associated with the Village's program to monitor, control, prosecute, cure and/or correct the violation. As such, the amount declared herein is presumed to provide sufficient restoration to the Village for its costs. The decision of the *Planning, Zoning & Subdivision Administrator* to assess a civil penalty may be delivered by personal service, by registered mail, or certified mail return receipt requested or by any means authorized under G.S. 1A-1, Rule 4. Each day of a continuing violation shall constitute a separate violation.

11.18-3 Appeal to Superior Court. Every decision of the *Planning, Zoning & Subdivision Administrator* or the *Board of Adjustment* to assess a civil penalty shall be subject to review by the Union County Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after the decision of the *Planning, Zoning & Subdivision Administrator* or *Board of Adjustment* to assess a civil penalty.

11.18-4 Failure to Appeal and/or Pay: Any civil penalty that is assessed against a person who violates the provisions of this Ordinance shall be recovered by the Village in a civil action in the nature of a debt (placement of liens against properties, etc.), to be brought in the Union County Superior Court if the violator fails to give notice of timely appeal and fails to pay the penalty within the prescribed period of time after he or she has been cited for the violation.

11.18-5 Violations Not Criminal: A violation of this Ordinance shall not be considered a misdemeanor under N.C. General Statute 14-4.

ARTICLE 12

OFF-STREET PARKING, STACKING, AND LOADING AREAS

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ARTICLE 12

OFF-STREET PARKING, STACKING, AND LOADING AREAS

12.1 Off-Street Parking, Stacking, and Loading Space Required

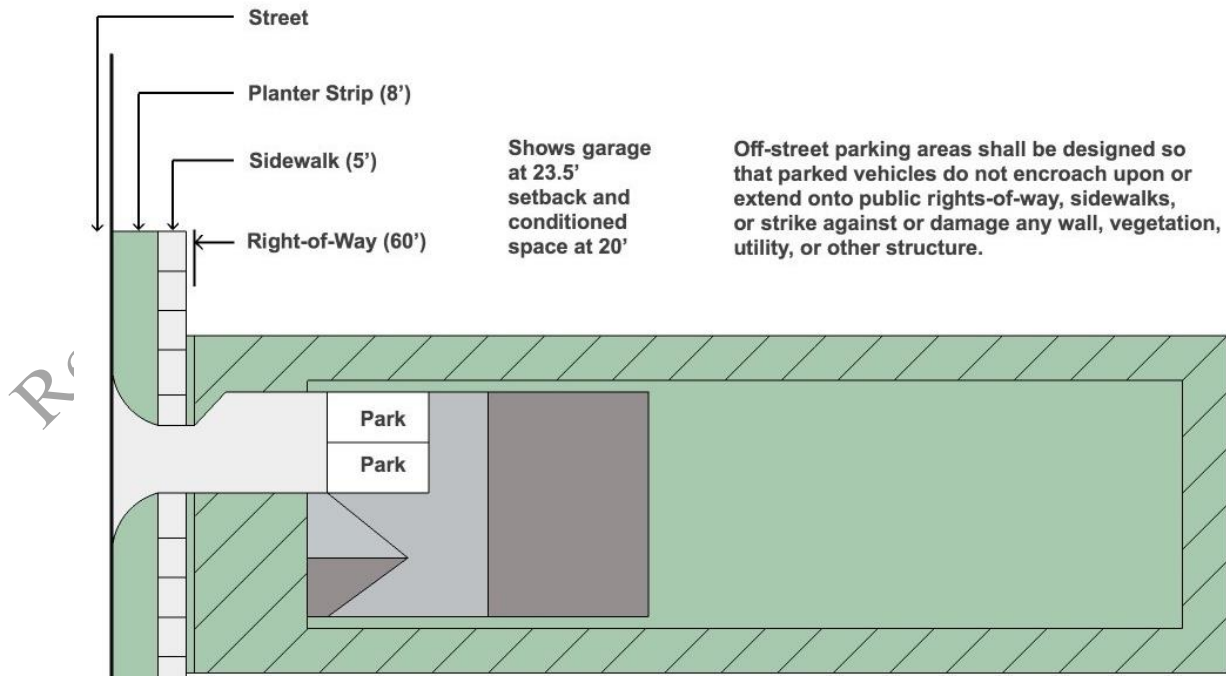
When any building or structure is erected, modified, and/or enlarged the requirements of this Section shall be met. For enlargements, modifications, or increase in capacity, the requirements of this Section shall apply only to such enlargements, modifications or increases in capacity. In cases of mixed occupancy, the minimum number of off-street parking and loading spaces shall be the cumulative total of individual use requirements unless otherwise specified.

12.2 Paving and Maintenance

All parking, stacking, and loading facilities shall be permanently paved and maintained by the owners or occupants as long as the use they serve exists, except as provided in section 12.3 herein.

12.3 Standards for Parking in Residential Districts

12.3-1 Medium and Low-Density Lots. To enable emergency access to occupant area on *Lots of Record* equal to or greater than sixty (60) feet in width, but less than 120 feet in width, established after January 1, 2024, minimum required off-street parking space(s), whether enclosed or not, shall be recessed at least 3.5 feet behind the primary front plane of the Conditioned Space of a residential structure. (Ex. SFR-3)



12.3-2 High Density Lots. To reduce traffic conflicts with vehicles operating in reverse and enable emergency access to occupant area on *Lots of Record* less than sixty (60) feet in width, *alley* access by a “*privately maintained public access and utility easement*” is required where on-site parking is provided except as provided in Section 12.3-4 below. *Existing Lots of Record* are exempt.

12.3-3 Front or Side Entry Parking on High Density Lots. To enable emergency access to occupant area on *Lots of Record* less than sixty (60) feet in width, attached and detached single-family homes may be permitted to have front or side entry parking access if the following conditions are met:

- (1.) Driveways connected to the street shall be a minimum of 47’-0” apart, as measured at the right-of-way line. *Existing Lots of Record* are exempt.
- (2.) For attached single-family homes, the minimum required off-street parking space(s), whether enclosed or not, may not abut one another unless connected to a privately maintained public access and utility easement.
- (3.) Single or double bay side-loading off-street parking spaces, whether enclosed or not, shall be permitted for the end unit of an attached house provided the minimum required off-street parking space(s), whether enclosed or not, is recessed at least 1.5 feet behind the primary plane of the conditioned space of a residential structure.

12.3-4 Parking on Residential Streets. Parking is allowed along all residential streets in accordance with the adopted street parking schedule, except designated bike lanes, within eight (8) feet of a driveway apron, within 15 linear feet of a fire hydrant, and areas specifically signed for no parking.

12.3-5 No Minimum Parking Requirements Met in Right-of-Way. In no case shall minimum required off-street parking spaces(s), whether enclosed or not, extend into the public right of way, or into an easement for a public sidewalk on private property.

12.3-6 Driveways to Residential Lots. Driveways providing vehicular access to residential lots shall be not less than twelve (12) feet and no greater than twenty-two (22) feet in width at the right of way and across sidewalks in the public right-of-way.

12.3-7 On-Street Parking Meeting Residential Parking Requirement. On-street parking at the lot front may not be counted toward all or part of the minimum parking requirement of a dwelling unit.

12.3-8 Location of Parking Structures/Garages. Detached accessory structures used for parking motor vehicles may only be placed in accordance with Sections 2.10-2 (structures), 2.10-9 (encroachments), 2.13-1 (relationship to principle structures) and of this Ordinance.

12.3-9 Storage of Vehicles on Street. Vehicles shall not be parked on the street for extended periods such that they appear to be stored on the street. The *Planning, Zoning &*

Subdivision Administrator, at their discretion, may require removal of vehicles that appear to be stored on the street in the interest of protecting the public safety and welfare.

12.3-10 Parking of Commercial Vehicles. Vehicles used primarily for commercial purposes and with more than two axles are prohibited from parking on streets, or within the required front, side and/or rear yard setback on private property in Single-Family Residential Districts (SFR-1, SFR-2, or SFR-3). This shall not be construed as preventing the temporary parking of delivery trucks, moving vans, service vehicles, and similar vehicles which deliver goods or services to the premise.

12.3-11 Parking of Unlicensed Vehicles. Provisions for parking unlicensed vehicles in residentially zoned districts shall be as follows.

- (1.) No more than two (2) motor vehicles that do not have a current, valid license plate and are not fully enclosed in a permanent structure shall be permitted outside on any premises, provided such vehicles are registered to the occupant of the premises or immediate family member of the occupant as the record title of the vehicle.
- (2.) No unlicensed motor vehicle shall be permitted outside of any premises (i.e., on the street).
- (3.) Vehicles described in paragraphs (1) and (2) are not permitted to be located within any established setback or any established side yards which abut a street or any required side yards as mandated by these regulations or any street right-of-way. If stored in the rear yard, the vehicle(s) must be a minimum of five (5) feet off the rear property line.
- (4.) Vehicles described in paragraphs (1) and (2) are not permitted on vacant or undeveloped parcels.
- (5.) Vehicles described in paragraphs (1) and (2) are not permitted on public streets or public right of way.

12.4 Access

All parking, stacking, and loading facilities shall have paved vehicular access to a public street in accordance with Article 2, Section 2.17 of this Ordinance. Exception is made for paving driveways in the Agricultural (AG) district beyond the public road right-of-way.

12.5 Use for No Other Purpose

Land used to provide required parking, stacking, and loading shall not be used for any other purposes, except for temporary events. Use of land designated for and providing parking, loading, and/or stacking for other purposes shall be considered a violation of this Ordinance and subject to the penalty provisions of Article 23.

12.6 Requirements for Change in Use

If a change in use causes an increase in the required number of off-street parking, stacking, or loading spaces, such additional spaces shall be provided in accordance with the requirements of this Ordinance; except that if the change in use would require an increase of less than five percent (5%) in the required number of parking spaces or fewer than five (5) spaces, no additional off-street parking shall be required.

12.7 Accessible Spaces

Accessible spaces for the physically handicapped shall be provided as required by the North Carolina Building Code.

12.8 Bicycle Parking

All non-residential uses, except agricultural and agriculturally based businesses, and all multi-family residential uses, including condos and townhomes with shared parking, shall include bicycle parking spaces in the amount, at a minimum, equal to 5% of the parking spaces required for automobiles. This area may be a designated parking space within the parking lot near the building or an area outside the parking lot adjacent to the building. The bike parking area must include bike rack(s) and/or locker(s).

12.9 Overflow Parking

Off-street areas used for special event parking (to accommodate occasional overflow volumes) may be used with pervious ground cover where such cover can sustain the traffic and use volumes; but if not, these areas shall be constructed of any dust-free, compacted, pervious ground cover where levels of use exceed the pervious material's capability to maintain a dust free condition. The owner of the property shall be responsible for the maintenance of such parking in a clean and dust-free condition. Grass and mulch are examples of pervious ground cover; gravel and pavement are examples of impervious surfaces.

12.10 Parking of Over Size Vehicles in Residential Districts

In order to maintain both safety and the visual appeal of residential areas, over size vehicles such as recreational vehicles (RV's), watercraft and accessories, towing trailers, and commercial vehicles, as per Section 12.3-9, shall not be parked or stored on the street, or within the required front, side and/or rear yard setback on private property in Single-Family Residential Districts (SFR-1, SFR-2, or SFR-3). RVs shall be licensed motor vehicles in order to be occupied and remain on a lot for up to thirty (30) days, but not more than twice per year.

12.11 Off-Street Parking Lots and Access Areas for Non-residential Development

Off-street parking is required to meet the needs of the employees, clients, and/or customers of the principal use. Due to the potential for parking areas to use a large percentage of a development site, efforts should be made to accurately estimate the parking needs of the principal use. Strategies such as shared parking and remote parking should be used to maximize the use of existing parking available in the area in which a use is to be located. Parking areas shall be designed to minimize breaks in the pedestrian environment along the public street and create safe and comfortable passage for pedestrians. The following standards shall therefore be met.

12.11-1 Location of Parking Lots. Parking lots shall be placed behind buildings where practical; persons who wish to vary from this standard will have to appeal to the *Planning, Zoning & Subdivision Administrator*. Side of the building parking will be permitted only as indicated by Building Type and shall be measured along the build-to line. Off-street parking is not permitted in front of the primary building facade, except where specified in an adopted street section, detailed as a public plaza, or as approved by the *Planning, Zoning & Subdivision Administrator* as part of site plan review and approval.

12.11-2 Limitation on Uninterrupted Areas of Parking. Uninterrupted areas of parking lot shall be limited in size. Large parking lots shall be broken by buildings and/or landscape features. See Figure 12.11-2 below:



Figure 12.11-2: Example of parking lot broken up by landscaping.

12.11-3 Enclosure of Parking Lots. Parking lots shall be enclosed by tree planting and/or building walls(s). Plantings shall be in accordance with the provisions of Article 11, see 11.6-4. For small lots (thirty-six spaces or less), landscaping shall be required at the perimeter; for large lots (more than thirty-six spaces), landscaping shall be at the perimeter and placed to break the lot into parking areas of no more than thirty-six spaces.

12.11-4 Pedestrian Corridors. Parking lots shall be designed to allow pedestrians to safely move from their vehicles to the building. On small lots, this may be achieved by providing a sidewalk at the perimeter of the lot. On larger lots, corridors within the parking area should channel pedestrians from the car to the perimeter of the lot or to the building(s). These corridors should be delineated by a paving material which differs from that of vehicular areas and planted to provide shade and an edge. Small posts or bollards may be used to define/protect the pedestrian corridors. The minimum width of the sidewalk or pedestrian corridor shall be five (5) feet, with vehicle encroachment calculated as extending two (2) feet beyond curb or wheel stop.

12.11-5 Driveway Width. To maintain pedestrian comfort and calm the speed of entering traffic, driveways to parking areas shall be no less than twelve (12) feet and no wider than twenty-four (24) feet in width measured at the public street right-of-way and across sidewalks within said r/w. Driveways connecting to state roads shall meet the requirements of the NC Department of Transportation.

12.11-6 Interconnection of Parking Lots. To the extent practicable, adjoining parking lots serving non-residential buildings shall be interconnected. When vehicular connections are not practical, pedestrian walkways shall be provided to enable pedestrian connections between parking lots.

12.11-7 Paving of Parking Lots. All commercial driveway and parking areas shall be paved with asphalt, concrete, pervious pavement and/or pavers, or brick pavers except for areas used for overflow, special events, and peak parking. Any non-paved surface used for overflow, special events, and peak parking that cannot be maintained with healthy, living turf grass or similar ground cover shall be paved with asphalt, concrete, pervious pavement and/or pavers, or brick pavers. Paving shall not be required for.

(1.) Overflow parking facilities for religious institutions, private clubs, lodges, or other similar nonprofit organizations.

(2.) Parking areas for agricultural uses in the Agricultural (AG) District.

(3.) Parking areas for manufacturing and industrial uses in the Industrial (IND) District provided they are constructed with an all-weather surface.

(4.) Parking areas for tracked heavy construction equipment, skid-mounted equipment and similar equipment, provided they are constructed with an all weather surface.

For paved parking areas, curb and gutter or an equivalent drainage system shall be provided along the periphery of the parking lot, except where it is determined by the *Planning, Zoning & Subdivision Administrator* that such system is not practical for storm drainage and/or water quality purposes. Access drives shall be paved and maintained free from defects from the curb-line to a point at least ten (10) feet beyond the public right-of-way line for all parking and loading facilities, whether paved or unpaved.

- 12.11-8 Minimize Dust and Erosion. All parking areas shall be graded, properly drained, stabilized, and maintained to minimize dust and erosion.
- 12.11-9 Marking of Parking Spaces. All parking spaces and stacking lanes shall be clearly identified with paint lines, bumper guards, curbs, or similar treatment.
- 12.11-10 Wheel Guards or Curbs Required. All parking spaces abutting the perimeter or a landscape island shall be provided with wheel guards or curbs located so that no part of the parking vehicle will extend beyond the property line or encroach into a required planting area.
- 12.11-11 Reduction in Number of Spaces. Unless there is a change in use requiring a lesser number of spaces, the number of spaces shall not be reduced below the minimum requirements of this Article except as provided for in Section 12.6 (Requirements for Change in Use).
- 12.11-12 Parking Space Dimension. The minimum size for 90-degree parking spaces shall be 9 feet by 18 feet as shown in the *Marvin Technical Standards & Specifications Manual*.
- 12.11-13 Plug-in Electric Vehicle (PEV) Charging Stations. Hotels and/or motels shall provide PEV charging stations within designated parking spaces for a minimum number equal to four percent (4%) of all guest rooms. Restaurants shall provide a PEV charging station within a designated parking space.
- 12.11-14 Lighting and Illumination. All light fixtures (freestanding, flood, or any other form of light fixture) shall be provided with full cut-off fixtures, visors, or any other suitable directional control to direct light either downward or directly on the appropriate building. Wall pack lighting is not permitted.
- No light fixture shall create any glare or spillover lighting effects on any residential properties or streets.
- Freestanding light fixtures along all public residential street systems and all internal privately maintained street systems shall not exceed nineteen feet in total mounted height and shall consist of a decorative fixture that shields the source of light away from neighboring properties. Residential streets shall utilize the Open Traditional design with LED fixture mounted on a 12' black finished type "A" fiberglass pole.
- Lighting located within parking lots may not exceed thirty-three feet in total mounted height. Parking lot lighting shall consist of a fixture that shields the source of light away from neighboring properties and direct the illumination to the ground's surface.
- Lighting installations may include timers, dimmers, and /or sensors to reduce overall energy consumption and unnecessary lighting.

Lighting levels for canopies and awnings of commercial facilities shall be adequate only to facilitate the activities taking place in such locations and shall not be used to attract attention to the businesses. Lighting fixtures mounted on canopies shall be recessed so that the light's lens cover is recessed or flush with the bottom surface (ceiling) of the canopy and/or shielded by the fixture or the edge of the canopy so that light is restrained. Canopies shall be constructed of non-light-emitting material.

12.12 Off-Street Parking Requirements and Bicycle Alternative as an Incentive

While on-street parking can contribute substantially to everyday parking needs, sufficient off-street parking must also be provided to serve the particular needs of the building(s). The following minimum and maximum requirements for off-street parking are set forth in Table 12-1 to ensure the provision of adequate off-street parking while preventing the development of parking areas that are under used.

Minimum required parking spaces can be reduced by twelve percent (12%) where fully enclosed bicycle lockers are provided on a one-for-one exchange ratio, except for single family detached dwellings.

For any use not specifically listed in Table 12-1, the parking, stacking and loading requirements shall be those of the most similar use characteristic.

Table 12-1

Type of Land Use	Off-street Parking Spaces to be Provided:	
	<u>Minimum</u>	<u>Maximum</u>
<u>Residential</u>		
Accessory dwelling unit	1	2
Dwellings, multi-family with 2 bedrooms or less	1.5 per unit	2 per unit
Dwellings, multi-family with 3 bedrooms or more	2.5 per unit	3 per unit
Dwellings, attached age restricted	0.75 per unit	1.5 per unit
Dwellings, single-family detached and attached with 2 bedrooms or less	2 per unit	not applicable
Dwellings, single-family detached and attached with 3 bedrooms or more	3 per unit	not applicable

<u>Public Facilities/Institutions</u>	<u>Minimum</u>	<u>Maximum</u>
Ambulance services, fire stations, police stations	1 per employee on largest shift	not applicable
Family care homes, group homes, including Assisted living /Adult care/Child care/Nursing/Shelter facilities	1 per employee on largest shift, plus 1 space per 6 clients	not applicable
Churches, Synagogues, and places of worship	1 space for each 5 seats or each 40 sq. ft. of floor area available for movable seats	1 space for each 3 seats or each 30 sq. ft. of floor area available for movable seats
Civic facilities	1 per 350 sq. ft.	1 per 250 sq. ft.
Colleges and universities	1 per 3 employees, plus one space per 3 full-time students not residing on campus	1 per 1 employee, plus one space per each 1 full-time student not residing on campus
Hospitals	1 per 4 in-patient or out-patient beds plus 1 space per 2 employees on largest shift	1 per 3 in-patient or out-patient beds plus 1 space per 1 employee on largest shift
Medical, dental, or related offices	1 per examining room plus 1 space per 2 employees	1.3 per examining room plus 1 space per employee
Schools (kindergarten, elementary, middle, and high)	1 per 0.5 classrooms, plus 1 space per 5 students for high schools	1 per 0.33 classrooms, plus 1 space per 4 students for high schools

<u>Office, Business, and Industrial Uses</u>	<u>Minimum</u>	<u>Maximum</u>
Banks & financial institutions	1 per 350 Sq. ft. gross floor area	1 per 200 sq. ft gross floor area
Barber shops and salons	1 per 0.5 operator stations, plus one space per 2 employees on shift of greatest employment	1 per 0.33 operator stations, plus one space per 2 employees on shift of greatest employment
Batting cages, driving ranges, miniature golf, shooting ranges	1 per 1.5 cages, tees, or firing points	1 per 1 cage, tee, or firing point
Bed and breakfast establishments, tourist home, boarding house	1 per room, plus 1 space for the resident manager/owner and 1 for each employee	not applicable
Car wash (full service)	2 spaces in manual drying area plus 1 space per 2 employees on shift of greatest employment plus stacking for 20 vehicles	3 spaces in manual drying area plus 1 space per employee on shift of greatest employment plus stacking for 30 vehicles
Car wash (self service)	1 stacking spaces per wash bay	not applicable
Clubs, lodges	1 per 350 sq. ft.	not applicable
Convenience stores with gas pumps	1 per 350 sq. ft. (spaces at gas pumps are not recognized as parking spaces)	not applicable
Delivery services	1 per 2 employees on largest shift plus 1 per vehicle used in operation	not applicable
Drive through (not otherwise classified)	1 per 2 employees plus stacking for 3 vehicles at each window or machine	not applicable
Equipment rental and leasing	1 per 350 sq. ft.	not applicable

<u>Office, Business, and Industrial Uses</u>	<u>Minimum</u>	<u>Maximum</u>
Flea markets; open air sales	1 per 0.5 acre of site area plus 1 per 2 employees on largest shift	not applicable
Funeral establishments	1 per 4 seats of largest public room	not applicable
Furniture sales, floor covering sales	1 per 1500 sq. ft. gross floor area	not applicable
Health and fitness facilities, similar indoor recreation	1 per 200 sq. ft.	not applicable
Hotels and motels	1 per 2 guest rooms, plus additional spaces as required for other uses within the hotel/motel	1 per 1 guest room, plus additional spaces as required for other uses within the hotel/motel
Kennels or pet grooming	1 per 500 sq. ft. of sales, grooming, or customer waiting area plus 1 space per 2 employees on largest shift	1 per 350 sq. ft. of sales, grooming, or customer waiting area plus 1 space per 1 employee on largest shift
Live-work unit	1 per residential unit plus each 350 sq. ft. of office/business space	2 per residential unit plus each 250 sq. ft. of office/business space
Manufacturing, assembly or finishing operations	1 per 2 employees on shift of greatest employment, plus 1 space per 400 sq. ft. of retail sales or customer service area	1 per 1 employee on shift of greatest employment, plus 1 space per 200 sq. ft. of retail sales or customer service area
Motor vehicle, motorcycle, or recreational vehicle sales or display rental; manufactured home sales	1 per 20,000 sq. ft. of display area plus 1 space per 2 employees on largest shift	1 per 5,000 sq. ft. of display area plus 1 space per employee on largest shift
Office	1 per 350 sq. ft.	1 per 200 sq. ft.

<u>Office, Business, and Industrial Uses</u>	<u>Minimum</u>	<u>Maximum</u>
Repair and service businesses providing on-site services	1 per 350 sq. ft.	1 per 200 sq. ft.
Repair and service businesses providing off-site services	1 per 2 employees	1 per 1 employee
Restaurants, bars, night clubs (plus 11 spaces for stacking if drive-through service is proposed)	1 per 4 seats, plus one space per 2 employees on shift of greatest employment	1 per 2 seats, plus one space per 1 employee on shift of greatest employment
Retail sales	1 per 350 sq. ft.	1 per 200 sq. ft.
Self-service storage facilities	1 per 30 storage units, plus one space per 2 employees on shift of greatest employment	1 per 15 storage units, plus one space per 1 employee on shift of greatest employment
Servicing, packaging, and storage of commodities	1 per 2 employees on shift of greatest employment	1 per 1 employee on shift of greatest employment
Theaters, stadiums, arenas, and sports courts	1 per 4 seats	1 per 3 seats
Vehicle service stations and auto repair garages (area at gas pump is not recognized as parking spaces)	1 per 3 service bays, plus one space per 2 employees on shift of greatest employment	1 per 1 service bay, plus one space per 1 employee on shift of greatest employment
Veterinary services	1 per 1 employee, plus 2 spaces per doctor	1 per 1 employee, plus 4 spaces per doctor
Warehouses, wholesale, and distributive businesses	1 per 2 employees on shift of greatest employment, plus one space per 350 sq. ft. of area open to the public	1 per 1 employee on shift of greatest employment, plus one space per 200 sq. ft. of area open to the public

<u>Other</u>	<u>Minimum</u>	<u>Maximum</u>
Amusement parks, fairgrounds, skating rinks	1 per 850 sq. ft. of activity area	1 per 200 sq. ft. of activity area
Athletic fields	1 per 2,500 sq. ft. of field	1 per 1000 sq. ft. of field
Equestrian facility	1 per 5 stalls	1 per 1 stall
Golf courses	1 per 4 tees	1 per tee
Tennis Courts	1 per 3 courts	1 per court

12.13 Off-Street Parking Exceptions

The following exceptions to the off-street parking requirements of section 12.11 shall be permitted.

12.13-1 RESERVED

12.13-2 Parking Reduction in MS District. In the Main Street (MS) District, the off-street parking requirements of this Article shall be reduced 50% for all uses where shared and/or remote parking provisions are made in accordance with Sub-section 12.13-8 below.

12.13-3 Fee in Lieu in MS District. In the Main Street (MS) District, uses may provide a fee in lieu of providing any or all of the off-street parking required by this Article. This fee shall be in the amount determined by the Village of Marvin and based on the cost of providing parking (including land costs, development costs, and maintenance costs) in the Main Street (MS) District. Such fee(s) shall be used by the Village for the provision and maintenance of parking in the Main Street (MS) District. Any fee collected in lieu of providing the required parking for a particular business or use shall be held in a separate fund and used to provide or maintain parking that can be used by clients, customers, employees, and others frequenting that business or use. Such parking shall be located within a reasonable distance (not more than 1,350 feet as measured along pedestrian ways) of the business or use providing the fee in lieu.

12.13-4 On-Street Parking for Multi-Family Residential Buildings. Residential buildings meet or contribute to meeting parking requirements with on-street parking if the fronting street is specifically designed to meet the parking needs of the residential buildings.

12.13-5 Parking on Streets in Residential Districts. Parking shall be allowed along all streets in residential districts except along alleys, designated bike lanes, and areas specifically signed for no parking. Vehicles shall park so as not to block access to

intersections and driveways to properties.

12.13-6 No Off-street Parking Facilities in Street Right-of-Way. In no case shall off-street parking extend into the public street right-of-way, or into an easement for a public sidewalk on private property.

12.13-7 Storage of Vehicles on Street. Vehicles shall not be parked on the street for extended periods such that they appear to be stored on the street. The *Planning, Zoning & Subdivision Administrator*, Code Enforcement Officer, or Chief of Police at their discretion, may require removal of vehicles that appear to be stored on the street in the interest of protecting the public safety and welfare. In the event provisions of this section conflict with the provisions of the Street, Traffic and Parking Ordinance; the Street, Traffic and Parking Ordinance shall prevail.

12.13-8 Shared and Remote Parking

(A.) Shared parking. The *Planning, Zoning & Subdivision Administrator* may approve the joint use of up to 100 percent of the required parking spaces for two or more uses located on the same parcel or adjacent parcels; provided that the developer can demonstrate that the uses will not overlap in hours of operation or in demand for the shared spaces. Any sharing of required parking spaces by uses located on different parcels shall be guaranteed by a written agreement between the owner of the parking area and the owner of any use located on a different parcel and served by the parking area. Should the use(s) change such that the new use(s) overlap in hours of operation or in demand for the shared spaces, the shared parking approval shall become void. Parking facilities meeting the requirements of this Article shall then be provided for each use. Parking agreements shall be for a minimum of five (5) years, shall run with the property, and shall be recorded in the office of the Register of Deeds for Union County. A sidewalk or other pedestrian way shall connect the shared parking area to the uses for which parking is being provided.

(B.) Remote parking. If the required number of parking spaces for any use cannot be reasonably provided on the same lot on which the principal use is located, such parking space may be provided, for up to a maximum of 50% of the required parking, on any land within 750 feet walking distance of the property on which the principal use is located, provided that the standards and specifications for the district in which the remote parking space is located permit the principal use which the parking spaces serve and, provided further, that no crossing of a major thoroughfare is required to travel from the use to the remote parking spaces, unless the pedestrian may access the remote parking by crossing said thoroughfare at a signalized crosswalk. Uses that cannot provide the remaining 50% of the required parking on-site must pay a fee-in-lieu or otherwise comply with the off-street parking requirements. Any remote parking spaces located on a different parcel than the use for which the remote parking

spaces serve shall be guaranteed by a written agreement between the owner of the remote parking area and the owner of the use located on a different parcel and served by the remote parking area. Parking agreements shall be for a minimum of five (5) years, shall contain a provision that the agreement runs with the property, and is binding on all parties, their heirs, and assignees. The agreement shall be recorded in the office of the Register of Deeds for Union County.

12.14 Loading Spaces

Off-street loading spaces shall be provided to allow for delivery, loading, and similar activities to occur in a safe, designated area that will not impede the flow of traffic or block pedestrian or vehicular access.

12.14-1 Location. Off-street loading spaces shall be located on the same zone lot as the use they serve except in the Main Street (MS) District where spaces may be off-site and shared with other uses provided the cumulative number of spaces required for combined uses meets the requirements of Section 12.14-4 herein.

12.14-2 Minimum Size. The minimum size for off-street loading space(s) shall be 250 square feet with a minimum width of ten (10) feet.

12.14-3 Arrangement. All off-street loading spaces shall be arranged and marked to provide for orderly and safe unloading and loading and shall not hinder the free movement of vehicles and pedestrians. All loading and unloading maneuvers shall take place on private property. No backing in from street or maneuvering on right-of-way shall be permitted, except in the Main Street (MS) District.

12.14-4 Minimum Number of Loading Spaces Required.

(A.) Retail operations, including restaurant and dining facilities within hotels and office buildings:

Gross Floor Area (sq. ft.)	Number of Spaces
1 – 10,000	0
10,001 - 50,000	1
50,001 – 125,000	2
For each additional 125,000 square feet or fraction there of	1 additional

(B.) Office buildings and hotels:

Gross Floor Area (sq. ft.)	Number of Spaces
0 - 100,000	1
For each additional 100,000 square feet or fraction thereof	1 additional

(C.) Industrial and wholesale operations:

Gross Floor Area (sq. ft.)	Number of Spaces
0 - 40,000	1
40,001 - 100,000	2
100,001 - 160,000	3
160,001 - 240,000	4
240,001 - 320,000	5
320,001 - 400,000	6
For each additional 90,000 square feet or fraction thereof	1 additional

Recommended by Planning Board 16 April 2024

ARTICLE 13

STREETS

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Recommended by Planning Board 16 April 2024

ARTICLE 13

STREETS

13.1 General

Streets shall be designed to suit their functions. Many streets have purposes other than vehicular traffic. As an alternative to current N.C. Department of Transportation road standards, the following street standards are provided for non-state-maintained streets within the Village of Marvin and for streets proposed to be maintained by the Village upon annexation. Streets built to the standards identified in this section are eligible for consideration by the Village Council for acceptance into Village maintenance.

Streets in Marvin are public spaces and integral components of community design. A hierarchical street network accommodates a variety of uses, including bicycle, pedestrian, motor-vehicle and transit routes. All streets shall connect to help create a comprehensive network that enables the efficient movement of automobiles, bicycles, and pedestrians. In order for this street network to be safe for motorists, bicyclists and pedestrians, design elements must consistently be applied to calm vehicular traffic throughout the Village.

Where discrepancies occur between the text of this Ordinance and the Village of Marvin *Technical Standards & Specifications Manual*, the *Technical Standards & Specifications Manual* shall prevail.

13.2 Street and Associated Infrastructure Standards

Streets in the Village of Marvin shall:

13.2-1 Interconnect. Interconnect within a development and with adjoining development.

Cul-de-sacs shall be allowed only where topographical configurations offer no practical alternatives for future connections or through traffic. The location of streets as may be shown in the adopted Plan and adopted area plans, per Section 1.5 of this Ordinance, shall govern connectivity designs. Street stubs shall be provided within developments adjacent to open land to provide for future connections except where deemed impracticable or impactful of environmentally sensitive areas such as wetlands, creeks, steep slopes and conservation areas vulnerable to harmful impacts by the extension of the street by the *Planning, Zoning & Subdivision Administrator*. Barricades and end of street signage shall be installed in accordance with the *Technical Standards & Specifications Manual*.

13.2-2 Pedestrian Scaled. Be designed as the most prevalent public space of the Village and, thus, scaled to the pedestrian harmonious with bicycles and motor vehicles.

- 13.2-3 Bordered by Sidewalks. Be bordered by sidewalks with a minimum width of five (5) feet on both sides of the street, with the exception of rural roads, lanes, alleys, and the undeveloped edge of neighborhood parkways. Sidewalks in the Main Street (MS) District shall be as designated for the specific location in the adopted Plan and adopted area plans, per Section 1.5 of this Ordinance. Sidewalks are not required in the Rural District (RR) to protect water quality, except as provided in Section 13.6-1. Sidewalks may be located in the street right-of-way, on private or public property, or in common areas. All sidewalks not located within the public right-of-way shall have a public access easement permitting public use of the sidewalk. See Sect. 13.6-1.
- 13.2-4 Street Trees. Be lined with street trees located on both sides, with the exception of rural roads, lanes, alleys, and the undeveloped edge of neighborhood parkways. Street trees along streets shall be located in a planting strip as per the standards set forth in Subsection 11.6-3 and the Village of Marvin *Technical Standards & Specifications Manual*.
- 13.2-5 Streets, Alleys and Lanes. New streets shall be publicly dedicated except in limited circumstances. Private streets are permitted on a limited basis only in accordance with standards set forth in Subsection 2.2(C) of this Ordinance and when constructed in accordance with the standards set forth in the Village of Marvin *Technical Standards & Specifications Manual*. Alleys and lanes will be classified as privately maintained public access and utility easements depending on function.
- 13.2-6 Orientation of Buildings. Provide access to principal buildings. The principal building shall front on public streets as specified by the lot and building type standards of Article 9 of this Ordinance.
- 13.2-7 Streetlights. Be illuminated by streetlights located on at least one side and at all intersections, with exception of rural roads, lanes, alleys, and the undeveloped edge of neighborhood parkways. Streetlights along streets shall be located in a planting strip as per standards set forth in the Village of Marvin *Technical Standards & Specifications Manual*. Maximum spacing of streetlight fixtures shall be 180 linear feet measured along the street centerline. The height of streetlight fixtures shall be 14 vertical feet in residential areas. Streetlight fixtures shall not produce direct light into adjacent properties at a height above four (4) vertical feet at the building setback line of residential districts. Streetlights within mixed use districts shall not produce a direct light into adjacent properties at a height above 16 vertical feet at the building setback line. Streetlights within non-residential districts shall not produce a direct light into adjacent residential properties at a height above six (6) vertical feet at either the build-to or setback line. Residential streets shall utilize the “Open Traditional” design on a black finished type “A” fiberglass pole as provided locally by Duke Energy or equivalent.

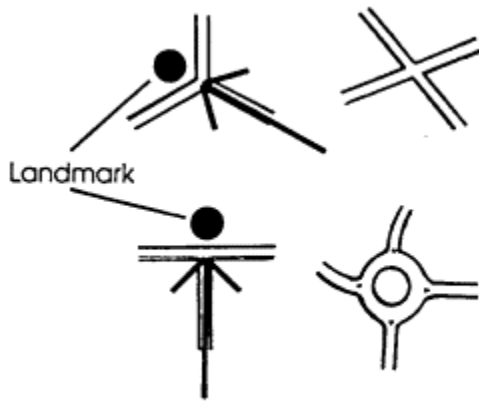
13.2-8 Curb & Gutter. Curb and Gutter is required in all new streets in accordance with applicable details appearing in the Village of Marvin Technical Standards & Specifications Manual. Exceptions to this requirement are eligible in the Industrial (IND), Heavy Industry Overlay (HIO), Rural Residential (RR), and Mini-Farm Overlay (MFO) districts. See Sect. 13.6-7.

13.3 Intersections

Segments of straight streets shall be interrupted by intersections designed to:

13.3-1 Reduce Speed. Disperse traffic flow and reduce speeds, thereby eliminating the creation of de facto collector streets with high speed, high volume traffic; and

13.3-2 Terminate Vistas. Terminate vistas with a landmark such as a significant natural feature, a building, a park, or other public space.



Other traffic calming measures such as neck-downs, chicanes, mid-block diverters, intersection diverters, curb bulbs, serial hill crests, and related devices may be specified

on a case-by-case basis, based on improving traffic safety and functional appropriateness in the proposed location.

13.4 Blocks

Street blocks defined by public streets are the fundamental design elements of neighborhoods. The location of streets as may be shown in the adopted Plan and adopted area plans, per Section 1.5 of this Ordinance, shall govern block size design. Block size and configuration shall be in accordance with the provisions of Section 16.2-3(I) of this Ordinance. The block pattern should continue to establish the development pattern at the project edge. Where a longer block will reduce the number of railroad grade crossings, major stream crossings, or where longer blocks will result in an arrangement of street connections, lots and public space more consistent with this Article and Article 11 of this Ordinance, the *Planning, Zoning & Subdivision Administrator* may approve greater block lengths in accordance with the provisions of G.S. 160D-403(d).

13.5 Street Plan

The layout of streets should provide structure to the neighborhoods. The location of streets as may be shown in the adopted Plan and adopted area plans, per Section 1.5 of this Ordinance, shall govern the location of street design. The formality of the street plan will vary depending upon site conditions and topography. Unique site conditions should be used to create special neighborhood qualities. The street plan for new developments shall reflect the character of the Village of Marvin and comply with the standards set forth in section 13.2 above.

13.6 Street and Associated Infrastructure Design

Designs should permit comfortable use of the street by motorists, pedestrians, and bicyclists. The location of streets as may be shown in the adopted Plan and adopted area plans, per Section 1.5 of this Ordinance, shall govern the level of service and design of streets. Pavement widths, design speeds, and the number of motor travel lanes should be minimized to enhance safety for motorists and non-motorists alike. The specific design of any given street must consider the building types as shown in Article 9 which have frontage and the relationship of the street to the overall street network. The following specifications apply to street design:

- 13.6-1 Street trees and sidewalks are required on both sides of public streets except rural roads, lanes, alleys, and the undeveloped edge of neighborhood parkways except that sidewalks on one side of the road directly abutting residential lots of less than 1.2 acres may be permitted in the Rural Residential District (RR) to protect water quality. The street tree planting strip shall be a minimum of 8' in width and sidewalks shall be

a minimum of 5'-0" in width unless otherwise provided. On commercial streets, sidewalks should be a minimum of 6'-0" in width. A 14' minimum width sidewalk with tree grates or cut-outs is required on "Main Street" within the Main Street (MS) District and on "Main Street" type street cross sections where buildings are constructed adjacent to the public right-of-way as part of a Development Agreement, TNDO District, or within locations specified to be developed in accordance with an Area Plan illustrating such designs as adopted by the Village Council. An 9' minimum width sidewalk with tree grates or cut-outs is required on the first fifty (50) percent of the block depth of all side streets intersecting the "Main Street" segments described above, as illustrated by the adopted Plan and/or adopted area plans, per Section 1.5 of this Ordinance. Generally, canopy trees shall be planted at a spacing not to exceed 62'-0" on center. Where overhead utility lines preclude the use of canopy trees, small maturing trees may be substituted, planted not more than 31'-0" on center. See Sect. 13.2-3.

13.6-2 On-street parking is required where building type and use will generate regular parking use and where on-street parking can be accommodated without additional pavement width. For streets that serve workplace and storefront buildings, on-street parking lane(s) are required and should be marked as such. An on-street parking lane on at least one side of the street is required on streets serving attached houses and detached houses with lots less than fifty (50) feet in width. On-street parking must also be provided on specific street segments as may be shown in the adopted Plan and adopted area plans, per Section 1.5 of this Ordinance and on one side of any street adjacent to a square, park or other Open Space. Parallel on-street parking width is 7' - 8' except as may be shown in street segment cross-sections specific to certain street segments shown within the adopted Plan and adopted area plans, per Section 1.5 of this Ordinance. On-street parking should be parallel; angled parking is only permitted as an intentional design element along the main street(s) of the retail centers.

13.6-3 Design speeds shall not exceed 30 miles per hour on any neighborhood, mixed-use and/or non-residential street. Only arterials and Village boulevards may exceed this design speed. Design speeds for non-residential streets shall not exceed 30 miles per hour on any internal circulation street. Petitioners for acceptance by the Village for public maintenance shall include a request for designation of not more than 25 miles per hour.

13.6-4 Covenants and restrictions made a part of development shall not restrict vehicle types in conflict with adopted Village policies.

13.6-5 Traffic control plans showing signage and pavement markings shall be prepared in accordance with the guidance of the *Manual on Uniform Traffic Control Devices*. The developer is responsible for the initial installation of the devices or markings and the maintenance thereof until a public agency (Village or NCDOT) accepts the street for

maintenance.

Design standards and specifications for Village streets are set forth in the Village of Marvin *Technical Standards & Specifications Manual*. The street specifications in this manual may only be varied in accordance with the design principles set forth above and as approved by the Village during the site plan or subdivision plat review process appearing in Article 7 of this Ordinance.

13.6-6 Cul-de-sacs. See cul-de-sac standards in Article 16.2-7, Street Design of this Ordinance.

13.6-7 Curb & Gutter. Curb and Gutter is required in all new streets in accordance with applicable details appearing in the Village of Marvin *Technical Standards & Specifications Manual*. Exceptions to this requirement are eligible in the Industrial (IND), Heavy Industry Overlay (HIO), Rural Residential (RR), and Mini-Farm Overlay (MFO) districts. See Sect. 13.2-8.

Recommended by Planning Board 16 April 2024

ARTICLE 14

FLEXIBLE DEVELOPMENT STANDARDS

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Recommended by Planning Board 16 April 2024

ARTICLE 14

FLEXIBLE DEVELOPMENT STANDARDS

14.1 Purpose

The purpose of this section is to provide the *Planning, Zoning & Subdivision Administrator* with limited authority in accordance with G.S.160D-403(d) to allow deviations from the minimum development standards for setbacks, lot area, and lot dimension as otherwise set forth in this land development ordinance provided that certain conditions exist. The intent of this section is to promote both the orderly and efficient development and/or redevelopment of property within the Village of Marvin.

14.2 Approval of Flexible Development Standards

Determination of the applicability of flexible development standards shall be made by the *Planning, Zoning & Subdivision Administrator* and, in applying these standards, the *Planning, Zoning & Subdivision Administrator* may establish conditions to ensure that the circumstances which warranted the application of the flexible development standards are maintained. Decisions by the *Planning, Zoning & Subdivision Administrator* shall be in writing and may be appealed to the Board of Adjustment by following the procedures for zoning appeals as provided in Article 6 of this Ordinance. The *Planning, Zoning & Subdivision Administrator* shall in every case have the discretion to decline to exercise the power to approve or deny modifications as provided for herein.

14.3 Flexible Development Standards Permitted

The cumulative total of any flexible development standard applied to a property by category or location shall not exceed the allowances set forth in this section. The *Planning, Zoning & Subdivision Administrator* shall maintain appropriate records to ensure compliance with this provision. The following flexible development standards may be approved by the *Planning, Zoning & Subdivision Administrator*:

14.3-1 Setbacks. The *Planning, Zoning & Subdivision Administrator* is authorized to approve requests that deviate from required setbacks set forth in Article 8 (Zoning Districts) and Article 9 (Building and Lot Type Standards) of this Ordinance by up to ten percent (10%) of the required setbacks or 32 inches, whichever is greater, upon determination that one or more of the following conditions exists:

(A.) There are site or structural conditions that preclude strict adherence to the setback requirements, such as, but not limited to:

(1.) the *Lot of Record* does not meet the dimensional standards established for the zoning district in which it is located;

- (2.) the *Lot of Record* has topographic limitations that require placement of the structure into the required setback area; or
- (3.) the structure is physically in line with an existing, legally-established wall or walls of a principal structure already within the minimum setback area.
- (B.) The part of the proposed structure that encroaches into the minimum setback area is necessitated by a life-safety code, flood hazard reduction, Americans with Disabilities Act standard, or other public safety code requirement(s).
- (C.) The reduction of the front and/or corner side setback allows the structure to meet the average front and/or corner side setback of other existing structures in the applicable block face.
- (D.) The placement of the proposed structure will allow for the preservation of significant existing vegetation.

14.3-2 Lot area and lot dimension. The *Planning, Zoning & Subdivision Administrator* is authorized to approve requests to permit a modification of up to ten percent (10%) in the minimum lot area or lot dimensional standards set forth in Article 8 (Zoning Districts) and Article 9 (Building and Lot Type standards), upon finding that the reduced lot area and/or lot dimensions will not inhibit the reasonable use of the lot and that the reduced lot area and/or lot dimensions are in keeping with the existing pattern of development in the area.

14.3-3 Building coverage and frontage. The *Planning, Zoning & Subdivision Administrator* is authorized to approve requests to permit a modification of up to ten percent (10%) in the building coverage and frontage standards set forth in Article 8 (Zoning Districts) and Article 9 (Building and Lot Type Standards) of this Ordinance, upon finding that the reduced building coverage and/or frontage will not adversely impact the development pattern of the street which is the location of the property for which the adjustment is requested.

14.3-4 Density Credits and Severable Development Rights. The *Planning, Zoning & Subdivision Administrator* is authorized to approve requests to permit Density Credits and/or the transfer of Density Credits that are development rights originating in dedicated rights-of-way in accordance with G.S. 136-66.10 or G.S. 136-66.11 to contiguous or non-contiguous property.

14.4 Variances

No variances shall be allowed with regard to deviations from development standards that have been approved pursuant to this Article nor shall any deviations from these development standards make void or otherwise modify any variance decision by the *Board of Adjustment*.

ARTICLE 15

SPECIAL EVENTS AND TEMPORARY STRUCTURES

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Recommended by Planning Board 16 April 2024

ARTICLE 15

SPECIAL EVENTS AND TEMPORARY STRUCTURES

15.1 General standards and limitations

It is the purpose of this section to provide specific guidelines and standards for special events and temporary structures. A special event or temporary structure allowed in a particular zoning district shall be treated as a use with additional standards and shall comply with all listed requirements for such event or structure as set forth in sections 15.2 and 15.3 below. These standards do not regulate events sponsored by the Village of Marvin.

15.2 Requirements for Special Event and Temporary Structure Permits

The *Planning, Zoning & Subdivision Administrator* shall issue a permit only upon finding that the proposed special event and/or temporary structure(s) satisfies the following requirements:

- (1.) The special event and/or temporary structure is permitted under subsection 15.3 below.
- (2.) The property contains sufficient space to support the special event and/or temporary structure.
- (3.) Parking is deemed adequate to accommodate the proposed special event and/or temporary structure in addition to required parking for any permanent use or uses also located at the site.
- (4.) The special event and/or temporary structure will not create hazardous vehicular or pedestrian traffic conditions and adequate space is provided for access and maneuvering.
- (5.) Adequate sanitary facilities, utility, drainage, refuse management and similar necessary facilities and services will be available to serve employees, patrons and/or participants.
- (6.) Security personnel and safety precautions are provided.
- (7.) All permits required by applicable construction codes have been made and occupancy approved by the agency charged with enforcing such regulations.
- (8.) Special events are allowed to encroach within required building setbacks, but cannot be located within required buffers, street tree planting strips, or other required landscaped areas. Temporary structures must comply with minimum setback requirements of the zoning districts in which they are located.
- (9.) The temporary structure is in compliance with all other applicable requirements, including applicable setback requirements of Article 8.

15.3 Special Events and Temporary Structures Allowed.

The special events and temporary structures may be established in the districts designated in Table 15.1 in accordance with the requirements in Section 15.2 and the additional standards included and/or referenced in Table 15.1 of this Ordinance.

TABLE 15.1 – Special Events & Temporary Structures

Special Event and/or Temporary Structure(s)	Maximum Duration See note 5.	Maximum Frequency See note 5.	Districts	Permit Required	Additional Standards
<p>Christmas trees, pumpkins or other seasonal material sales/events by: commercial vendors</p> <hr/> <p>Christmas trees, pumpkins or other seasonal material sales/events by: institutional and/or registered non-profit organizations 501C(3)</p>	45 days	5 per calendar year	“RR”, “MU”, “MS”, “CIV”, “C-16”	Yes	Not permitted within public right-of-way
Construction containers	During active building permit	During active building permit	All districts	No	See note 1 appearing below this table
Events of public interest on private property	4 days		“RR”, “MU”, “HD”, “MS”, “CIV”, “C-16”	Yes	See notes 2 & 5 appearing below this table

Special Event and/or Temporary Structure(s)	Maximum Duration See note 5.	Maximum Frequency See note 5.	Districts	Permit Required	Additional Standards
Market, Tailgate - Fresh Foods	1 day	60 per calendar year	“RR”, “MU”, “MS”, “CIV”, “C-16”	See Note 6 below this table	Not permitted within public right-of-way per note 6 below this table
Food Trucks	1 day	30 per calendar year	All, see note 6 below this table	See Note 6 below this table	Not permitted within public right-of-way per note 6 below this table
Model home or real estate sales office	1 year	N/A	“RR”, “SFR”, “MU”	Yes	See note 3 appearing below this table
Outdoor bazaars and retail sales, with temporary structure(s)	7 days	2 per calendar year	“RR”, “MU-2”, “MS”, “CIV”, “C-16”	No	Not permitted within public right-of-way
Outdoor sidewalk and retail sales, without temporary structure(s)	unlimited	unlimited	“RR”, “MU-2”, “HD”, “MS”, “CIV”, “C-16”	No	See note 7 appearing below this table
Temporary portable office	1 year	N/A	All districts	Yes	See note 4 appearing below this table

Special Event and/or Temporary Structure(s)	Maximum Duration See note 5.	Maximum Frequency See note 5.	Districts	Permit Required	Additional Standards
Storage container, collection bin, portable on-demand containers (aka POD)	90 days	2 per calendar year	All districts	No	See note 1 appearing below this table
Yard sales	3 days	3 per calendar year	All districts	No	See Article 17 of this Ordinance for Sign Regulations

NOTES referenced in Table 15.1 above:

(1.) Construction and storage containers. Construction and storage containers are not intended to be used for long-term on-site storage and any such use in any zoning district except Industrial (IND) is expressly prohibited. Construction containers shall be allowed as a temporary use while a valid building permit is in effect for the construction project. Storage containers shall be allowed as a temporary use when in compliance with the following standards:

- (a.) Each container shall be in compliance with any applicable sign regulations.
- (b.) In residential districts, portable on-demand (POD) storage units may be located for a period of time not to exceed ninety (90) consecutive days in duration from the time of delivery to the time of removal, two times per calendar year, provided they are placed in a location where sight visibility is not obstructed. Further, these units shall be located in a manner which does not hinder access to the site or to off-street parking spaces.
- (c.) In all non-residential districts, portable on-demand storage units may be located for a period of time not to exceed ninety (90) consecutive days in duration from the time of delivery to the time of removal, up to two times per calendar year, provided they are placed on a paved surface and do not obstruct sight visibility. Further, these units shall be located in a manner which does not hinder access to the site or to off-street parking spaces. Multiple units may be used at one time.

(2.) Event of public interest. An event of public interest is a special event involving the expected congregation of 100 or more persons at any one event. An event of public

interest includes, but is not limited to: picnics, dinner dances, fund raisers, haunted houses, outdoor concerts, auctions, carnivals, fairs, tent revival meetings, and supervised public display of fireworks. An event of public interest shall be subject to the following standards:

- (a.) All activities and uses shall be limited to the dates and hours of operation specified in the permit.
 - (b.) Traffic control shall be arranged by the operators of the event in accordance with the requirements of the Village of Marvin Police Department and/or the Union County Sheriff's Office, as applicable.
 - (c.) Public parking for the exclusive use of the facility/event shall be provided and a stabilized drive to the parking area shall be maintained. It is the responsibility of the operators to guide traffic to these areas. No parking shall be permitted on any road or public right-of-way except as allowed by the temporary use permit.
 - (d.) The site shall be cleared of all debris within twenty-four (24) hours after the closing of the event and cleared of all temporary structures within three (3) days after closing of the event.
 - (e.) An approved public safety plan identifying the means by which public safety will be ensured during the conduct of the special event shall be required for an event of public interest. If the public safety plan is violated or if unforeseen circumstances arise that result in the special event becoming a threat to the public health, safety or welfare, authorized personnel from the Village of Marvin Police Department and/or the Union County Sheriff's Office shall have the right to order the event to be closed.
- (3.) Model home or real estate sales office. A model home sales office shall be allowed within a new residential development of more than eight units or lots, subject to approval by the *Planning, Zoning & Subdivision Administrator* as a temporary structure, subject to the following:
- (a.) There is no more than one temporary real estate sales office in the development.
 - (b.) Model home sales office may be approved for a period of up to one year or when all units are sold to resident owners, whichever occurs first. This period may be extended for additional six-month periods, for good cause shown, upon approval of a written request for such an extension by the *Planning, Zoning & Subdivision Administrator*. The request shall be submitted to the *Planning, Zoning & Subdivision Administrator* at least 30 days prior to the expiration of the special event/temporary use permit.
 - (c.) No sleeping quarters are permitted within the model home or sales office during the period for which the structure is used for sales.
- (4.) Temporary portable office. A temporary portable office may be placed on a property to serve as the following:
- (a.) Temporary offices for construction and security personnel during the construction of a development for which the Village of Marvin has issued either/or a zoning permit

- and/or approved preliminary plat, and/or a building permit.
- (b.) Disaster relief and/or emergency management related uses including medical facilities. Temporary portable offices for emergency relief and/or management may be approved for a period of up to one year. This period may be extended for additional six-month periods, for good cause shown, upon approval of a written request for such an extension by the *Planning, Zoning & Subdivision Administrator*.
- (5.) Required Interval between Events. A minimum of forty (40) consecutive days are required before recurrence of the same event to qualify as a Temporary Use. Uses found not in compliance with applicable limitations on duration and/or frequency shall be considered permanent and subject to applicable standards and specifications for permanent uses in accordance with this Ordinance.
- (6.) Market, Tailgate - Fresh Foods & Food Trucks.
- (a.) Food Trucks serving prepared foods must provide a current health certificate upon request.
 - (b.) No permit required if invited by the Village for special events; however, location criteria of this Article remain applicable.
 - (c.) May locate within designated on-street parking areas within public right-of-way during special events sponsored by the Village.
 - (d.) For locations on private property no permit is required for non-commercially sponsored events; however, a permit fee may be established in the annual budget for commercially sponsored events. Applications must be accompanied by written proof of property owner's permission if not invited by the Village.
 - (e.) Standards for Food Trucks in residential districts:
 - (i.) A property owner may sponsor a Food Truck to cater for a private event on private property.
 - (ii.) A property and/or homeowners association may sponsor a Food Truck on common area property such as a clubhouse, pool facility, and/or park owned by the association.
 - (iii.) Commercial Food Trucks shall not operate in residential districts except as listed above.
 - (f.) Food Trucks may be disqualified from participation in local events upon finding by the Village Council of either or both of the following:
 - (i.) Vendors become a nuisance by increasing frequencies at locations all over the community, both supported and unsupported.
 - (ii.) Vendors become an itinerant merchant and poach activity to a point of generating complaints from brick & mortar businesses.

(7.) Outdoor sidewalk and retail sales activities are subject to the following standards & specifications:

- (a.) Sidewalks and walkways open to the public must have a minimum 5'-0" travel-way clear of obstructions at all times.
- (b.) All products and advertising shall be limited to the area directly in front of the sponsoring vendor during business hours.

Recommended by Planning Board 16 April 2024

ARTICLE 16
SUBDIVISIONS

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Recommended by Planning Board 16 April 2024

ARTICLE 16

SUBDIVISIONS

16.1 Subdivision Regulations

16.1-1 Purpose.

The regulations for the subdivision of land set forth below are established to promote orderly growth and development; provide for suitable residential and nonresidential subdivisions with adequate streets and utilities and appropriate building sites; provide for the coordination of streets within subdivisions with existing or planned streets and with other public facilities; provide for the dedication or reservation of rights-of-way or easements for streets, utilities, and other purposes; and provide proper land records for the convenience of the public and for better identification and permanent location of real property boundaries.

16.1-2 Exempt land divisions.

(A.) Divisions of land exempt. In accordance with G.S. 160D-802, the following divisions of land are not included within the definition of "subdivision", and are not subject to the Village's subdivision regulations:

- (1.) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Village of Marvin as shown in this Ordinance;
- (2.) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
- (3.) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors;
- (4.) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Village, as shown in this Ordinance;
- (5.) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.
- (6.) The subdivision or recombination of land by public utilities.

In case of a conflict between this description of exempt subdivisions and state law (N.C. Gen. Stat. sec. 160D-802, or any successor statute), state law shall control.

(B.) Planned communities. In accordance with the North Carolina Planned Community Act (Chapter 47F of N.C. Gen. Stat.), Planned communities are not included in the definition of "subdivision" and are not reviewed or recorded as such. Those developments meeting the criteria established by the Act will undergo a site plan review as described in Article 7 of this Ordinance. Planned communities shall be reviewed against and held to those standards established for substantially similar developments and shall comply with the following standards established by the Act:

- (1.) Consist of more than 20 dwelling units or provides a declaration that the development is a planned community.
- (2.) Be exclusively residential.
- (3.) Establish a homeowner's association.
- (4.) The developer shall demonstrate adequate provision for perpetual maintenance of the private infrastructure and common areas associated with the development by the homeowners' association.

(C.) Determination and certification of exemption. The determination of whether a division of land is exempt from the definition of subdivision shall be made by the *Planning, Zoning & Subdivision Administrator*, upon application of the property owner or agent, with supporting documentation (maps, plats, etc.), as needed. Upon a determination by the *Planning, Zoning & Subdivision Administrator* that the proposed subdivision is exempt, a certificate of exemption shall be issued, and the subdivision shall not be subject to the Village's subdivision regulations.

(D.) Effect of certification of exemption. Divisions of land found to be exempt from the definition of subdivision are not required to meet the Village's subdivision regulations. However, a building or zoning permit may only be issued with respect to a lot that has been created by an exempt division if said lot meets the standards for development set forth elsewhere in this Ordinance. Where a regulation is contained both in this article and elsewhere in this Ordinance, although the regulation need not be met prior to property division and recordation, the lot in question must comply with said regulation before either a zoning or building permit may be issued for the property.

(E.) Platting Required. A subdivision plat meeting the requirements of G.S. 47-30 shall be prepared for all exempt subdivisions. The plat shall identify the subdivision as being exempt from the requirements of this ordinance and shall be submitted to the *Planning, Zoning & Subdivision Administrator* for review. Following their review of the subdivision plat, the *Planning, Zoning & Subdivision Administrator* shall sign it and provide a copy to the applicant. The signed plat shall be recorded by the applicant in the office of the Register of Deeds of Union County within thirty (30)

days of being signed by the *Planning, Zoning & Subdivision Administrator*.

16.1-3 Coordination with Other Requirements.

When applications for other approvals are required for the subdivision, applications for these approvals may be submitted simultaneously with the initiation of the subdivision approval process to reduce the time required to secure all necessary approvals. Application forms as required for other approvals may be obtained from the *Planning, Zoning & Subdivision Administrator*.

16.1-4 Submittal.

Applications for subdivision approval shall be submitted to the *Planning, Zoning & Subdivision Administrator* and must include plats with all information as required by this Ordinance. Application for subdivision shall be filed in accordance with Article 7 of this Ordinance.

16.1-5 Approval Required.

- (A.) Date of compliance. After the effective date of this Ordinance, no plat for the subdivision of land within the planning and regulation jurisdiction of the Village of Marvin shall be filed, accepted for recording, or recorded, nor shall the clerk of superior court order the recording of a plat until it has been submitted to the *Planning, Zoning & Subdivision Administrator* and approved as set forth herein. The signature of the *Planning, Zoning & Subdivision Administrator* on the plat shall signify conformance with the requirements set forth in this chapter unless documented to be in error.
- (B.) No conveyance without approval. No real property lying within the planning and regulation jurisdiction of the Village of Marvin shall be subdivided until it conforms to all applicable sections of this Article. Violations of this Article shall be subject to the penalties set forth in Article 23 of this ordinance. Any sale or transfer of land in a subdivision subject to these regulations by reference to an unapproved plat or the use of a metes and bounds description shall be considered a violation of this Article.
- (C.) Pre-sale contracts. In accordance with G.S. 160D-807(b), the provisions of this section shall not prohibit any owners or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision ordinance or recorded with the register of deeds, provided the contract does all of the following:
- (1.) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owners to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.

- (2.) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.
- (3.) Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.
- (4.) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision ordinance or recorded with the register or deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision ordinance and recorded with the register of deeds in accordance with N.C.G. S. 160D-807(c).

16.1-6 Designation of approval agency.

The Village of Marvin Planning Department is designated as a planning agency for the purposes of G.S. 160D-803(c). The *Planning, Zoning & Subdivision Administrator* or their designee shall be authorized to sign the plat signifying final determination of approval for subdivisions and provide notice of determination in accordance with G.S. 160D-403(b).

16.1-7 Violations.

Violations of the provisions of this section shall be subject to the enforcement and penalty provisions set forth in Article 23 of this Ordinance. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from these penalties. The Village

may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the courts shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this Ordinance. Building permits required pursuant to G.S. 160D-1110 may be denied for lots that have been illegally subdivided. In addition to other remedies, the Village may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act of conduct per G.S. 160D-807(a).

16.1-8 Dedication and acceptance of public areas.

- (A.) Rights-of-way and easements. The approval of a final plat constitutes dedication but does not constitute acceptance by the Village of Marvin or the public of the right-of-way of each public street and easement shown on the plat. The approval of a plat does not constitute acceptance for maintenance of other improvements in the right-of-way such as street paving, utility lines, drainage facilities or sidewalks. When located within the corporate limits of the Village of Marvin, such dedications may be accepted only by resolution of the Marvin Village Council or by their designee following inspection and approval to ensure compliance with specifications established by the Village or by the Village exercising control over and maintaining these areas. Until the offer of dedication is accepted by the Village in either of these manners, the developer shall be responsible for maintenance of those areas.
- (B.) Open space. Land designated as public open space or a park on a plat, in accordance with Article 21 of this Ordinance, shall be considered to be offered for dedication, but not accepted until the Marvin Village Council, or their designee, has by express action done so. Until such dedication has been accepted, such areas may be used for open space purposes by its owner or by an association representing owners of lots within the subdivision. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use without the approval of the Marvin Village Council.
- (C.) Sites for public facilities. Where a school or other public site is shown on an approved plat recorded with the Register of Deeds, the site shall either be dedicated for public purpose at the option of the property owner or reserved for acquisition by the Union County School Board for a period not exceeding eighteen (18) months from the date of approval of the preliminary subdivision plan.

16.1-9 Required improvements.

Improvement requirements shall be fulfilled, or their complete performance guaranteed in accordance with North Carolina General Statute 160D-804 before a final plat shall be approved by the *Planning, Zoning & Subdivision Administrator* for recording.

(A.) Street and utility construction.

- (1.) Construction Plans. Construction plans for all street, sidewalk, water, sanitary sewer, and stormwater facilities shall be submitted to the Village of Marvin either concurrent with or following preliminary plat approval. The street and utility construction plans for each subdivision, or portion thereof, shall include all improvements lying within or adjacent to the subdivision as well as improvements to all streets, sidewalks, stormwater facilities, and water and sanitary sewer lines lying outside the subdivision which provide service to the subdivision. No final plat shall be approved, or a Certificate of Occupancy issued until all improvements have been installed and approved or a performance guarantee, as specified in section 16.1-9(B) of this Ordinance, accepted.
- (2.) No construction without plan approval. No improvement to or new construction of street, sidewalk, water, sanitary sewer, and stormwater facilities shall be permitted until the street and utility construction plans for such improvements/construction have been reviewed and approved by the Village of Marvin and appropriate governmental agencies. These agencies may include, but shall not be limited to, the Division of Water Quality of the North Carolina Department of Environment and Natural Resources, the North Carolina Department of Transportation, and the Division of Environmental Management of the North Carolina Department of Environment and Natural Resources, or their successors.
- (3.) Inspection of construction. All construction undertaken pursuant to approved street and utility construction plans shall be inspected and approved by the Village of Marvin and/or the appropriate governmental agencies.

- (B.) Guarantee in lieu of construction of improvements. In lieu of completion of construction of the required improvements and utilities prior to final plat approval, the property owner may provide a performance guarantee in accordance with G.S. 160D-804.1. The performance guarantee shall be in an amount equal to 125% of the estimated cost of the installation of the required improvements, as determined by the Village. The performance guarantee shall secure the completion of construction of the improvements shown on the approved preliminary plat and as detailed within the approved construction plans. The performance guarantee shall remain in full force and effect until such time as the construction of improvements and installation of utilities are completed and accepted by the Village of Marvin, or a minimum of one year whichever is greater in accordance with G.S. 160D-804.1. Failure to maintain the required performance guarantee shall result in the revocation of the approval of the preliminary plat and any permits issued as a result of the preliminary plat approval. A temporary construction easement permitting the Village of Marvin or its designee(s) to access the property for the purpose of constructing/installing the

guaranteed improvements is required to be provided with the performance guarantee. The temporary construction easement shall be valid until all guaranteed improvements have been constructed/installed and approved or accepted by the Village. The temporary construction easement shall bind to all successive owners until the guaranteed improvements have been constructed/installed and approved or accepted by the Village. Said temporary construction easement shall be recorded at the office of the Union County Register of Deeds, with recording fees to be paid by the applicant/landowner.

- (C.) Failure to perform. Failure to initiate construction of the improvements within one year of the date the performance guarantee was accepted by the Village of Marvin shall result in the Village, at its sole discretion, constructing the improvements, with the cost to be paid from the performance guarantee. The guarantor institution shall, if requested by the Village, pay all or any portion of the funds to the Village up to the amount needed to complete the improvements based on an estimate by the Village. The Village may spend such portion of said funds necessary to complete all or any portion of the required improvements. The Village shall return to the developer any funds not spent in completing the improvements. Default on a project does not release the developer from responsibility for the completion of the improvements. In the event that the amount of performance guarantee on hand is insufficient to pay for the completion of the improvements, the property owner shall pay to the Village of Marvin the total amount of the insufficiency. If the Village is not paid, the amount of the insufficiency shall constitute a lien on the property in favor of the Village.

16.1-10 Maintenance of common areas.

Where subdivisions have common areas or facilities serving more than one dwelling unit, the developer shall be responsible for the maintenance of these common areas and facilities. This responsibility may be transferred to another entity, provided the developer prepares a document for recordation showing the transfer of the property and the maintenance responsibilities to a successor. A copy of the recorded document must be provided to the *Planning, Zoning & Subdivision Administrator*. In such case, the successor shall be responsible for the maintenance of the common access and facilities.

16.1-11 Association documents.

Prior to the approval of the final plat for a subdivision, all documents related to the creation and operation of the homeowners' association, property owner's association, and/or any other association created for and/or by the developer, homeowners, or property owners of the proposed subdivision shall be submitted to the Village of Marvin for review and approval. These documents shall include but not be limited to the articles of incorporation for the association, the homeowner association

documents, the property owner association documents, parking restrictions to ensure established minimum required parking spaces remain in use for parking of motor vehicles, and design standards which may exceed the standards of this Ordinance. The purpose of the review is to ensure that the documents do not contain standards, requirements, or other provisions that conflict with ordinances, regulations, and/or standards of the Village of Marvin. The Covenants, Conditions and Restrictions shall incorporate the standards established in Subsections 9.7-4 and 9.8-4 related to anti-monotony. The Village shall not be responsible for enforcement of the homeowner association documents.

16.1-12 Recordation of final plat.

A final plat must be recorded in the office of the Register of Deeds for Union County in accordance with the process outlined in Article 7 of this Ordinance.

16.1-13 Phased development.

Subdivisions may be designed to be platted and constructed in phases. A plan for phased development must be approved by the *Planning, Zoning & Subdivision Administrator*. The plan for phased development shall provide for the provision of adequate public facilities to support each and any phase independent of the overall subdivision plan. Access and water supply for fire protection shall be present to the extent required by the North Carolina Fire Prevention Code. In approving the phases, the *Planning, Zoning & Subdivision Administrator* may require that additional streets, water and sewer facilities, or other required public facilities be constructed as part of the phase or phases to ensure that sufficient public facilities will be in place to support each phase or phases independent of any future subdivision development. Final plats for subdivisions developed in phases shall be recorded in accordance with the schedule presented by the applicant during the preliminary plat approval and approved as part of the preliminary plat approval process as specified in Article 7 of this Ordinance. The applicant may request, in writing, adjustments of the approved schedule and the *Planning, Zoning & Subdivision Administrator* may grant extensions of up to 12 months for each phase. If the final plat for any phase of the subdivision is not submitted in accordance with the approved schedule, the preliminary plat shall be resubmitted to the *Planning, Zoning & Subdivision Administrator* for review and approval unless the extension(s) remain within the scope of the vested rights per G.S. 160D-108(d) established in accordance with a site-specific development plan in accordance with Section 7.11 of this Ordinance. Such resubmittal shall be in accordance with the requirements of this Ordinance.

16.2 Subdivision Standards.

16.2-1 General.

All proposed subdivisions shall comply with the standards set forth below.

16.2-2 General Requirements and Compliance with Adopted Plans.

Land shall be subdivided in accordance with good land planning practices and in general conformance with the adopted Plan referenced in Section 1.5 of this Ordinance, including subsequent amendments adopted by the Village of Marvin, including adequate consideration of the natural topography and drainage features and the type of development proposed. Land shall also be subdivided in compliance with the district standards set forth in Article 8 of this Ordinance. In addition, where land lies within the area of a public water supply reservoir, a proposed highway project or other public project designated by a governmental authority, subdividers shall give notice on the face of the final subdivision plat that land within the subdivision lies within a designated area for public development and may be the subject of future public purchase.

16.2-3 Lot dimensions and standards.

The size, shape, and orientation of lots shall be in accordance with the specifications of this Ordinance for the location of the proposed subdivision and for the type of development contemplated. Lots shall be designed in shape, size and location with due regard to topographic conditions, features of the surrounding area, contemplated use, and official plans and ordinances and shall conform to the following:

- (A.) Conformance to other regulations. Every lot shall have sufficient area, dimensions, and street access to permit a principal building to be erected thereon in compliance with all Village ordinances, including those regulating the location of utility service connections.
- (B.) Area and dimensions of lots. All lots shall conform to the minimal dimensional requirements for each zoning district as prescribed in Article 8 and with the lot type standards found in Article 9 of this Ordinance.
- (C.) Frontage. Every lot shall front or abut on a public street, with the exception that there can be up to four lots created off of a private drive, where such private drive meets or exceeds the Village of Marvin's Private Drive Standards set forth in the Village of Marvin's *Technical Standards & Specifications Manual*. There shall be no reserve strips controlling access to streets except where cause can be shown that such control would best serve the purpose of this Ordinance.
- (D.) Lot lines and drainage. Lot boundaries shall be made to coincide with natural and pre-existing topography to the extent practicable to avoid the creation of lots that can

be built upon only by altering drainage ways. Lot boundary lines shall conform to the following requirements:

- (1.) The *Lot* boundary lines within a *Major Subdivision* shall not extend into areas equal to or below the Base Flood Elevation (BFE).
- (2.) The *Lot* boundary lines within a *Major Subdivision* shall not extend into areas designated as a stream *Buffer Zone*.
- (3.) The *Lot* boundary lines within a *Major Subdivision* shall not extend into areas designated as *Wetlands*.

(E.) Double and reverse frontage. Double frontage and reverse frontage lots shall not be approved, except where required in unusual circumstances and specifically approved by the *Planning, Zoning & Subdivision Administrator*.

(F.) Lot boundaries. Lot boundaries must be contiguous with street right-of-way boundaries and shall not extend to the center of public streets or encroach into street right-of-way. Land to be subdivided which has existing property lines extending into street rights-of-way or into streets shall dedicate a street right-of-way as required by the Village of Marvin's *Technical Standards & Specifications Manual* for that section of the street located on or adjacent to the property being subdivided.

(G.) Side lot lines. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

(H.) Buildable area. Lots or parcels shall not be unreasonably shaped and shall be made to contribute to the buildable area of a lot. Portions of a lot less than 15 feet wide shall be excluded from the minimum lot area. Additionally, portions of a lot that are less than 26 feet wide and longer than 25 feet will be excluded from the minimum lot area except when calculating lot area for Single-family Attached Lot Types per Article 9 of this Ordinance.

(I.) Block dimensions and configuration. Blocks shall be laid out taking into consideration traffic circulation patterns and contemplated use. In conditions exceeding 2.5 dwelling units per acre, excluding common open spaces and public street right-of-way(s), any dimension of a block may range from 250 to 900 linear feet measured along front property lines between cross streets. In all other major subdivisions, the dimension of blocks may not exceed 1200 linear feet measured along front property lines between cross streets, except within subdivisions with average lots exceeding one acre in size, wherein blocks may be up to 1500 feet measured along front property lines.

- (1.) Length. Blocks shall be not less than 250 feet nor more than 1,500 feet in length as stipulated above, except as deemed necessary to secure efficient use of land or desired features of street pattern by the *Planning, Zoning & Subdivision*

Administrator. Where deemed necessary by the *Planning, Zoning & Subdivision Administrator*, a pedestrian crosswalk of at least eight feet in width shall be provided.

(2.) Width. Blocks shall be wide enough to allow two tiers of lots of minimum depth, (reference Zoning standards, Article 8, Building and Lot Type standards, Article 9), except where fronting on major streets is prevented by topographic conditions, in which case a single tier of lots may be approved. Block width standards do not apply to subdivisions proposed as part of Rural Residential (RR) District development.

(J.) Lots on thoroughfares. Residential lots in subdivisions shall not be entered from major thoroughfare streets.

(K.) Access requirements for all lots. Each lot in a subdivision shall meet the access standards set forth in this Ordinance, unless specific design alternatives are approved as part of the approval of a Traditional Neighborhood Development Overlay (TNDO) District.

(L.) Lot area calculation. Areas in the public right-of-way shall not be used to calculate compliance with minimum lot size requirements.

(M.) Flag lots. Flag lots shall be permitted subject to the following standards:

(1.) The minimum flagpole width (strip connecting the bulk of the lot to the street) shall be 25 feet or 25% of the minimum required lot width established by the primary general use district, established by Article 8 of this Ordinance, whichever is greater.

(2.) The maximum flagpole length (strip connecting the bulk of the lot to the street) shall be 200 feet.

(3.) The total lot area shall be a minimum of 2.5 acres, unless required to be larger by the primary general use district, established by Article 8 of this Ordinance; furthermore, the area of the flagpole within the first 150 linear feet of the street (strip connecting the bulk of the lot to the street) shall not be used in calculating minimum lot area, setbacks, or other dimensional requirements for the zoning district in which the lot is located.

(4.) Not more than 4% of the total number of lots in a subdivision or development shall be flag lots.

16.2-4 Landscaping and buffering. Landscaping shall be provided in the proposed subdivision as required by Article 11 of this Ordinance. Preservation of existing trees is required in accordance with Article 11.

16.2-5 Open space. Open space as required by Article 21 of this Ordinance and other

applicable ordinances and regulations of the Village of Marvin shall be provided in the proposed subdivision.

16.2-6 Streets and utilities. All streets and utilities must comply with the requirements of all applicable plans adopted by the Village of Marvin, including, but not limited to, the Village of Marvin *Technical Standards & Specifications Manual*. Utilities shall be installed underground in all *Major Subdivisions* when new streets are constructed. All off-street easements not contiguous and parallel to the public street right-of-way shall be located in/on areas dedicated as Common Open Space and be dedicated for pedestrian use by the public in accordance with Article 21, Subsection 21.2.

16.2-7 Street design. The design of all public streets and roads within the Village of Marvin shall conform to standards set forth in Article 13 of this Ordinance and the Village of Marvin *Technical Standards & Specifications Manual*. Where permitted, private streets must be constructed to Village of Marvin' design standard.

(A.) Cul-de-Sacs. Cul-de-sacs or other dead-end streets designed to be permanently closed are strongly discouraged and can only be used when it is not feasible to connect to an existing or future street. Cul-de-sacs shall not exceed 400 feet in length and shall be provided at the closed end with a right-of-way radius and a turnaround radius meeting or exceeding the standards set forth in the Village of Marvin *Technical Standards & Specifications Manual*. Cul-de-sacs shall have a minimum twenty (20) foot wide common open space for pedestrian access connecting to the nearest public space, street right-of-way, or common open space, and have paved pedestrian connections, where practicable to provide pedestrian access connectivity. The *Planning, Zoning & Subdivision Administrator* may approve modifications to these requirements on a case-by-case basis, with the justification stated in writing on the final plat.

(B.) Continuation of Adjoining Street System. The proposed street layout shall be coordinated with the street system of the surrounding area. Where possible, existing principal streets shall be extended.

(C.) Stub Streets. Where the property to be subdivided abuts another property that, in the opinion of the *Planning, Zoning & Subdivision Administrator*, could be subdivided in the future, the proposed street layout shall include a public street and right-of-way, meeting the Village's standards for width and grade, which connects the streets in the subdivision to the abutting property. This street and public right-of-way shall be preserved for the construction of a future street providing access to the abutting property. The subdivider(s) shall be responsible for placing a permanent sign(s) within the right-of-way of the stub street stating that it is the location of a future street. Such sign(s) shall be approved by the *Planning, Zoning & Subdivision Administrator* before being placed in said right-of-way.

(D.) Curb & Gutter. Curb and Gutter is required in all new streets in accordance with applicable details appearing in the Village of Marvin *Technical Standards & Specifications Manual*. Exceptions to this requirement are eligible in the Industrial (IND), Heavy Industry Overlay (HIO), Rural Residential (RR), and Mini-Farm Overlay (MFO) districts.

16.2-8 Naming of streets. All streets shall be named, and signs conforming to Village standards shall be posted at intersections showing the name of every street. New streets which are obviously in alignment with others already existing and named shall bear the names of the existing streets where practical. In no case shall the names of new streets phonetically resemble existing street names. Streets shall be named in accordance with the standards for street naming established by Union County and must be approved by Union County's emergency address coordinator.

16.2-9 Street construction - property owners' participation. The Village of Marvin will not accept or adopt any new street, nor will it pave or assist in the construction or pavement of any new street other than streets shown on the map of the streets of the Village of Marvin known as the Official Powell Bill Map except upon approval by the Village Council and receipt of payment of the full cost and expense of construction or of construction and pavement, as the case may be, and such cost and expense must be actually paid or amply secured per section 16.1-9(B) of this Article before the Village will take any action.

16.2-10 Utility and Pedestrian easements. All subdivision plats shall identify easements for the installation of utilities and pedestrian use as follows:

(A.) Major subdivisions. An appropriate easement, of the width required by the utility company/agency, shall be provided for utilities including, but not limited to, electric service, telephone service, cable television service, sewer (sanitary and/or storm-water) lines, and waterlines within the subdivision. The location of the easements and the physical relation of all utilities within the easement shall be approved by the Village of Marvin, in consultation with the utility providers, prior to final plat approval. Placement of all underground cables by utilities in a common easement is encouraged when such placement does not conflict with these requirements or others. All off-street easements not contiguous and parallel to the public street right-of-way shall be located in/on areas dedicated as Common Open Space and be dedicated for pedestrian use by the public in accordance with Article 21, Subsection 21.2.

(B.) Minor subdivisions. An appropriate easement, of the width required by the utility company/agency, shall be provided for utilities including, but not limited to, electric service, telephone service, cable television service, sewer lines, and waterlines within the subdivision. The location of the easements and the physical relation of all utilities

within the easement shall be approved by the Village of Marvin, in consultation with the utility providers, prior to final plat approval. Placement of all utilities in a common easement is encouraged when such placement does not conflict with these requirements or others. All off-street easements not contiguous and parallel to the public street right-of-way shall be located in/on areas dedicated as Common Open Space and be dedicated for pedestrian use by the public in accordance with Article 21, Subsection 21.2.

16.2-11 Water supply for fire protection.

- (A.) Water supply for fire protection shall be provided as required by the North Carolina Fire Prevention Code.
- (B.) Size, type, and installation of hydrants shall conform to the specifications set forth in the North Carolina Fire Prevention Code.
- (C.) The maximum distance between fire hydrants shall be 900' measured by right angles along identified travel way(s).

16.2-12 Storm-water management.

- (A.) Design of the stormwater management system shall be consistent with the Village of Marvin's storm-water regulations, as contained in the Stormwater Management standards and specifications appearing in Article 19 of this Ordinance.
- (B.) The stormwater management system design shall comply with the specifications set forth in the stormwater section of Article 19 of this ordinance and the Village of *Marvin Technical Standards & Specifications Manual*.

16.2-13 Flood standards.

- (A.) All subdivision proposals within the Village of Marvin jurisdiction shall be consistent with the requirements of the Village's flood protection regulations set forth in Article 18 of this Ordinance and with the need to minimize flood damage.
- (B.) All subdivision proposals shall have the public utilities and facilities such as sewerage systems, gas lines, electrical, telecommunications (television, Internet, telephone, etc.), and water systems located and constructed to avoid flood damage.
- (C.) Adequate drainage shall be provided to avoid exposure to flood hazards.
- (D.) Base flood elevation data shall be provided for subdivision proposals whenever any portion of the project site is located within a designated flood hazard area.
- (E.) Preliminary and final plats shall note the location of floodplain and floodway boundaries and the 100-year flood (Base Flood) elevation.

(F.) If there is a water course or dry branch running through or within 150 feet of the proposed subdivision, the prospective sub-divider shall furnish evidence that residential lots within the subdivision will not be flooded. Lots located in flood plains shall comply with Section 16.2-3(D) of this Article and the flood prevention standards set forth in Article 18.

16.2-14 Buffer Strips – Streams. Buffer strips shall be provided along streams as required by the United States Army Corps of Engineers, State of North Carolina, and/or Watershed Regulations set forth in Article 19 of this Ordinance.

16.2-15 Electrical, Cabled, Wired and Fiber Optic utilities. Electrical, Cabled, Wired and Fiber Optic utility lines shall be installed underground unless inconsistent with flood protection requirements.

16.2-16 Placement of monuments. The Standards of Practice for Land Surveying in North Carolina, as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, shall apply when conducting surveys.

16.2-17 Utilities - Water and Sewer Systems.

(A) Connection to System Required. Any development which has Village water and/or sewer system lines available shall be required to extend the public water and/or sewer system throughout the development to each lot located therein. All required line extensions shall include appropriate valves, hydrants, taps, service, manholes, lift stations, pumps and clean outs to the property line of each lot as required by Village standards.

In any case where a public water and/or sewer system intended to serve more than two (2) lots is proposed to be installed in a development as part of the plan approval process, such system shall be considered to be a required improvement within the context of the Section regardless of whether such a system is an extension of the Village system or not and such system shall be required to be installed by the developer. This requirement includes both facilities within the development and off-site facilities which are essential to providing the service to the property.

Where public sanitary water and sewer are not available as defined in (B) below, structures shall be connected to an approved private water supply and sewage disposal system.

(B) Availability Defined. For developments within or partially within the Village, the term “available” shall mean that there is an existing line of adequate size and flow and/or pressure either crossing the development property or immediately available from an adjacent public right-of-way or the Village indicates its commitment to extend such a

line to the property line of the development in accordance with a Development Agreement per Section 7.15 of this Ordinance.

For developments located entirely outside the boundaries of the Village but within the jurisdiction of this ordinance, “availability” shall be determined by the threshold levels indicated in the table below. Within the range of lots, water and/or sewer lines shall be within the distance indicated to be considered “available”, extension of the water and/or sewer lines shall be paid for by the developer, and the development shall be connected to the system. For example, if the water and sewer lines are within 300 feet of a proposed 15 lot subdivision, then the developer shall pay for the extension and the development shall be connected to the system. If a non-residential subdivision is proposed, comparable demand estimates for residential uses shall be used.

Number of Proposed Lots	Distance to Nearest Water/Sewer Line
0-10	200
11-20	300
21-50	600
51-100	1,000
101 or greater	1,500

- (C) Exemption from Extension of Lines. In the event the Village, for whatever reason, elects not to allow water and/or sewer service extension to a development, then the developer is not required to extend such services.
- (D) Oversized Water and Sewer Facilities. The Village may, in order to serve future development, require the developer to install certain oversized water and sewer improvements and/or to increase such improvements to a size and/or extent beyond that necessary for the needs created by the subdivision. In such cases, the Village shall enter into a Development Agreement to reimburse the developer for the oversizing and/or extension based upon rates as agreed to by the Village.
- (E) Annexation Required. In any case where a new development connects to the Village water and/or sewer system, such development shall be voluntarily annexed into the Village prior to the approval of a final plat, for a subdivision, or the issuance of a Zoning Permit, where the subdivision of land is not involved.
- (F) Installation Requirements. All water and sewer extensions for new development inside or outside the corporate limits will be made by the Village’s public works department or approved licensed contractors. No water or sewer line may be connected to the system of the Village unless such line properly designed and constructed to service the properties intended to be served directly by such line and of a size and design sufficient

to accommodate any necessary expansion of the water and sewer system to serve other properties, including fire protection.

The Village shall own and control any and all water and sewer lines and related facilities connected to and serviced by its water or sewer system, except those lines and facilities of other public bodies connected to and serviced by the Village's water or sewer system under contracts approved by the Village Council between the Village and other public bodies.

Because the extension of water or sewer lines to certain properties benefits the owners of such properties by raising property values, the cost of such extension shall be borne by the developers of such properties as provided in this article except in instances when the Village Council makes a determination that the Village is obligated to extend such utilities when it determines that it is the best interest of the Village to do so. In making such a conclusion, it must be demonstrated by the developer to the Village Council that ad valorem taxes to be gained by the Village from the properties which will be served by the proposed utilities will over a five (5) year period exceed the cost incurred by the Village for making such utility extensions.

Additional requirements regarding sizes and installation methods are available from the Public Works Department and/or the Village Engineer.

(G) Extensions Required by State Law and Emergency Situations. To comply with municipal obligations by state statutes, or in cases of emergency where it is found to be in the public interest or necessary to protect the public health, the Village may authorize extensions of water or sanitary sewer into specific areas.

(H) Payment of Tap Fees. Except as prescribed herein, nothing in this Article shall exempt an applicant from paying the standard tap fees in effect at the time the application for connection is made as adopted from time to time by the Town Council. Tap fees for lots created through this ordinance where new utility lines are installed by the developer shall not be collected for any such lot(s).

(I) Extension to Existing Development. Extension of water or sanitary sewer service within the corporate limits of the Village shall be made upon petition as set for by the Village Council.

(J) Extensions to New Development. Any person desiring to install any water or sewer line for new developments within the Village's service area to be connected to and served by the water and sewer system of the Village shall make application on forms

provided by the Village and shall furnish such information or exhibits as are required by such application forms.

Such application for extension, whenever possible, shall be made simultaneously with the appropriate Development Review Process for the type of development proposed.

The applicant shall pay to the Village a nonrefundable application fee. This fee shall be equal to the annual average water and sewer extension engineering fee, as determined by the Village Council for the July 1 to June 30 fiscal year, plus an additional fee as established by the Village Council from time to time.

The applicant shall submit engineering plans, profiles and specifications for such water main or sewer line, including those for any required fire hydrants, valves, manholes, sewer lift stations, force mains or other appurtenances necessary in connection therewith, to the Village Engineer for approval by the Village Council. All plans shall bear the seal of a registered professional engineer. See Article 7.

No water or sewer line may be installed and connected to the Village water or sewer system except as approved by the Village Council. Such approval shall meet the requirements of all Ordinances as adopted by the Village Council.

(K) Denial of Extension. The Village Council will not approve any contract for the installation of any water main or sewer line to be connected to and served by its water or sewer system if in its judgement, the projected volume of water that would be used by any properties to be serviced thereby would unduly burden the available water supply or sewage treatment capacity of the Village, or it would not be feasible or otherwise suitable for the Village to commit itself to such cost. Exception to this policy may be made by the Village Council for any meritorious reason and good cause shown.

16.2-18 On-site Wastewater Disposal (Septic Systems).

(A.) Definitions of terms appearing in Section 16.2-18 of this Ordinance including: 'maintenance', 'repair', 'septic tank system', 'sewage', 'wastewater', and 'wastewater system' shall be determined in accordance with G.S.130A-334.

(B.) Every principal use and every lot within a subdivision not served by a public wastewater collection, transport and treatment system shall be served by a wastewater system, in accordance with G.S.130A-335, that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations.

(C.) Plats, as defined by G.S.130A-334, for new lots and/or parcels shall be submitted for review, whether subject to subdivision approval or not. Each plat shall identify the location of an approved wastewater system and if an on-site wastewater system, then identify the location of the repair field and/or area. Plats shall identify off-site wastewater system locations and show easements where any portion of said off-site wastewater system and/or utility line providing service to the lot extends over any portion of a lot other than the lot for which said off-site wastewater system and/or utility serves. Plats representing locations of on-site and/or off-site wastewater system, utility line and requisite repair areas shall be submitted with all Exempt, Minor Subdivision and Major Subdivision Preliminary Plats and appear on all Final Plats approved for recording in the Union County Register of Deeds.

16.2-19 Streetlights. All subdivisions that have one or more public streets shall have streetlights installed at no more than 200 feet apart along each street. The subdivider is responsible for installation expenses. Street light fixtures shall be of the “Open Traditional” design on a 16’ “type A” fiberglass pole and are subject to approval by the Village Council as part of the preliminary approval process.

16.2-20 Buffering, Recreation and Open Space Requirements.

(A.) Perennial streams shall be protected with a thirty-five foot (35') undisturbed conservation buffer running adjacent to the stream and indicated on the final plat.

(B.) Proposed subdivisions adjacent to land uses other than residential shall establish, along its entire perimeter a twenty-five-foot (25') buffer as defined in Article 5. The Village Council may consider berming, fencing or open space in lieu of the buffer.

(C.) Proposed subdivisions with any lot less than 21,780 square feet shall provide fifteen percent (15%) open space. Such open space shall be designed to provide the conservation of natural features (streams, wetlands, mature trees, etc.), access to recreational spaces including manmade and natural water features, buffering, and stormwater management facilities.

ARTICLE 17
SIGN REGULATIONS

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Recommended by Planning Board 16 April 2024

ARTICLE 17

SIGN REGULATIONS

17.1 Title

This Article shall be known and may be cited as the “Village of Marvin Sign Regulations.”

17.2 Applicability and Purpose

This Article applies to all *signs* erected in the Village of Marvin. The purpose of this ordinance is to ensure the installation of safe and effective signage that promotes both business activity and the aesthetic character of the Village, as well as communicating essential information to the public. The following statements elaborate on this purpose.

- (A.) To provide opportunities for neighborhoods and commercial endeavors to be identified in an effective and equitable fashion.
- (B.) To promote public safety by reducing hazards associated with distracting or excessive signage.
- (C.) To establish and promote enhanced community character through signage that is reflective of the adopted goals of the Village and its scale of development.
- (D.) To promote the integration of signage with the architectural characteristics and aesthetic quality of the Village’s development.
- (E.) To provide for flexibility in amount, type and scale of signage depending on the context of the development and the surrounding area.
- (F.) To facilitate efficient, thorough, consistent and effective enforcement of the *sign* regulations.

17.3 Definitions

Please see definitions in Article 3 of this Ordinance.

17.4 Applicability

Except as specifically exempted in this Article, no *sign* shall be erected, altered or displayed without a *sign* permit issued by the Village of Marvin confirming compliance with the provisions of this Article. *Signs* made nonconforming by this Article shall be grandfathered until altered, abandoned, relocated, or removed except for prohibited *signs*, which shall be removed within ten (10) days as required in Section 17.5 of this Article.

17.5 Prohibited Signs

Signs prohibited by the enactment of this Article shall be removed within ten (10) days from the date of notification by the *Planning, Zoning & Subdivision Administrator* or duly authorized code enforcement agent of the Village; however, where deemed dangerous or prejudicial the *Planning, Zoning & Subdivision Administrator* may act in accordance with Section 23.10 of this Ordinance. The following *signs* are specifically prohibited by this Ordinance. (reference G.S. 136-32, 136-32.1, 136-32.2, and 160A-193)

- (A.) *Snipe signs*.
- (B.) *Signs* attached to light fixtures, curbs, sidewalks, gutters, streets, utility poles, public buildings, fences, railings, public telephone poles, or trees.
- (C.) Windblown *signs* not specifically permitted in this Article such as pennants, streamers, spinners, balloons, inflatable figures, and similar *signs*, except as specifically permitted in Section 17.8.
- (D.) *Signs* which prevent free ingress to or egress from any door, window, or fire escape.
- (E.) *Signs* erected or displayed in such a manner as to obstruct free and unobstructed vision at any street, intersection, or driveway.
- (F.) Any *sign* which interferes with vehicular or pedestrian traffic because of its position, size, shape, movement, color, fashion, manner, or intensity of illumination, including *signs* with the potential to be confused with any authorized traffic *sign*, signal, or device not found in compliance with the provisions of Section 17.7-1(H) of this Article.
- (G.) *Signs* erected or displayed on or over public street rights-of-way, other than those erected by governmental agencies or for which appropriate encroachment agreements have been executed pursuant to this Ordinance. *Signs* specifically protected by the provisions of G.S. 136-32(b) are not prohibited, provided the requirements of G.S. 136-32(b) are met.
- (H.) *Portable signs*, except as specifically permitted herein.
- (I.) *Signs* that mechanically alter their height, location, or size; *signs* that revolve; or *signs* that strobe; or any other similarly constructed *signs*.
- (J.) *Signs* attached to the roofs of buildings or are otherwise located above the roofs of buildings or are part of roofing finish and/or materials.
- (K.) Off-premises billboard *signs*, including outdoor advertising *signs*, except those

placed by governmental agencies for public purposes. Existing off-premises billboard *signs* that are non-conforming may be disassembled and replaced with a newer structure upon approval of a permit issued by the *Planning, Zoning & Subdivision Administrator*. The new signage shall be designed to result in no expansion of or increase in the non-conformity; shall allow replacement with a digital *sign*; shall not exceed 48 feet in height above adjacent grade; shall be designed to limit lighting to the *sign* face; and shall be designed to enhance the architectural features of adjacent buildings. Color renderings or photographic simulations shall be submitted to the *Planning, Zoning & Subdivision Administrator*, who shall have the authority to deny permits for *signs* that do not meet the intent of this Article.

17.6 Exempt Signs

The following *signs* are exempt from the requirements of this ordinance; however, in some instances building permits may be required, such as an electrical permit for wiring, and a zoning permit is a prerequisite to a building permit.

- (A.) Warning and security *signs*, including *signs* placed by a public utility for the safety, welfare, or convenience of the public, including, but not limited to *signs* identifying fire department connections or high voltage, public telephone, or underground cables and/or gas pipe lines.
- (B.) Government *signs* and *signs* for non-profit organizations sponsored by governments including insignia; statutorily required legal notices; and informational, directional, way-finding, and traffic safety *signs*. This exemption shall not include permanent and temporary *signs* covered in section 17.8 of this Article but may include *signs* or flags erected on public property or private property immediately proximate to public property to commemorate public holidays recognized by resolution of the Council.
- (C.) Warning and security *signs*, including *signs* placed by private property owners restricting activity such as "No Dumping", "No Hunting" and "No Trespassing" *signs* containing less than two square feet in copy area per *sign* face.
- (D.) *Signs* placed inside ball fields and outdoor amphitheatres that face toward the interior of the field or amphitheater and are primarily visible for viewing by persons attending events and/or performances.
- (E.) Accent lighting, as defined herein, provided that not more than two architectural elements are accented per occupancy (e.g., two windows or a window and a roofline, etc.).
- (F.) *Signs* associated with events of short duration for a nonprofit or charitable organization posted for 14 days or less, provided that not more than a total of 24

square feet of signage is posted per property per street frontage and they are removed within two (2) days.

- (G.) Incidental *signs* affixed to windows containing no more than two (2) square feet in copy area provided that not more than a total of six (6) square feet of incidental signage is displayed per occupancy. An incidental *sign* may flash provided they are located within a building and no more than one such *sign* is displayed per occupancy.



Example of Incidental Signs

- (H.) Machine *signs* containing no more than eight (8) square feet in copy area, except drive-through menu and/or kiosk machine *signs* may contain up to twelve (12) square feet in copy area provided the portion of the *signs* devoted to a logo or business name contains no more than six (6) square feet of the total *sign* copy area.



Example of Machine Signs

- (I.) Menus and kiosks displayed outdoors at restaurants provided they contain no more than six (6) square feet in copy area.
- (J.) *Signs* attached to collection bins, provided they contain no more than six (6) square feet in copy area.
- (K.) Any *sign*, public notice or warning required by a valid and applicable federal, state, or local law, regulation, approved development plan, or ordinance, including traffic control *signs* on private property.
- (L.) Address *signs* no greater than four (4) square feet in copy area.

- (M.) Retail store window displays of merchandise.
- (N.) *Signs* attached to licensed roadworthy vehicles, provided the vehicles are not parked unattended and in such a manner as to create the effect of additional signage, whether on-premises or off-premises (see Section 17.5, Prohibited Signs).
- (O.) *Signs* attached to umbrellas provided no more than 25% of the total surface area of the umbrella is devoted to signage.
- (P.) One *Temporary sign* per property street frontage containing no more than four (4) square feet in copy area in “SFR” and “RR” districts; no more than 16 square feet in copy area in the “HD”, “MS”, “CIV”, and “MU” districts; and, no more than 32 square feet in the C-16”, “VSR”, and “IND” Districts. *Temporary signs* are limited to duration of not more than six (6) consecutive months in any one calendar year. See Section 17.8 for *temporary signs* requiring a permit.
- (Q.) Flags of the United States, the State of North Carolina, Union County or the Village of Marvin if they do not exceed 50 square feet in area, that they are displayed on flagpoles not exceeding 48 feet in height, that no more than three (3) flags are displayed on a lot of less than one (1) acre in size and not more than five (5) flags are displayed on zone lots of one (1) acre or more in size. Flagpoles may be roof or wall-mounted provided size, height and setback requirements are met.
- (R.) Holiday, sports, and good-will decorations with non-promotional message if not illuminated and decorations are not displayed for longer than a total of 60 days per calendar year on nonresidential property.
- (S.) *Signs* for “temporary businesses” such as, but not limited to, produce stands, street vendors, and vendors at special events that shall operate for a specified time, not to exceed seven consecutive days. If the business is a recurring operation, such as produce stands that operate on weekends or on select days during the week, then said “temporary business” shall comply with the regulations set forth in this Article; the exception being that the *Planning, Zoning & Subdivision Administrator* may permit “temporary businesses” to use banners and temporary signage that comply with the standards and intent of this Article to be used as signage.
- (T.) Fence wraps displaying signage when affixed to perimeter fencing at a construction site until the certificate of occupancy is issued for the final portion of any construction site or 24 months from the time the fence wrap was installed provided it contains only advertising sponsored by parties directly involved in the construction project in accordance with G.S. 160D-908.

17.7 Requirements for Permanent Signs Requiring an Approval of a Zoning Permit

17.7-1 Permanent sign requirements. The following tables and text provide the design and dimensional requirements for permanent *signs* that require a permit. Requirements include copy area, number, type of illumination, and letter height for both attached and freestanding *signs*. Setback and height requirements are established for freestanding *signs* and detailed design requirements are provided for monument and pole *signs*.

- (A.) Only one general attached *sign* (blade, V-type, or flat) is allowed per street or parking frontage.
- (B.) Only one monument or pole freestanding *sign* is allowed per street frontage.
- (C.) Height of freestanding *signs* shall be measured from the elevation of the ground at the point of contact with the *sign* provided that the grade of the site is not artificially altered to increase the allowable height of the *sign*. For sloping sites, the applicable point of contact shall be the point having the highest elevation.
- (D.) One *sign* per approved *Home Occupation* within the Single Family Residential (SFR), Rural Residential (RR), Mixed Use (MU), and Main Street (MS) districts, not to exceed four (4) square feet in area.
- (E.) The following permanent special purpose *signs* are in addition to general attached and freestanding *signs* under the limitations provided in the following tables and elsewhere in this Article.
 - (1.) Window.
 - (2.) Directional.
 - (3.) Directory.
 - (4.) Community identification.
- (F.) Clocks and Thermometers (including digital displays of time and temperature information) are allowed as either attached or freestanding components of *signs*, provided they are:
 - (1.) incorporated into the general or attached signage for a non-residential property,
 - (2.) no more than two (2) per property, and
 - (3.) the area does not exceed 16 square feet. The square footage allowance constitutes an area bonus in addition to the maximum allowable area for the applicable *sign* type to which clocks and/or thermometers are attached.

(G.) Changeable Copy *signs* are allowed as either attached or freestanding *signs* provided they are:




- (1.) incorporated into the general or attached signage for a nonresidential property,
- (2.) not more than one such *sign* is allowed per occupancy,
- (3.) the *sign* message changes no more frequently than once every ten (10) seconds for manually and/or mechanically changing *signs* and once every ten (10) seconds for digitally changing *signs*.
- (4.) The sign message may contain live or prerecorded video provided the video is a continual sequence from a single stationary camera and not multiple sequences and/or camera angles which create the effect of changing copy more frequently than the intervals stated in sub-section (G)(3) above.

(H.) Digitally Changing *signs* are allowed only on properties zoned “C-16”, “CIV”, and “MU” with speed limits posted at 45 MPH or less, provided message change intervals are in accordance with sub-section (G) above.

(I.) All subdivisions requiring the development of new public roads within the Single-Family Residential District (SFR) and Rural Residential District (RR) must be named. Subdivision names or identification shall not duplicate or closely approximate phonetically the names of existing streets and subdivisions in the Village of Marvin and must be approved by Union County’s emergency address coordinator. The minimum identification requirement is that a sign clearly showing the name of a named subdivision be posted at the primary vehicular entrance to the subdivision from a major and/or minor thoroughfare(s). Residential subdivisions in all other zoning districts may install temporary signage identifying the subdivision until lots are sold. Commercial subdivisions are not required to use identification signage. (See Article 16).

(J.) Requirements for *signs* extending over pedestrian and vehicular travel areas: *Signs* extending over pedestrian and vehicular travel areas shall maintain a minimum clear distance between the finished grade surface material and any portion of the *sign* and its associated support structure of seven (7) vertical feet on public and/or private sidewalks, and fourteen (14) vertical feet over paved vehicular parking and/or maneuvering areas. Signs shall not extend over public streets, except as stipulated in Section 17.5(G) of this Article.






Table 17.1 – Permanent Sign Standards and Criteria

Sign Type	Sign Copy Area Allowance (sq. ft.)	Sign Illumination	Minimum Letter Size	Maximum Number	Other Requirements
Permanent Attached Signs – General					
Blade* (or Projecting)					Only one sign (blade, V-type or flat sign) allowed per occupancy per street or parking frontage
V-type*					
Flat* (or Wall)		32	Ambient External Internal	6" One per street or parking frontage per occupancy	Internally-illuminated signs – sign face can be illuminated No attached signage above second story except in monolithic multi-story buildings fronting major thoroughfares. May encroach into adjoining street right-of-way pursuant to an encroachment agreement. See 17.5(G), also see 17.7-1(J)

*May encroach into adjoining street right-of-way in the Main Street (MS) and Mixed Use (MU) Districts pursuant to an encroachment agreement subject to the provisions of Sections 17.5(G) and 17.7-1(I) of this Article.

Sign Type	Sign Copy Area Allowance (sq. ft.)	Sign Illumination	Minimum Letter Size	Maximum Number	Other Requirements	
						Permanent Attached Signs – Special Purpose
Window		8	Ambient	Not Applicable	One per each 100 square feet of display or doorway window area or fraction thereof	A maximum allowance of three <i>signs</i> per street or parking frontage per occupancy
Directional		4	Ambient External Internal	4"	Not Applicable	
Outdoor Directory		6	Ambient External	Not Applicable	One per street or parking frontage per building	
Awning*		6	Ambient Backlit	4"	One per street or parking frontage per awning	Not more than two awning <i>signs</i> per occupancy per street or parking frontage.
Canopy		16	Ambient Internal	6"	One per side of canopy	

*May encroach into adjoining street right-of-way in the Main Street (MS) and Mixed Use (MU) Districts pursuant to an encroachment agreement subject to the provisions of Sections 17.5(G) and 17.7-1(I) of this Article.

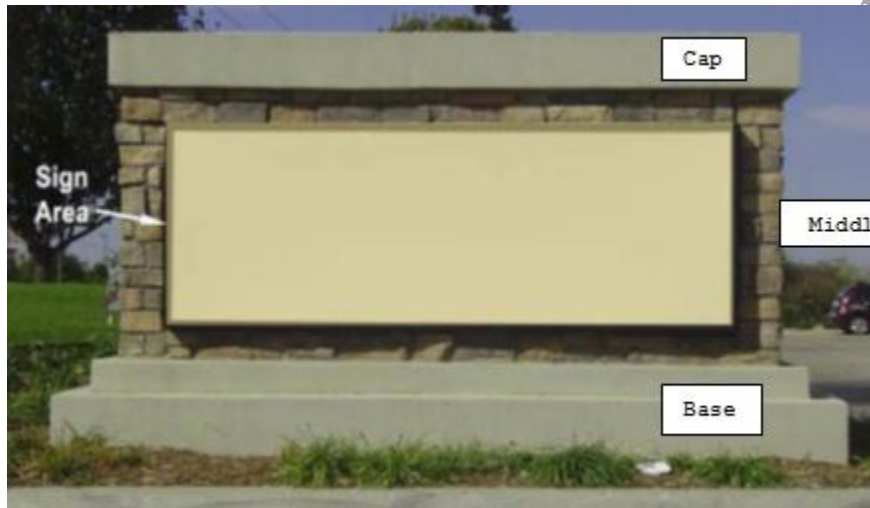
Sign Type		Sign Copy Area (sq. ft.)	Max. Sign Height (feet)	Sign Illumination	Min. Letter Size	Max. Number	Min. Setback from Property Line(s)	Other Requirements
Permanent Freestanding Signs – General and Special Purpose								
Non-residential Monument		48	8	Ambient External Internal		One per street frontage having access to the site	5 ft	Monument signs shall comply with the design requirements of section 17.7-2
Non-residential Pole		12	10	Ambient External Internal	6"	One per street frontage providing access to the site	4 feet	Pole signs shall comply with the design requirements of section 17.7-3
Residential Monument		32	6	Ambient External		One per each gateway or primary entrance	0 feet*	Shall comply with design requirements for monument signs
Non-residential Directory		24	6	Ambient External Internal	4"	One per street frontage having access to the site	25 feet	Sites with multiple buildings only
Non-residential Directional		3	2.5	Ambient External Internal	4"	Two per each driveway access to the site	0 feet*	Not more than 25% of sign face shall contain a logo w/no commercial text

*May encroach into adjoining street right-of-way in the Main Street (MS) and Mixed Use (MU) Districts pursuant to an encroachment agreement subject to the provisions of Sections 17.5(G) and 17.7-1(I) of this Article.

17.7-2 Monument sign design requirements. Monument signs are intended to serve a wider range of aesthetic and architectural purposes than pole signs. Consequently, the following design requirements are established for monument signs.

- (A.) General design requirements and sign copy area measurement for monument signs. As in traditional building design, monument signs shall be designed to include a base, middle, and cap. The following illustration shows a monument sign having these architectural characteristics, as well as how sign copy area is to be measured on a monument sign.

Monument Sign Design Elements



- (B.) Sign structure materials. In general, monument sign structures should be constructed of materials that are like or complementary to the principal building(s) on the premises where they are located. Only the following materials shall be used in monument sign structure construction, singly or in combination.

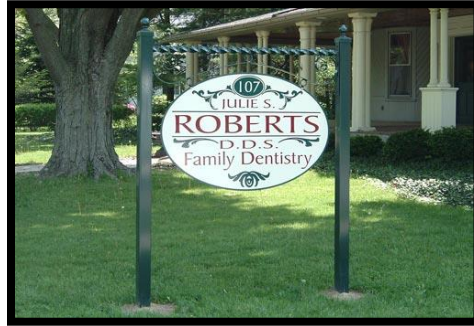
- (1.) Brick (painted or unfinished)
- (2.) Wood
- (3.) Concrete or stucco
- (4.) Natural stone or manufactured stone having a natural appearance
- (5.) Metal
- (6.) Glass

- (C.) Sign copy materials. Sign copy materials for monument signs shall include the sign structure materials listed above. For internally illuminated monument sign copy, acrylic may be utilized, provided not more than 50% of the sign face is illuminated.

17.7-3 Pole sign design requirements. The following design requirements are established for pole signs:

(A.) General design requirements. Pole *signs* in Marvin have traditionally been supported by two posts or suspended from a single post as shown in the following non-local sample illustrations. Pole *signs* shall use one of these two forms of design.

Examples of Allowable Types of Pole *Signs*



(B.) Materials. In general, pole *signs* should use materials that complement the principal building(s) on the premises where they are located. The following materials are acceptable for use in pole *signs*, singly or in combination:

- (1.) Wood
- (2.) Metal
- (3.) Brick (painted or unfinished)
- (4.) Concrete or stucco
- (5.) Natural stone or manufactured stone having a natural appearance

17.8 Temporary Signs Requiring a Permit

The following tables provide the design, dimensional, and time of display requirements for Temporary *Signs*, refer to section 17.5 for Prohibited Signs and Section 17.6 for Exempt Signs. Additionally: Nonconforming temporary *signs* shall not be *grandfathered* (see section 17.13 of this Article).

17.8-1 Requirements for temporary *signs* that require a permit.

The temporary *signs* listed in the following table require a permit and shall comply with the indicated zoning location and other requirements. All such *signs*, except for searchlights, shall be illuminated solely by ambient light sources.

Temporary Sign Type	Allowable Zoning Districts	Requirements
Sandwich board <i>signs</i>	“MS”, “CIV”, “MU”, “C-16”, “VSR”, & “IND”	One <i>sign</i> per occupancy having direct access onto any public or private sidewalk where <i>sign</i> is placed. “Direct access” shall mean an occupancy having a public entrance immediately from the sidewalk where the <i>sign</i> is placed. See additional sandwich board <i>sign</i> requirements in section 17.8-2 (below) of this Article.
Banners and flags	“HD”, “MS”, “MU”, “C-16”	Up to 60 square feet of banner/flag materials per occupancy. Banners shall remain tethered and/or anchored to resist movement. Display time limit: 30 days, four times per calendar year with a 60-day separation between permits and/or installations.

17.8-2 Additional requirements for sandwich board *signs*.

Sandwich board *signs* offer businesses in pedestrian-oriented zoning districts an effective and creative way to market products or services. However, unless carefully regulated, sandwich board *signs* can create hazards for pedestrians and a cluttered and unattractive appearance. The following design standards are established to permit sandwich board *signs* to be utilized in a fashion which meets community safety and design expectations, as well as the need for businesses to market their products and services.

- (A.) Sandwich board *signs* shall not exceed four feet in height and 30 inches in width.
- (B.) Sandwich board signs shall be located only on sidewalks that serve the establishment with which they are associated.
- (C.) Five (5) feet of sidewalk clearance shall be provided along at least one side of the *sign* to allow for unobstructed pedestrian access in accordance with ADA regulations.
- (D.) Sandwich board *signs* are intended to inform and orient pedestrians to business locations and available products and services. Consequently, such *signs* shall be placed within twenty (20) feet of the primary public entrance to the occupancy with which they are associated and shall be oriented to communicate information primarily to pedestrian traffic utilizing the sidewalk on which they are located as opposed to vehicular traffic utilizing nearby public or private streets or private drives and parking areas.
- (E.) Sandwich board *signs* shall be moved to an indoor location for storage during times when the associated businesses are not open for customers.
- (F.) Standard design for sandwich board *signs*. Sandwich board *signs* shall be located in frames constructed of black anodized aluminum, black wrought-iron, or wood which has been painted black, as illustrated in the following photographs. Plastic, PVC, or other similar materials shall not be used as the frame. The display area within the frame shall be constructed of durable metal or wood if containing permanent messages; such permanent messages shall be applied to the display area with paint, metal or durable vinyl or shall consist of carved wood or cut metal lettering or images. Sandwich board *signs* containing changeable message display areas may be constructed of chalk board style materials, durable plastic (such as a “dry erase” board), or similar materials, provided the display area background is either black, dark green or white in color and that the changeable message is applied using erasable chalk or erasable ink in a handwritten application. Unless otherwise specified, a muted color palette shall be used for any background or message, including lettering and images.



Example of Standard Sandwich Board Sign Frame

(G.) Alternative design for sandwich board *signs*. As an alternative to the standard design described above, the *Planning, Zoning & Subdivision Administrator* may permit alternative sandwich board*sign* designs which exhibit a distinctive and creative flair which the owner would otherwise be unable to replicate if the standard frame design was used. Such *signs* shall not contain changeable copy and images and lettering shall be permanently attached, painted, cut or carved onto the *sign* using a muted palette of colors. Wooden *signs* are preferred, but all such *signs* shall be made of durable materials. An example of an acceptable alternative design is illustrated in the following photograph.



Example of Alternative Sandwich Board Sign

17.9 ***Signs* Located in Local Historic Districts**

Regardless of the other dimensional provisions of this Article, *signs* that are located in local historic districts shall be governed by the applicable design guidelines and review processes established for the local historic district.

17.10 **Master *Sign* Plan**

Regardless of the other provisions of this Article, the Council may, at its sole discretion, approve a master *sign* plan for specified areas of Village or for certain development projects listed in this section. The approved master *sign* plan may include *signs* of different sizes, types, locations, placement and height from those otherwise enumerated in this Article.

17.10-1 **Purpose.** The purpose behind this section is to permit creativity in *sign* design and placement to address site issues and constraints associated with topography, pedestrian-orientation, way-finding/directional/directory and other conditions unique to the subject development or area of Village.

17.10-2 Application. Master *sign* plans may be submitted for the following types of developments:

- (A.) Heritage District (HD) and Traditional Neighborhood Development (TNDO) projects, in accordance with the provisions of Article 8 of this Ordinance.
- (B.) Commercial, institutional, industrial, or mixed-use developments containing three or more acres in area.
- (C.) Areas of Village that are governed by a corridor plan or area plan that includes *sign* guidelines.

17.10-3 Submittal process. Master *sign* plan applications may be submitted for consideration at the time of original submittal of the proposed development or separately from the original development proposal. The following information or material shall be required for a signage plan application and shall be indicated on an application form provided by the *Planning, Zoning & Subdivision Administrator*.

- (A.) Owner and contact name, address, telephone number and signature(s), as applicable.
- (B.) A master *sign* plan proposal illustrating the proposed *signs*, their proposed location, and their proposed purpose, along with a statement as to why the existing *sign* code cannot or should not be followed in the subject case.
- (C.) An analysis showing how the proposed signage plan differs from what could be provided under the existing *sign* regulations set forth in this Article.
- (D.) Other similar information determined by the *Planning, Zoning & Subdivision Administrator* to be necessary for understanding the purpose and intent of the proposed master *sign* plan application.

17.10-4 Review procedure. The *Planning, Zoning & Subdivision Administrator* shall schedule the master *sign* plan for Planning Board and Council consideration in accordance with the notice and public hearing procedures set forth in Article 5 for zoning map amendments. In reviewing the proposed master *sign* plan, the Planning Board and Council shall take the following matters into consideration.

- (1.) The extent to which the proposed master *sign* plan deviates from the *sign* allowances otherwise applicable in this Article.
- (2.) The rationale provided by the applicant for the deviations.
- (3.) The extent to which the master *sign* plan promotes Village goals associated with community character, way-finding, pedestrian-orientation, and business identification.
- (4.) The degree to which the master *sign* plan creatively and effectively addresses the issues and constraints unique to the site with regard to signage.

The Planning Board shall provide a recommendation to the Council whether to deny or approve the proposed master *sign* plan in part or in total and shall further recommend conditions regarding approval where deemed warranted.

The Council may deny or approve the proposed master *sign* plan in part or in total and may establish conditions regarding approval. In the event that the master *sign* plan is denied, the applicant must wait at least 90 days before reapplying for a new master *sign* plan *substantially similar* (as defined in Article 3) to the proposed master *sign* plan.

17.11 Suggested Design Guidelines

In addition to the mandatory standards provided in Sections 17.7 and 17.8 above, the following design guidelines for *signs* are provided in order to promote more attractive and functional design and placement of *signs*.

- (A.) Freestanding *signs*. Placement of freestanding *signs* should take into account existing trees and other site landscaping so as to maintain *sign* visibility. Landscaping around the base of freestanding *signs* is strongly encouraged to improve the overall appearance and visibility of these *sign* types as evidenced in the following example.



Landscaping Around the Base of a Monument Sign

- (B.) Display windows are intended to offer opportunities to display merchandise or services available on the premises. Careful placement of *signs* in display windows will not obscure the visibility of merchandise or services. Additionally, display windows shall not be “papered-over,” especially in pedestrian areas.
- (C.) General design guidelines. The following general guidelines are provided to guide overall *sign* design in the Village:
- (1.) Use high quality, durable materials.
 - (2.) Minimize the need for *sign* lighting by placing *signs* where ambient light sources illuminate the *sign*. Where separate lighting is necessary, external illumination sources are preferred over internal illumination. All electrical conduit and junction boxes should be concealed.



Externally Illuminated Sign

- (3.) Backlit, individual letter *signs* (aka, halo lighting) are encouraged where illumination is needed as illustrated below.



Backlit Individual Letters

- (4.) Avoid elaborate or confusing styles of text as illustrated in the following example.



Overly-Complicated Style of Text

- (5.) Attempt to use symbols rather than text; for example, this Norwegian pharmacy *sign* incorporates a symbol as well as text.



Use of Symbols

(6.) Use *sign* styles and designs that complement the architecture of the site where the *signs* are located. Marvin is a historic Village so using “period” signage is strongly encouraged.



An Example of a “Period” Pole Sign in a New York City Suburb

17.12 **Permitting**

Applications for *sign* permits and the associated fee schedule may be obtained from the *Planning, Zoning & Subdivision Administrator*. Completed applications, including payment of fees, shall be reviewed for compliance with the requirements of this ordinance.

Signs requiring *sign* permits under the provisions of this ordinance may also require additional permits, including building permits and electrical permits. It shall be the responsibility of the applicant to obtain all applicable permits.

17.13 **Nonconforming Signs**

A permanent *sign* which does not comply with one or more of the requirements of this Article shall be grandfathered (deemed a vested right) until such *sign* is removed, physically altered beyond maintenance (as defined), relocated, damaged or destroyed, after which it shall be brought into compliance with all requirements of this Article. Nonconforming temporary *signs* shall not be grandfathered and shall be brought into compliance with all requirements of this Article within ten (10) days from the date of notification by the *Planning, Zoning & Subdivision Administrator*, or duly authorized code enforcement agent of the Village.

17.14 **Discontinued and Abandoned Signs**

Signs identifying a discontinued occupancy or use shall be considered abandoned *signs* and shall be removed by the owner of the property on which they are located. Failure to remove a discontinued or abandoned *sign* shall be considered a violation of this ordinance. In addition, correction of a discontinued or abandoned *sign* violation may include removal of a discontinued or abandoned *sign* or *signs* by the Village at the owner's expense after proper notice of the violation and failure to act by the owner within the timeframe established in the notice of violation.

17.15 **Maintenance**

All *signs*, including exempt *signs*, shall be maintained in a satisfactory state of repair. This shall include, without limitation, correction of peeling or faded paint, repair or replacement of damaged panels, trimming of vegetation that obscures the *sign(s)*, replacement of defective lighting of illuminated *signs*, secure attachment to the building for attached *signs*, and stable vertical alignment of freestanding *signs*.

ARTICLE 18

FLOOD DAMAGE PREVENTION

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Recommended by Planning Board 16 April 2024

ARTICLE 18

**FLOOD DAMAGE PREVENTION
Marvin, NC Community ID Number 370514
Required for Eligibility in the National Flood Insurance Program**

Non-Coastal Regular Phase

18.1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

SECTION A. STATUTORY AUTHORIZATION.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Village Council of the Village of Marvin, North Carolina, does ordain as follows:

SECTION B. FINDINGS OF FACT.

- (1) The flood prone areas within the jurisdiction of Marvin are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

SECTION C. STATEMENT OF PURPOSE.

It is the purpose of this Ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective

barriers, which are involved in the accommodation of floodwaters;

- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. OBJECTIVES.

The objectives of this Ordinance are to:

- (1) Protect human life, safety, and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (6) Minimize damage to private and public property due to flooding;
- (7) Make flood insurance available to the community through the National Flood Insurance Program;
- (8) Maintain the natural and beneficial functions of floodplains;
- (9) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (10) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

18.2. DEFINITIONS.

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance it's most reasonable application.

“Accessory Structure (Appurtenant Structure)” means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports, and storage sheds are common urban accessory structures. Pole

barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

“Addition (to an existing building)” means an extension or increase in the floor area or height of a building or structure.

“Alteration of a watercourse” means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

“Appeal” means a request for a review of the Floodplain Administrator's interpretation of any provision of this Ordinance.

“Area of Shallow Flooding” means a designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.

“Area of Future-Conditions Flood Hazard” means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

“Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

“Base Flood Elevation (BFE)” means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area”, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Building” see “Structure”.

“Chemical Storage Facility” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“Design Flood” see “Regulatory Flood Protection Elevation.”

“Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving,

excavation or drilling operations, or storage of equipment or materials.

“Development Activity” means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

“Digital Flood Insurance Rate Map (DFIRM)” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Disposal” means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“Elevated Building” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before December 28, 1998, the effective date of the initial FIRM.

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the initial effective date of the floodplain management regulations adopted December 28, 1998.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters; and/or
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this Ordinance, prior to the commencement of any development activity.

“Floodplain Management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“Floodplain Management Regulations” means this Ordinance and other zoning Ordinances, subdivision regulations, building codes, health regulations, special purpose Ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

“Flood-resistant material” means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

“Floodway” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Floodway encroachment analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models meeting the minimum requirements of the National Flood Insurance Program.

“Freeboard” means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, precipitation exceeding the base flood, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

“Hazardous Waste Management Facility” means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

- (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- (d) Certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program”.

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community’s floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

“Light Duty Truck” means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

“Lowest Adjacent Grade (LAG)” means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

“Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Map Repository” means the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products have the same authority as hard copy products. Therefore, the NCEM’s Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

“Market Value” means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

“New Construction” means structures for which the “start of construction” commenced on or after December 28, 1998, the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

“Non-Conversion Agreement” means a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the Ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk’s or recorder’s stamps and/or notations that the filing has been completed.

“Non-Encroachment Area (NEA)” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

“Post-FIRM” means construction or other development for which the “start of construction” occurred on or after December 28, 1998, the effective date of the initial Flood Insurance Rate Map.

“Pre-FIRM” means construction or other development for which the “start of construction” occurred before December 28, 1998, the effective date of the initial Flood Insurance Rate Map.

“Principally Above Ground” means that at least 51% of the actual cash value of the structure is above ground.

“Public Safety” and/or “Nuisance” means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

“Recreational Vehicle (RV)” means a vehicle, which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- (e) Is fully licensed and ready for highway use.

For the purpose of this Ordinance, “Tiny Homes/Houses” and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.

“Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas

designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus four (4) feet of freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least four (4) feet above the highest adjacent grade.

“Remedy a Violation” means to bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the Ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Salvage Yard” means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

“Solid Waste Disposal Site” means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 18.3, Section B of this Ordinance.

“Start of Construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the

building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

“Substantial Damage” means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”.

“Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Article 18.4 Section E of this Ordinance.

“Technical Bulletin and Technical Fact Sheet” means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

NOTE: It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

“Temperature Controlled” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

“Variance” is a grant of relief from the requirements of this Ordinance.

“Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 18.4 and 18.5 is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation (WSE)” means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

18.3. GENERAL PROVISIONS.

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This Ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs), of Marvin.

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated November 16, 2018 for Union County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this Ordinance, and all revisions thereto.

SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this Ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article 18.3, Section B of this Ordinance.

SECTION D. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this Ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS.

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another conflict or overlap, whichever

imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION.

In the interpretation and application of this Ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the Village of Marvin or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a violation of this Ordinance. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Village of Marvin from taking such other lawful action as is necessary to prevent or remedy any violation.

18.4. ADMINISTRATION.

SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Village of Marvin Planning, Zoning & Subdivision Administrator is designated and hereinafter referred to as the “Floodplain Administrator” appointed to administer and implement the provisions of this Article. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this Article, the Floodplain Administrator shall be responsible for the coordination and community’s overall compliance with the National Flood Insurance Program and the provisions of this Article.

SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

- (1) Application Requirements. Application for a Floodplain Development Permit shall be

made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (i) the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - (ii) the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 18.3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
 - (iii) flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 18.3, Section B;
 - (iv) the boundary of the floodway(s) or non-encroachment area(s) as determined in Article 18.3, Section B;
 - (v) the Base Flood Elevation (BFE) where provided as set forth in Article 18.3, Section B; Article 18.4, Section C; or Article 18.5, Section D;
 - (vi) the old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - (vii) the certification of the plot plan by a registered land surveyor or professional engineer.
- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - (i) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
 - (iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of

floodproofing measures.

- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Ordinance are met. These details include but are not limited to:
 - (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 18.5, Section B(4)(d) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
 - (e) Usage details of any enclosed areas below the lowest floor.
 - (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
 - (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
 - (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article 18.5, Section B, subsections (6) and (7) of this Ordinance are met.
 - (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- (2) Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:
- (a) A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
 - (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article 18.3, Section B.
 - (c) The Regulatory Flood Protection Elevation required for the reference level and all

attendant utilities.

- (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
 - (e) All certification submittal requirements with timelines.
 - (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Article 18.5, Section F have been met.
 - (g) The flood openings requirements.
 - (h) Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).
 - (i) A statement, that all materials below BFE/RFPE must be flood resistant materials.
- (3) Certification Requirements.
- (a) Elevation Certificates
 - (i) An Elevation Certificate (FEMA Form 206-fy22-152) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
 - (ii) An Elevation Certificate (FEMA Form 206-fy22-152) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
 - (iii) A final Finished Construction Elevation Certificate (FEMA Form 206-fy22-152) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to

submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" × 3". Digital photographs are acceptable.

(b) Floodproofing Certificate

- (i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 206-fy22-153), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (ii) A final Finished Construction Floodproofing Certificate (FEMA Form 206-fy22-153), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of

a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

- (c) If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 18.5, Section B(3)(b).
 - (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
 - (f) Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - (i) Recreational Vehicles meeting requirements of Article 18.5, Section B(6)(a);
 - (ii) Temporary Structures meeting requirements of Article 18.5, Section B(7); and
 - (iii) Accessory Structures that are 150 square feet or less or cost of structure is \$5,000 or less and meeting requirements of Article 18.5, Section B(8).
- (4) Determinations for Existing Buildings and Structures.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (b) Compare the cost to perform the improvement, the cost to repair a damaged building

to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this Ordinance is required.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 18.5, Section F are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 18.4, Section B(3).
- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article 18.4, Section B(3).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Article 18.4, Section B(3).

- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article 18.4, Section B(3) and Article 18.5, Section B(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Article 18.3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Article 18.5, Section D(2)(c), in order to administer the provisions of this Ordinance.
- (12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Article 18.3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this Ordinance.
- (13) Permanently maintain all records that pertain to the administration of this Ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (14) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local Ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (15) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a violation of this Ordinance.
- (18) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or

misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

- (17) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (18) Follow through with corrective procedures of Article 18.4, Section D.
- (19) Review, provide input, and make recommendations for variance requests.
- (20) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 18.3, Section B of this Ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (21) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).
- (22) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

SECTION D. CORRECTIVE PROCEDURES.

- (1) Violations to be Corrected: When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (a) That the building or property is in violation of the floodplain management regulations;
 - (b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments

and evidence pertaining to the matter; and

- (c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one-hundred-eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a violation of this Ordinance.

SECTION E. VARIANCE PROCEDURES.

- (1) The Board of Adjustment as established by the Village of Marvin, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this Ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
 - (a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - (b) Functionally dependent facilities if determined to meet the definition as stated in Article 18.2 of this Ordinance, provided provisions of Article 18.4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to

public safety; or

- (c) Any other type of development, provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
- (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location as defined under Article 18.2 of this Ordinance as a functionally dependent facility, where applicable;
 - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this Ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that

such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
- (9) Conditions for Variances:
 - (a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or Ordinances.
 - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances shall only be issued prior to development permit approval.
 - (e) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
- (10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
 - (a) The use serves a critical need in the community.
 - (b) No feasible location exists for the use outside the Special Flood Hazard Area.
 - (c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.

- (d) The use complies with all other applicable Federal, State and local laws.
- (e) The Village of Marvin has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

18.5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION A. GENERAL STANDARDS.

In all Special Flood Hazard Areas, the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
 - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Nothing in this Ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Ordinance.
- (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Article 18.4, Section E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Article 18.4, Section B(3).
- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (15) When a structure is located in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.
- (16) Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area.

SECTION B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Article 18.3,

Section B, or Article 18.5, Section D, the following provisions, in addition to the provisions of Article 18.5, Section A, are required:

- (1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 18.2 of this Ordinance.
- (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 18.2 of this Ordinance. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Article 18.5, Section G(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 18.4, Section B(3), along with the operational plan and the inspection and maintenance plan.
- (3) Manufactured Homes.
 - (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 18.2 of this Ordinance.
 - (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - (c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 18.5, Section B(4).
 - (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management

Coordinator.

- (4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
- (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - (b) Shall not be temperature-controlled or conditioned;
 - (c) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
 - (d) Shall include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Additions/Improvements.

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
- (i) not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - (ii) a substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- (b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
- (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
- (i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 - (ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a two (2) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the two (2) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this Ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

- (i) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
 - (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (6) Recreational Vehicles. Recreational vehicles shall either:
 - (a) Temporary Placement
 - (i) Be on site for fewer than 180 consecutive days; or
 - (ii) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions).
 - (b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.
- (7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
 - (a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
 - (b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - (c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - (e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
 - (a) Accessory structures shall not be used for human habitation (including working,

sleeping, living, cooking or restroom areas);

- (b) Accessory structures shall not be temperature-controlled;
- (c) Accessory structures shall be designed to have low flood damage potential;
- (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (e) Accessory structures shall be firmly anchored in accordance with the provisions of Article 18.5, Section A(1);
- (f) All service facilities such as electrical shall be installed in accordance with the provisions of Article 18.5, Section A(4); and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Article 18.5, Section B(4)(c).

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of three thousand dollars (\$3,000) or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Article 18.5, Section B (2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 18.4, Section B(3).

- (9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
 - (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
 - (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section B (2) of this Ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on

an empty tank during design flood conditions.

- (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(10) Other Development.

- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 18.5, Section F of this Ordinance.
- (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 18.5, Section F of this Ordinance.
- (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 18.5, Section F of this Ordinance.
- (d) Commercial storage facilities are not considered “limited storage” as noted in this ordinance, and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

SECTION C. RESERVED.

SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 18.3, Section B, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Article 18.5, Section A, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with

supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- (2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
 - (a) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Ordinance and shall be elevated or floodproofed in accordance with standards in Article 18.5, Sections A and B.
 - (b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article 18.5, Sections B and F.
 - (c) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Article 18.3, Section B and utilized in implementing this Ordinance.
 - (e) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 18.2. All other applicable provisions of Article 18.5, Section B shall also apply.

SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of Article 18.5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point.

SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 18.3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 18.5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
 - (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- (2) If Article 18.5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Ordinance.
- (3) Manufactured homes may be permitted provided the following provisions are met:
 - (a) The anchoring and the elevation standards of Article 18.5, Section B(3); and
 - (b) The encroachment standards of Article 18.5, Section F(1).

SECTION G. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the Special Flood Hazard Areas established in Article 18.3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 18.5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of four (4) feet, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth number is specified.
- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article 18.5, Section G(1) so that the structure, together with attendant utility

and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article 18.4, Section B(3) and Article 18.5, Section B(2).

- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION H. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH).

Located within the Special Flood Hazard Areas established in Article 18.3, Section B, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Article 18.5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

18.6. LEGAL STATUS PROVISIONS.

SECTION A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This Ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance initially enacted December 28, 1998 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this Ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the Village of Marvin initially enacted on December 28, 1998, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for Union County is July 18, 1983.

SECTION B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this Ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this Ordinance.

SECTION C. SEVERABILITY.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION D. EFFECTIVE DATE.

Article 18 shall become effective upon adoption of the Marvin Development Ordinance as stipulated in Article 1.

SECTION E. ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Article of the Marvin Development Ordinance as adopted by the Village Council of the Village of Marvin, North Carolina, on the ____ day of _____, 2024.

WITNESS my hand and the official seal of the Village of Marvin, North Carolina, this the ____ day of _____, 2024.

Austin W. Yow, Village Clerk

ARTICLE 19
STORMWATER

19.1	Title	1
19.2	Purpose	1
19.3	Stormwater Drainage and Stormwater Detention	1
19.4	Modifications by Village Engineer	3

Recommended by Planning Board 16 April 2024

ARTICLE 19

STORMWATER MANAGEMENT

19.1 Title

This Article may be cited as the Village of Marvin Stormwater Ordinance.

19.2 Purpose

This Article is adopted for the purposes of:

- A. The stormwater management regulations of this Article protect, maintain, and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of stormwater runoff associated with new development. Proper management of stormwater runoff will protect property, control stream channel erosion, prevent increased flooding associated with new development, protect floodplains, wetlands, water resources, riparian and aquatic ecosystems, and otherwise provide for environmentally sound use of the Village's natural resources; and
- B. Establishing procedures through which these purposes can be fulfilled.

19.3 Stormwater Drainage and Stormwater Detention

19.3-1 The Village of Marvin hereby adopts and incorporates herein the provisions contained in the Charlotte-Mecklenburg Stormwater Manual, as amended (hereinafter referenced as the Stormwater Manual), with the following exceptions:

- A. Necessary deviations from the Stormwater Manual as may be necessary to accommodate soil types found in the county, and standards and specifications appearing elsewhere in the Marvin Development Ordinance (MDO). When discrepancies are found between the Stormwater Manual and the MDO, the stricter regulation shall apply.
- B. In order to prevent flooding and damage to properties, all developments disturbing an acre or more of land and having net increased impervious built-upon area exceeding 24% of the total area of the development site minus all built-upon area that was developed before the adoption of the MDO, shall provide stormwater detention to control the peak runoff from the two-, ten-, 25-, 50- and 100-year, 24-hour storm events to pre-development levels. Developments disturbing less than one acre and are not part of a common plan of development are exempted from this stormwater detention regulation.
- C. A design professional shall certify documents demonstrating that construction of the project or subdivision will not increase the rate of runoff from the site nor cause any adverse impacts on downstream facilities or property.

- D. Where ponds are proposed to be constructed, the owners, heirs, assigns or successors of the land shall agree to perpetual maintenance of the pond and shall release and hold harmless the Village from any liability, claims, demands, attorney's fees and costs or judgments arising from the pond. At a minimum, ponds shall be inspected on a yearly basis.
- E. No certificate of occupancy or release of performance guarantee shall be issued for any development until a registered land surveyor has surveyed the as-built detention facilities and the revised calculations have been submitted and approved by the Village Engineer. The revised calculations must be sealed by a design professional. In addition, the Village *Planning, Zoning & Subdivision Administrator* shall not grant final plat approval unless the Village Engineer has approved the as-built detention plans and/or a performance guarantee has been secured.
- F. When a detention facility serves more than one property, a permanent detention easement which encompasses the detention facility shall be shown on a recorded plat. This easement shall be described by metes and bounds description.
- G. There shall be a note placed on the recorded plat that clearly describes who is responsible for maintenance of the detention facilities, pipes and/or channels located within the permanent detention facility and said responsibility shall transfer with title to the property without further action necessitated on the part of the Village.

19.3-2 New and relocated watercourses. Where a subdivider proposes to create a new watercourse in order to relocate an existing watercourse or to handle road runoff, a drainage easement along the proposed new watercourse shall be indicated on the preliminary site & civil design plans and the final plat. Any channels, diversions or other improvements needed to carry water to or along this new course shall be constructed or guaranteed prior to final plat approval.

19.3-3 Minimum drainage easement requirements for storm drainpipes and open channels.

- A. Drainage easements shall be established and recorded for all lots containing storm drainage pipes or channels. No structure, with the exception of a fence, shall be erected across or within a drainage easement.
- B. Fences are allowed provided that at least 80% of the fence shall be open area, and shall be elevated at a minimum, one foot above the ground to prevent the restriction or obstruction of the natural flow of water. The following table shall be used as a minimum for drainage easements for all open channels and streams:

<25 acres	20 feet
<50 acres	30 feet
<75 acres	40 feet*
≥75 acres	50 feet*

- C. Drainage pipes shall have a minimum drainage easement width of 20 feet . The strip of land in the drainage easement to a stream or river shall be retained in its natural vegetative state unless prior approval from the *Planning, Zoning & Subdivision Administrator* is obtained. The table appearing in 19.3-3.B above is a minimum, accepted engineering practice shall be applied to specific easement situations and may vary depending upon

depth of pipe and other field conditions, as deemed necessary by the Village Engineer. The following table shall be used as a minimum for drainage easements for drainage pipes:

Easement Requirements for Storm Drain Pipe	
Pipe Size	Easement Requirement
15 inches	20 feet
18 inches	20 feet
24 inches	20 feet
30 inches	20 feet
36 inches	20 feet
42 inches	25 feet
48 inches	25 feet
54 inches +	30 feet min (varies)

- D. Each plat containing drainage easements for watershed areas exceeding $Q 100 = 50$ cubic feet per second will require the following engineering certification:
“I, _____, a duly registered professional engineer, licensed in the State of North Carolina, do hereby certify that the drainage easements shown on this plat are sufficient to carry the 100-year storm runoff within the easement limits as shown. N.C. Professional Engineer # _____ Date _____ Signature & Seal _____”
- E. Open channels the minimum easement must contain the width of the stream from top of bank to top of bank.
- F. Wider easement widths may be required for pipe depths greater than ten feet.
- G. Pipe systems and open channels on private property shall be placed in a storm drainage easement.
- H. Plastic pipe shall not be allowed for any public storm drain pipes. Corrugated metal pipe shall be approved by the Village Engineer.

19.4 Modifications by Village Engineer

The Village Engineer, on a case-by-case basis, is hereby authorized to approve other deviations from the Stormwater Manual based upon engineering principles and alternative design solutions that will achieve an equal or enhanced outcome.

ARTICLE 20

SOIL EROSION AND SEDIMENTATION CONTROL

20.1	General Requirements	1
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20.5	Existing Uncovered Areas	2

Recommended by Planning Board 16 April 2024

ARTICLE 20

SOIL EROSION AND SEDIMENTATION CONTROL

20.1 General Requirements

20.1-1 Plan Required. No person shall initiate any land-disturbing activity in excess of one (1.00) acre for residential or commercial purposes without a Soil Erosion and Sedimentation Control plan approved by the North Carolina Department of Environmental Quality (NCDEQ). A copy of the approved Soil Erosion and Sedimentation Control Plan shall be on file in the office of the *Planning, Zoning & Subdivision Administrator* not less than ten (10) days prior to the initiation of such land disturbing activity.

20.1-2 Protection of Property. Persons conducting permitted land-disturbing activity shall take all reasonable measures to protect all public and private property from damage or nuisance caused by such activity.

20.2 Basic Control Objectives

Zoning approval shall be withheld until such time as an officially approved Soil Erosion and Sedimentation Control plan is filed with the *Planning, Zoning & Subdivision Administrator*. At a minimum, the state-approved plan shall address the following control objectives:

- (1.) Limit Time of Exposure. All land-disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time;
- (2.) Limit Exposed Areas. All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time;
- (3.) Control Surface Water. Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure;
- (4.) Control Sedimentation. All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage and nuisances to adjacent properties, streets or streams; and
- (5.) Manage Storm Water Runoff. When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity at the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

20.3 Mandatory Standards for Land Disturbing Activity

No land-disturbing activity subject to the control of this Ordinance shall be undertaken except in accordance with the following mandatory standards:

- 20.3-1 Buffer Zone. No land-disturbing activity shall be permitted within 30 feet of a water body shown on the most recent published version of the soil survey map prepared by the Natural Resources Conservation Service or the most recent 1:24,000 scale quadrangle topographic maps prepared by the US Geological Survey, including perennial streams, intermittent streams, modified natural streams, lakes or reservoirs, ponds (including beaver ponds), estuaries and rivers;
- 20.3-2 Prior Plan Approval. No person shall initiate any land-disturbing activity if more than one (1.00) contiguous acre is to be uncovered unless, thirty (30) or more days prior to initiating the activity, an erosion and sedimentation control plan for such activity is filed with and approved by NCDEQ.

20.4 Responsibility for Maintenance

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan, by any provision of this Ordinance, or by any ordinance adopted pursuant to this Ordinance. After site development, the land owner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency. Abandoned and/or deteriorating erosion and sedimentation control measures required by an applicable NCDEQ permit shall be deemed a nuisance and violation of this Ordinance upon discontinuation of maintenance.

20.5 Existing Uncovered Areas

- 20.5-1 Applicability. All uncovered areas existing on the effective date of this Ordinance which are the result of land-disturbing activity, which exceed one (1.00) contiguous acre, which are subject to continued accelerated erosion, and which are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.
- 20.5-2 Notice of Violation. The Jurisdiction will serve upon the landowner a written notice of violation by registered or certified mail, return receipt requested. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed. In determining the measures required and the time

allowed for compliance, the authority serving notice shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonably attainable time limits for compliance.

20.5-3 Exemption. This rule shall not require ground cover on cleared land forming the future basin of a permitted reservoir.

Recommended by Planning Board 16 April 2024

ARTICLE 21
OPEN SPACE

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Recommended by Planning Board 16 April 2024

ARTICLE 21

OPEN SPACE

21.1 Purpose.

The open space standards contained herein are established to provide for the reservation of various forms of open spaces, including parks and greenways in all forms of developments located in the Village of Marvin territorial jurisdiction. Preservation of open space in developing areas serves a variety of purposes, including meeting the recreational needs of residents, improving the aesthetic character of the community, reducing stormwater runoff, improving stormwater runoff water quality, and enhancing air quality. The standards set forth below establish regulations for open space.

21.2 Open Space.

Although open space can be Rural or natural in character, sub-urban open space is typically planned and developed as part of a development. The following standards are hereby established for open space, with the exception of the Main Street (MS) District which shall be exempt from the requirements of this section.

21.2-1 Open space land area requirements. Open space shall be provided in accordance with the following table 21.1 for:

- (A.) new residential development containing eight or more units,
- (B.) redevelopment or additional development that adds eight or more residential units,
- (C.) initial non-residential or mixed-use development greater than 0.6 acres, and
- (D.) re-development or additional development that adds 25 percent more non-residential or mixed-use floor area on a site that exceeds 0.6 acres within any 36-consecutive month period.

TABLE 21.1

ZONING DISTRICT	REQUIRED OPEN SPACE
Residential Uses/Districts.	<u>Single-family/and/or duplex subdivisions:</u> 5.0% of total subdivision project site area. <u>Other residential:</u> the greatest of 500 square feet of open space per dwelling unit or 9% of total project site area.
All other districts, <i>excluding "MS" which is exempt from these requirements</i>	7.5% of total project site area

21.2-2 Land designated as future open space. Regardless of the requirements and exemptions of this subsection, any portion of the site of the proposed development that is designated as future open space or greenway in the Plan referenced in Section 1.5 of this Ordinance, adopted by the Village of Marvin, as amended from time to time, shall be reserved for open space. This area may be counted toward the total amount of open space required for the development.

If the total amount of land designated as future open space or greenway is less than the total amount of open space required for the development by Table 21.1, then the developer shall provide additional open space to meet the requirement of Table 21.1. If the amount of land designated as future open space or greenway exceeds the total amount of open space required by Table 21.1, then the developer must provide the open space designated in the official adopted plan.

As compensation for any open space dedication associated with implementing any official adopted plan above that requirement listed in Table 21.1, the developer is eligible for a density bonus of one dwelling unit per each 4,356 square feet of land area in excess of that required in Table 21.1 or 500 square feet of non-residential gross floor area per each 2,178 square feet of land area in excess of that required in Table 21.1, up to a maximum of a fifteen (15%) percent increase above the maximum density or intensity allowed in the applicable zoning district. The density bonus in the proposed development is limited to additional yield that can be configured with less than a ten (10%) percent reduction in(s) in lot area and/or setback dimensions specified in Article 8.

21.2-3 Minimum open space area. Individual areas designated as open space areas shall not contain less than 500 square feet, although smaller areas may be approved by the *Planning, Zoning & Subdivision Administrator* if the intent of this Ordinance is determined to be met through the provision of bus/transit stops and/or mail kiosk.

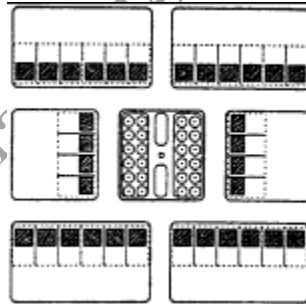
21.2-4 Improvement of open space. With the exception of Natural and Rural Open Space, open space shall be planned and improved, accessible and usable by persons living nearby. Improved shall mean cleared of underbrush and debris and shall contain four or more of the following improvements: landscaping, walls/fences, walks, statues, fountains, demarked ball fields, and/or playground equipment. Walls and fences shall be made of brick, stone, wrought iron, decorative aluminum or wood and shall not exceed 3.5 ft. in height with the following exceptions: fences used in conjunction with ball fields, tennis courts, swimming pools, and/or playgrounds.

21.2-5 Design and location. In major subdivisions and multi-building developments in all zoning districts, except Rural Residential (RR), open space shall be integrated into the design of the site. In subdivisions where 50% or more of the lots are less than 0.75 acre in size, open space shall be located within ¼ mile of at least 90% of the building lots, as measured along the rights-of-way of streets providing access between the two. In subdivisions where 50% or more of the lots are 0.75 acre or more in size, open space shall be located within ½ mile of at least 90% of the building lots, as measured along the rights-of-way of streets providing access between the two.

21.2-6 Focal point. Open space features shall provide focal points for the neighborhood. A central square or green, for example, may comprise a majority of the open space. There shall be a variety of features provided in accessible open space within new neighborhoods so that open space serves the needs of multiple age groups.

21.2-7 Types of open space. Open space types include Squares, Parks, Forecourts, Plazas, Greenways, and Natural and Rural. Standards for these open space types are set forth below:

(A.) Squares



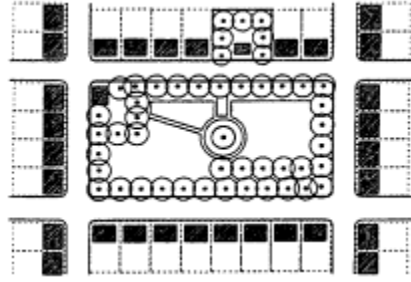
Squares are areas for passive recreational use. Squares shall be bounded by streets on either a minimum of three sides or 56% of their perimeter.

Squares shall be used in high-density environments where residents have little yard space. Squares are used to bring a natural landscape into a high-density environment. As such, not more than 25% of a square should be impervious surface coverage. Hardscaping shall be of an enhanced decorative finish to improve aesthetic impact for persons viewing and/or visiting the Square (example brick pavers or decorative concrete edges instead of solid asphalt ribbon or broom finished concrete for walkways).

Min size: 500 sq. feet, unless approved per Section 21.2-3 of this Ordinance.

Max Size: 4 acres

(B.) Parks



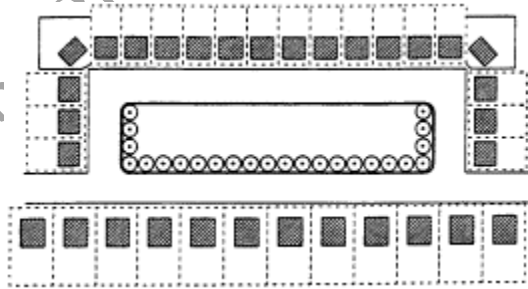
Parks are areas for passive or active recreational use. Parks shall be bounded by streets on either a minimum of two sides or 32% of their perimeter.

Minimum Size: 6,500 square feet

Maximum Size: 8 Acres. Maximum size may exceed eight acres if the park serves multiple neighborhoods or preserves environmental features.

Parks shall be areas where both passive and active recreation may occur simultaneously (example: park benches for elderly and a tot-lot for young children), encouraging intergenerational interactions among park users.

(C.) Forecourt

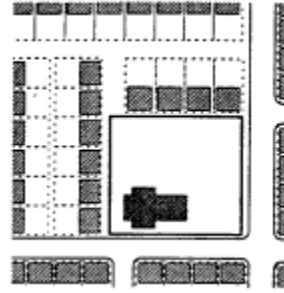


Forecourts are open spaces that act as buffers between residential buildings and streets or non-residential buildings. Forecourts are entirely bounded by buildings or streets. Forecourts shall be planted parallel to all primary street rights-of-way as shown in the illustration above.

Minimum Size: 500 sq feet, unless approved per Section 21.2-3 of this Ordinance.

Maximum Size: 1.5 acre

(D.) Plaza



A plaza is an open area adjacent to a civic or commercial building. Plazas shall be planted with deciduous trees to provide shade in the summer. Plazas function as gathering places and may incorporate a variety of non-permanent activities such as outdoor farmers markets or craft fairs. Temporary over-flow parking is permissible on plazas in accordance with Section 12.9 of this Ordinance. Plazas shall match the architectural style of the buildings that they are adjacent to regarding materials and design. Plazas shall be level or gently sloping.

Minimum Size: 500 sq. feet, unless approved per Section 21.2-3 of this Ordinance.

Maximum Size: unlimited

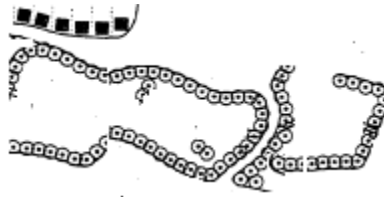
(E.) Greenways



Greenways are spaces designed to incorporate natural settings such as creeks and significant stands of trees within a neighborhood. Greenways shall have streets or pedestrian ROWs parallel to or integrated into at least 70% of their length.

Greenways are used for walking, jogging, biking, and they are used as wildlife corridors. Greenways may have infrequent small-scale active recreational facilities such as playgrounds, although the majority of greenways shall be for passive, pedestrian and/or bicycle recreation.

(F.) Natural and Rural Open Space



Natural and Rural Open Space preserves Rural lands, environmentally sensitive areas such as stream buffers and floodplains, scenic views, cultural features, and rural character that would likely be lost through conventional development approaches. To accomplish this goal, the Village of Marvin encourages creativity and allows for greater flexibility in the design of developments through use of the Mini-Farm and Traditional Neighborhood Development Overlay Districts in Article 8 of this Ordinance. Natural and Rural Open Space shall be placed in preserves, which adjoin housing areas.

- 21.2-8 Open Space Ownership and Conservation Easement. Open space may be owned or administered by one or a combination of the following methods: fee simple ownership by a unit of government or private non-profit land conservancy; owned by a property association; or by individual private ownership such as a farmer, developer or other private entity that perpetually maintains the *Common Open Space*.

All lands within areas required to be maintained as open space shall be protected by a permanent conservation easement, prohibiting further development beyond improvements approved for the land, and setting other standards safeguarding the site's special resources from negative changes.

Public use of the open space may be limited to residents of the development, except for land used for public sidewalks and multi-use trails, provided that such open space is held in private or property association ownership.

- 21.2-9 Maintenance. The owner or lessee of the property designated as the open space shall be responsible for the maintenance of the open space area. Landscaped areas shall be maintained in good condition and the entire area shall be kept clear of debris. Failure to maintain the area shall constitute a violation of this or other applicable ordinances. Alternatively, if acceptable to the Village Council, as applicable, the land may be dedicated to the Village for public use and thereafter maintained by the Village.

- 21.2-10 Land Acceptable for Open Space Designation. The classes of land enumerated below may be utilized to meet the requirements of this section.

- (A.) Open water, wetlands, utility easements, and undisturbed floodplains shall be designated Open Space and may account for up to 80 percent of the area requirement in subsection 21.2-1 of this Article.
- (B.) Land used for landscape buffers (Type A, B and C only), public sidewalks in excess of standard sidewalk requirements, streetscape and hardscape areas accessible to the public including sidewalk cafe areas, areas containing public art, and similar high density area open space amenities.
- (C.) Land on which locally or nationally designated historic structures are located and determined to be contributing to the designation.
- (D.) Land which exceeds a eighteen (18%) percent slope may be used to provide up to 70 percent of the required open space if existing slopes and vegetation so designated remain undisturbed.
- (E.) Area(s) used for stormwater retention:
- (1.) Land, provided such land is natural in appearance and is not separately fenced, may be used for up to thirty-two (32%) percent of the required open space.
 - (2.) Land that is developed using best management practices (e.g., constructed wetlands, rain gardens, green roofs or similar features), and either exceeds the required amount of retention or treats off-site stormwater may be used for up to eighty (80%) percent of the required open space at the discretion of the *Planning, Zoning & Subdivision Administrator* after consultation with the Public Works Engineer.
 - (3.) Green roofs are eligible to be counted as open space under this provision on a 2:1 ratio (two square feet of green roof = one square foot of conventional open space).
- (F.) Land available to residents or tenants for active or passive recreation, including parks, walking trails not used to meet sidewalk requirements, playgrounds, benches, picnic tables, and similar land uses or facilities. Playgrounds and athletic fields installed shall be counted at a 2:1 ratio (two acres of unimproved land = one-acre playground and/or athletic field) for calculation compliance provided all improvements are installed.
- (G.) Land that is suitable for agriculture, land that has environmentally sensitive areas (ex. mature trees), or land that has cultural significance (ex. important view such as a rural entrance into Village).

21.2-11 Land not Acceptable for Open Space Designation: The classes of land enumerated below shall not be utilized to meet the requirements of this section:

- (A.) Land that is contaminated with hazardous or toxic waste or materials as defined by state or Federal regulations, except for land covered by an approved mitigation plan and deemed acceptable by the Village Council or land that is designated in an

officially adopted Open Space, Park or Greenway master plan.

- (B.) Land occupied by streets, drives, parking areas, or structures other than recreational structures.
- (C.) Land with a minimum width less than twenty (20) feet. Mixed use developments in the TND district are exempt from the minimum width requirement.
- (D.) Playgrounds and athletic fields that have not been maintained to adequate standards for safe and sanitary use.

21.3 Fee-in-Lieu.

For open space and/or park requirements of 500 square feet or less in area and not involving property designated as a greenway on any official plan adopted by the Village of Marvin, a property owner may elect to pay a fee-in-lieu of open space instead of providing the open space provided that the *Planning, Zoning & Subdivision Administrator* deems that there is reasonable existing or future open space proximate to the subject parcel. For other required open space areas, a property owner may pay a fee-in-lieu of open space designation for all or a portion of the open space requirement if such fee-in-lieu is acceptable to the Village Council. For developments and subdivisions containing more than 30 residential units, the fee-in-lieu option may only be used for up to 50 percent of the open space requirements in order to ensure that these larger projects provide on-site open space for their residents.

This fee shall be calculated by using the pro rata value of the designated property relative to the value of the entire site to be developed using current property tax appraisal data; for properties covered by agricultural or other exemptions, the Village may utilize a separate appraisal method in its sole discretion. Funds collected in this manner shall be maintained in a separate fund and shall be used to purchase or to enhance recreational use of property provided such features are reasonably proximate to the site(s) from which the funds are collected. Where practical, the collected fees for each project shall be designated for specific parks and recreation acquisitions and/or enhancements by the Village.

21.4 Guarantee in lieu of construction of improvements.

In lieu of completion of construction of the required improvements prior to final occupancy approval, the property owner may provide a performance guarantee in accordance with G.S. 160D-702(a) and G.S.160D-804.1. The performance guarantee shall be in an amount equal to 125% of the estimated cost of the installation of the required improvements, as determined by the Village. The performance guarantee shall secure the completion of construction of the improvements shown on the approved site

development plan and as detailed within the approved construction plans. The performance guarantee shall remain in full force and effect until such time as the construction of improvements are completed and either approved or accepted by the Village of Marvin. Failure to maintain the required performance guarantee shall result in the revocation of the approval of any permits issued as a result of the site development plan and/or permit approval. The performance guarantee shall be automatically renewed unless all parties agree not to renew it at least sixty (60) days prior to its scheduled expiration date. A temporary construction easement permitting the Village of Marvin or its designee(s) to access the property for the purpose of constructing/installing the guaranteed improvements is required to be provided with the performance guarantee. The temporary construction easement shall be valid until all guaranteed improvements have been constructed/installed and approved or accepted by the Village. The temporary construction easement shall bind to all successive owners until the guaranteed improvements have been constructed/installed and approved or accepted by the Village. Said temporary construction easement shall be recorded at the office of the Union County Register of Deeds, with recording fees to be paid by the applicant/landowner.

21.5 Failure to perform.

Failure to initiate construction of the improvements within one year of the date the performance guarantee was accepted by the Village of Marvin shall result in the Village, at its sole discretion, constructing the improvements, with the cost to be paid from the performance guarantee. The guarantor institution shall, if requested by the Village, pay all or any portion of the funds to the Village up to the amount needed to complete the improvements based on an estimate by the Village. The Village may spend such portion of said funds necessary to complete all or any portion of the required improvements. The Village shall return to the developer any funds not spent in completing the improvements. Default on a project does not release the developer from responsibility for the completion of the improvements. In the event that the amount of performance guarantee on hand is insufficient to pay for the completion of the improvements, the property owner shall pay to the Village of Marvin the total amount of the insufficiency. If the Village is not paid, the amount of the insufficiency shall constitute a lien on the property in favor of the Village.

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Recommended by Planning Board 16 April 2024

ARTICLE 22

NONCONFORMITIES

22.1 Purpose

It is recognized that, over time, lawful nonconformities may develop as a result of amendments to the Official Zoning Map or Marvin Development Ordinance which change the application of the Village of Marvin development regulations to particular properties. It is important that such properties, while nonconforming, be adequately maintained and permitted to continue, but not expanded or enlarged in any fashion that increases the extent of nonconformity. Where possible, such nonconformities should be made, wholly or incrementally, conforming.

22.2 Application and Exceptions

The provisions of this section apply only to lawful nonconformities, except as noted below. Nonconformities other than lawful nonconformities shall be considered violations of the Marvin Development Ordinance. This article shall not apply, however, to any feature which is the subject of a variance from particular regulations that has been granted by an authorized reviewing board or commission or to applications of flexible development standards or modifications authorized by this Ordinance to such features. Where a variance or flexible development standard determination has been granted in writing for a feature which does not otherwise conform to the requirements of this chapter, that feature shall be deemed conforming. Nonconformities associated with signs are addressed in Article 17.

22.3 Dimensional Nonconformities

22.3-1 Lawfully Established Nonconforming Lots. Lawfully established nonconforming lots having one or more dimensional nonconformities may be used for any permitted or special use allowed in the zoning district in which the lot is located provided that any structure or expansion/addition to an existing structure proposed for the use meets all applicable dimensional and numerical requirements and all applicable procedures are followed. Such lots may be recombined with adjoining lots to increase the extent of their conformity provided new nonconformities are not created.

22.3-2 Structures, including Signs. Structures of any type having one or more dimensional nonconformities may be used for any permitted or special use allowed in the zoning district in which the structure is located, and, upon any change in use, shall comply with the landscaping, buffering, and parking requirements of Articles 11 and 12. Structures may be expanded or enlarged; provided the extent of the applicable nonconformity is not increased or new nonconformities are not created by expansion

or enlargement. Expansions, enlargements or reconstruction of such structures to an extent equal to or greater than fifty percent of appraised value, shall require such structures to meet all applicable dimensional and numerical requirements, except density, which may be retained at the prior nonconforming level but not increased. For the purpose of this section, the value of any expansions, enlargements, or reconstruction of such structures over a three-year period shall be cumulated in calculating the fifty percent threshold. A structure undergoing renovation (defined in Article 3) having a renovation cost equal to or greater than fifty percent of the structure's appraised value shall not be subject to the above provisions but shall be required to meet the landscaping, buffering, and parking provisions of Articles 11 and 12. Signs shall also comply with the provisions of Article 17, Section 17.13 of this Ordinance.

22.4 Nonconforming Uses

22.4-1 Discontinuation of Nonconforming Uses. A nonconforming use is allowed to continue unless the use is discontinued for any reason for a period of 730 or more consecutive days, and there are no substantial good faith efforts to re-establish the use during this period. Obtaining permits to maintain the existing use or significant continuous efforts to market the property for sale or lease for the existing use (e.g., MLS listing, Realtor contract, etc.) shall be regarded as substantial good faith efforts. A nonconforming use shall be deemed discontinued after a period of 1095 consecutive days regardless of any substantial good faith efforts to re-establish the use. Thereafter, the structure or property associated with the use may be used only for conforming use. Where multiple nonconforming uses occupy the same premises, the reallocation of any combination of the nonconforming uses shall be allowable provided there is no net increase in the gross area of the combined nonconforming uses. Special uses discontinued for a period of 730 or more consecutive days shall be regarded as nonconforming uses and shall not be re-established without new *Special Use Permit* approval in accordance with Article 7 of this Ordinance.

22.5 Nonconformities Associated with Manufactured Homes.

Dimensional or use nonconformities associated with manufactured homes shall be addressed in the following manner.

22.5-1 Replacement of One Manufactured Home with Another Manufactured Home in an Established Manufactured Housing Park. Such replacement shall be permitted without regard to dimensional nonconformity provided that the replacement manufactured home is constructed to the United States Department of Housing and Urban Development (HUD) standards, the replacement home is placed in the same location as the original home, and such replacement occurs within 365 days of the

removal of the original manufactured home. In all other situations, replacement shall be prohibited.

22.5-2 Replacement of One Manufactured Home with Another Manufactured Home in Areas Other Than a Lawfully Established Manufactured Housing Park or Area Covered by a Manufactured Home Overlay. Such replacement shall be permitted provided that new dimensional nonconformities are not created, the replacement manufactured home is constructed to the United States Department of Housing and Urban Development (HUD) standards, the replacement home is placed in the same general location as the original home, the replacement home conforms to the development standards listed in Section 10.1-36, and such replacement occurs within 365 days of the last day of occupancy of the original manufactured home. In instances where a replacement home exceeds the external dimensions of the original home, the external dimensions of the replacement home shall not be considered a non-conformity provided the home does not encroach into any required minimum yard other than such area of encroachment existing under the original home. In all other situations, replacement shall be prohibited.

22.6 Maintenance and Repair

In the interest of the public safety and health, structural alterations or remodeling of nonconforming structures or conforming structures on nonconforming lots that are required by any public law, and so ordered by a public officer in authority, shall be permitted. Routine maintenance shall also be permitted for nonconforming situations so long as no expansion of the nonconformity in conflict with the provisions of this Article occurs as a result of the maintenance.

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Recommended by Planning Board 16 April 2024

ARTICLE 23

ADMINISTRATION AND ENFORCEMENT

23.1 Applicability and Establishment of *Planning, Zoning & Subdivision Administrator*

This Ordinance and the provisions set forth herein shall apply to all property within the Village of Marvin. The *Village Manger* shall appoint a duly qualified *Planning, Zoning & Subdivision Administrator* to be responsible for the impartial administration of this Ordinance. The *Planning, Zoning & Subdivision Administrator* shall have the authority to administer and enforce the provisions of the Ordinance within this area of jurisdiction. The individual appointed to fulfill this responsibility shall be a certified member in good standing with either the American Institute of Certified Planners or the North Carolina Association of Zoning Officials having first met examination requirements, and subsequently meeting certification maintenance requirements.

23.2 Administrator as Enforcement Officer

23.2-1 Establishment and Authority. Unless specifically set forth otherwise in this Ordinance, the Village of Marvin *Planning, Zoning & Subdivision Administrator* shall be the Enforcement Officer with the duty of administering and enforcing the provisions of this Ordinance. The *Planning, Zoning & Subdivision Administrator* may designate one or more persons to assist in the administration and enforcement of this Ordinance. Orders issued by the *Planning, Zoning & Subdivision Administrator's* designee shall have the effect as if issued by the *Planning, Zoning & Subdivision Administrator*. The *Planning, Zoning & Subdivision Administrator*, or designee may enter any building, structure, or premises as provided by law, to perform any duty imposed upon him/her by this Ordinance.

23.2-2 Conflict of Interest. Administrative staff, including the *Planning, Zoning & Subdivision Administrator*, shall not make a final decision on an administrative decision required by this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable impact on the staff member or if the applicant or other person subject to that decision is a person with whom the member has a close familial, business, or other associational relationship per G.S. 160D-109(c).

23.2-3 Oath of Office. The person designated as the *Planning, Zoning & Subdivision Administrator* shall take and subscribe the oath of office prescribed in Article VI, § 7 of the Constitution as stipulated in G.S.160A-61.

23.2-4 General Duties. The *Planning, Zoning & Subdivision Administrator* shall:

(A.) establish and publish application procedures for permits, appeals, and actions

- pursuant to this Ordinance and forms implementing the same;
- (B.) issue permits and certificates pursuant to this Ordinance;
 - (C.) review and approve all development plans and permit applications to assure the requirements of this Ordinance have been satisfied;
 - (D.) make determinations and interpret the applicability of the provisions of this Ordinance in matters where the text does not clearly provide guidance;
 - (E.) maintain all records pertaining to the provisions of this Ordinance in their office(s) and make said records open for public inspection;
 - (F.) periodically inspect properties and activities for which permits have been issued to determine whether the use(s) is being conducted in accordance with the provisions of this Ordinance per G.S.160D-403(e);
 - (G.) cause to be investigated violations of this Ordinance;
 - (H.) enforce the provisions of this Ordinance;
 - (I.) issue notice of corrective action(s) when required;
 - (J.) use the remedies provided in this Ordinance to gain compliance;
 - (K.) be authorized to gather evidence in support of said activities;
 - (L.) receive appeals and forward cases to the appropriate body; and
 - (M.) perform other duties as may be assigned by the *Council* and/or the *Planning Board*.

23.3 Violations

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Article and G.S.160D-404.

23.3-1 Development Without Permit. To engage in any development, use, construction, remodeling, or other activity of any nature upon the land or improvements thereon subject to the jurisdiction of this Ordinance without all required permits, certificates, or other forms of authorization as set forth in this Ordinance.

23.3-2 Development Inconsistent with Permit. To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

23.3-3 Violation by Act or Omission. To violate, by act or omission, any term, variance or waiver, condition, or qualification placed by the Council or its agent boards upon any required permit, certificate, or other form of authorization for the use, development, or other activity upon land or improvements thereon.

23.3-4 Use in Violation. To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building or structure or to use any land in violation or contravention of this Ordinance, or any other regulation made under the authority conferred thereby.

23.3-5 Subdivide in Violation. To subdivide land in violation of this Ordinance or transfer or sell land by reference to, exhibition of, or any other use of a plat or map showing a subdivision of the land before the plat or map has been properly approved under this Ordinance and recorded in the Office of the Register of Deeds of Union County. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from violation of this Ordinance.

23.3-6 Continuing Violations. Each day's violation of any provision of this Ordinance is a separate and distinct offense.

23.4 Enforcement Intent

It is the intention of this Ordinance, unless otherwise provided, that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the *Planning, Zoning & Subdivision Administrator* and that such questions shall be presented to the Board of Adjustment only on appeal from a written determination made by the *Planning, Zoning & Subdivision Administrator* and in accordance with Article 6 of this Ordinance. An appeal from the decision of the Board of Adjustment shall be by proceedings in the nature of certiorari to the Superior Court of Union County as provided by law and in accordance with Article 6 of this Ordinance.

23.5 Enforcement Procedure

When the *Planning, Zoning & Subdivision Administrator* and/or a duly authorized agent finds a violation of this Ordinance, it shall be their duty to notify the owner or occupant of the land, building, structure, sign, or use of the violation. The owner or occupant shall immediately remedy the violation.

23.5-1 Notice of Violation. If the owner or occupant of the land, building, sign, structure, or use in violation fails to take prompt corrective action, the *Planning, Zoning & Subdivision Administrator* shall give the holder of the development approval, landowner, person undertaking the work activity, or occupant written notice, by first class mail, email, general delivery mail, certified or registered mail to their last known address, or by personal service, by posting notice of the violation conspicuously on the property, or in accordance with Rule 4 of the North Carolina Rules of Civil Procedure. The notice of violation shall include, but not be limited to:

- (A.) that the land, building, sign, structure, or use is in violation of this Ordinance;
- (B.) the nature of the violation, and citation of the section of this ordinance violated;
- (C.) the measures necessary to remedy the violation;
- (D.) the opportunity to cure the violation within a prescribed period of time.

- 23.5-2 Extension of Time to Remedy. Upon receipt of a written request from the alleged violator or the property owner for an extension of time to remedy or correct the violation, the *Planning, Zoning & Subdivision Administrator* or other Village official charged with the duty of enforcing the regulations(s) being violated may grant a single extension of time, not to exceed a period of 30 calendar days, in which the alleged violator may cure or correct the violation before the Village pursues enforcement action as provided for in this section.
- 23.5-3 Appeal. Any owner or occupant who has received a Notice of Violation may appeal in writing the written determination of the *Planning, Zoning & Subdivision Administrator* to the Board of Adjustment (unless this Ordinance has specified that another board shall hear the appeal of the violation) within thirty (30) days following receipt of the Administrator's written determination in accordance with Section 6.2-6 of this Ordinance. The Board of Adjustment, or other designated board, shall hear an appeal within thirty-six (36) days of the date of submittal of a complete application, and it may affirm, modify, or revoke the Notice of Violation. In the absence of an appeal, the *remedies and penalties sought by the Planning, Zoning & Subdivision Administrator* in the Notice of Violation shall be final. Notice of such hearing shall be provided as required by Sections 6.1-4(B) and 6.1-4(C) of this Ordinance.
- 23.5-4 Order of Corrective Action. If, upon a hearing held pursuant to an appeal as prescribed above, the Board of Adjustment shall find that the owner or occupant is in violation of this Ordinance, the Board of Adjustment shall make an order in writing to the owner or occupant affirming the violation and ordering compliance.
- 23.5-5 Failure to Comply with an Order. *If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or an Order of Corrective Action following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by G.S.160D-404 and Section 23.6 (Remedies) of this Article. If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.*

23.6 Remedies

Any one or all of the following procedures may be used to enforce the provisions of this Ordinance.

- 23.6-1 Injunction. Any violation of this Ordinance or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.
- 23.6-2 Civil Penalties. Any person who violates any provisions of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Section

23.7 (Civil Penalties - Assessments and Procedures) of this Ordinance.

- 23.6-3 Denial of Permit or Certificate. The *Planning, Zoning & Subdivision Administrator* may withhold or deny any permit, certificate, occupancy permit or other form of authorization on any land, building, sign, structure, or use in which there is an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, certificate, or other authorization previously granted.
- 23.6-4 Conditional Permit or Temporary Certificate. The *Planning, Zoning & Subdivision Administrator* may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by appropriate governmental authority.
- 23.6-5 Stop Work Orders. Whenever a building, sign, or structure, or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, the *Planning, Zoning & Subdivision Administrator* may order the work to be immediately stopped. The stop work order shall be in writing and directed to the owner, occupant, or person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Such action shall be in accordance with G.S.160D-404(b). Violation of a stop work order regarding any building deemed unsafe shall constitute a Class 1 misdemeanor.
- 23.6-6 Revocation of Permits. The *Planning, Zoning & Subdivision Administrator* may revoke and require the return of a permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable State or local laws, or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable State or local law may also be revoked. (See G.S.160D-403(f) for statutory authorization by law.)
- 23.6-7 Penalties. Any violation of this Ordinance shall be subject to remedies as provided by G.S.160D-404(c).

23.7 Civil Penalties – Assessment and Procedures

- 23.7-1 Penalties. Any person who violates any provisions of this Ordinance shall be subject to assessment of a civil penalty in the amount prescribed for the first and each successive violation of the same provision. The following penalties are hereby established:

Warning Citation	Correct Violation Within Prescribed Period of Time
First Citation	\$100.00
Second Citation for Same Offense	\$300.00
Third and Subsequent Citations for Same Offense	\$500.00

If the offender fails to pay the civil penalties within fifteen (15) days after having been cited, the Village may recover the penalties and cost of collection, including attorney fees and court costs, as permitted by law in a civil action in the nature of debt. Penalties collected shall be distributed in accordance with applicable law.

- 23.7-2 Notice. No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation in accordance with Section 23.5-1 (Notice of Violation). If after receiving a notice of violation under Section 23.5-1, the owner or other violator fails to take corrective action within the prescribed period of time, a civil penalty may be imposed under this Section in the form of a citation. The citation shall be served in the manner of a Notice of Violation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator, and shall direct the violator to pay the civil penalty within fifteen (15) days of the date of the notice.
- 23.7-3 Responsible Parties. The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent, or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this Ordinance may be held responsible for the violation and subject to the civil penalties and remedies herein provided.
- 23.7-4 Continuing Violation. For each day thereafter, if the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.
- 23.7-5 Demand for Payment. The *Planning, Zoning & Subdivision Administrator*, or designee shall make written demand for payment upon the property owner or the person in violation and shall set forth in detail a description of the violation for which the civil penalty has been imposed.
- 23.7-6 Nonpayment. If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty, reasonable attorney fees and court costs. Provided, however, if the civil penalty is not paid within the time prescribed, the *Planning, Zoning & Subdivision Administrator* may have a lien for all cost

incurred placed upon the property that is the subject of the violation.

23.8 Other Powers and Actions

- 23.8-1 State and Common Law Remedies. In addition to other enforcement provisions contained in this Article, the Council may exercise any and all enforcement powers granted to it by state law or common law.
- 23.8-2 Previous Enforcement. Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions.

23.9 Remedies Cumulative and Continuous

- 23.9-1 Cumulative Violations. All such remedies provided herein shall be cumulative. To the extent that North Carolina law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.
- 23.9-2 Repeat Violations. If an owner or occupant repeats the same violation, on the same parcel, within a five-year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies.

23.10 Summary Removal of Signs/Sign Structure; Remove Orders for Signs/Sign Structure

- 23.10-1 Summary Removal. Pursuant to G.S.160A-193, the Village shall have the authority to summarily remove, abate, or remedy a sign or sign structure which the Village determines to be dangerous or prejudicial to public health or safety. The expense of the action shall be paid by the sign owner, or if the sign owner cannot be ascertained, by the property owner, and if not paid, there shall be a lien placed upon the land or premises where the nuisance arose, and it shall be collected as unpaid taxes.
- 23.10-2 Prohibited Signs a Public Health Nuisance. Pursuant to G.S.160A-193 and G.S.160A-296, any signs or sign structures prohibited by Article 17 of this Ordinance are hereby declared to be a public health nuisance in that they are dangerous or prejudicial to the public health or public safety and the *Planning, Zoning & Subdivision Administrator* shall have the authority to remove summarily the sign and/or sign structure.
- 23.10-3 Remove Order. The *Planning, Zoning & Subdivision Administrator* shall have the authority to issue a remove order for any sign not repaired or brought into compliance within the time prescribed by a notice of violation. Remove orders shall

be issued to and served upon the sign/sign structure owner, or if the sign/sign structure owner cannot be ascertained, to and upon the property owner by the means set forth in section 23.5-1. The sign or sign structure shall be removed within 30 days after the service of the remove order at the expense of the offender. The remove order shall describe with particularity the location of the sign or sign structure to be removed and the reason(s) for issuance of the remove order, including specific reference to the provisions of Article 17 of this ordinance that have been violated.

23.10-4 Failure to Comply. In the event of failure to comply with the requirements of a remove order, the *Planning, Zoning & Subdivision Administrator* may cause such sign or sign structure to be removed. The sign owner and property owner may be jointly and separately liable for the expense of removal. Notice of the cost of removal shall be served as set forth in section 23.5-1. If said sum is not paid within 30 days thereafter, said sum, together with reasonable attorney fees and court costs, may be collected by the Village in a civil action in the nature of debt, which shall not subject the offender to the penalty provisions of G.S.14-4.

Recommended by Planning Board 16 April 2024