

AN ORDINANCE ADDING §151.252  
ZONING AMENDMENTS; TEXT AMENDMENTS

WHEREAS, this amendment was heard by the Village of Marvin, Village Council in a public meeting on June 30, 2016.

NOW, THEREFORE, be it Ordained by the Village Council for the Village of Marvin that:

**Section 1.** The Code of Ordinance, Section §150.252 shall be added and read as follows:

§151.252 ZONING AMENDMENTS; TEXT AMENDMENTS

(A) *Overview.* The following is a summary of the steps required to amend zoning and subdivision ordinance text regulations.

- (1) Initial Meeting with Staff
- (2) Application
- (3) Staff and Outside Agency Review
- (4) Planning Board Recommendation
- (5) Notice of Public Hearing
- (6) Public Hearing
- (7) Village Council Action

(B) *Purpose.*

(1) The Zoning text amendment process is used to make necessary adjustments to zoning regulations in response to clarification requirements, changed conditions or changes in public policy. Zoning text amendments shall not be used to relieve particular hardships, nor to confer special privileges or rights on any person or party.

(C) *General Provisions.*

(1) The Village Council or the Planning Board may initiate zoning text amendments. No fee shall be charged for zoning text amendments initiated by a governmental agency.

(2) A member of the public may also initiate a zoning text amendment. An Application to amend zoning regulations, initiated by a member of the public, shall proceed through review procedures outlined herein.

(3) The Zoning Administrator, Planning Board and Village Council may require that particular plans or studies receive engineering, consultant or outside agency review. Prior to Village Council approval, applicants shall be responsible for reimbursing the Village for all engineering and consulting services with respect to review of the plans, in accord with the adopted fee schedule.

(4) For the purpose of interpreting this Subchapter, the term ‘zoning text amendment(s)’ or ‘zoning regulations’ shall also mean and refer to an amendment, or amendments to the subdivision ordinance, Chapter 150, pursuant to §150.013.

(D) *Process.* A request to amend, supplement, change, modify or repeal a zoning text regulation shall proceed in the following manner:

(1) *Initial Meeting.* The applicant shall schedule an appointment with the Zoning Administrator. At the initial meeting, the Zoning Administrator will explain the text amendment process, and provide the applicant with an overview of all applicable forms, fees, ordinances, policies, plans, and Statutes relevant to the project. The Zoning Administrator may provide the applicant with additional guidance relevant to the Application upon request.

(2) *Application Filing, Completeness, Accuracy and Sufficiency.* An Application shall be considered complete and ready for processing upon the submission of a complete Application filing form, requisite fees per the adopted Fee Schedule, plans which include information required by the subdivision and zoning ordinance, and all items, documents, site plans, maps, elevations, and reports

outlined in §151.252(E). The sum total of all items and information required herein shall be known and referred to as the Application.

(a) Once an Application is received, the Zoning Administrator responsible for reviewing the Application shall, within ten (10) days of receipt, determine whether the Application is complete in accord with the requirements of the preceding paragraph. Once the Zoning Administrator has made a determination, the Application shall be processed in accord with the following procedures:

(b) If the Application is deemed complete, the Zoning Administrator shall notify the applicant in writing and the Application will be placed in the current processing cycle subject to all other review procedures, timelines and requirements outlined in the Chapter.

(c) If an Application is deemed incomplete, the Zoning Administrator shall notify the applicant of the determination in writing and describe the Application's deficiencies. No further processing or review of an incomplete Application shall occur and no part of an incomplete Application shall be distributed or scheduled for Planning Board review.

(d) To be placed back into the processing cycle an applicant must provide missing information and/or elements of an Application within ninety (90) days of receipt of notification of determination. Once ninety (90) days has expired, a new Application filling form and Application fee shall be required and the Application shall be reviewed in accord with all codified processes.

(e) If, during the course of review, the Zoning Administrator, Planning Board or Village Council determine additional information and/or plan revisions are required for their review, review procedures outlined herein shall be deferred until required documents, information and/or revisions are provided in a manner deemed sufficient by the applicable reviewing body. If a conflict regarding interpretation of submittal requirements should arise, and all means of working out an interpretation have been exhausted, the Council shall provide a decisive interpretation of what plans, information or revisions are required.

### (3) *Zoning Administrator Review and Recommendation.*

(a) *Administrative Evaluation.* Once the Zoning Administrator has determined an Application is complete, subject to procedures outlined §151.252(D)(3), the Zoning Administrator shall evaluate the Application. The Zoning Administrator shall have up to thirty (30) days to evaluate the Application's consistency with applicable ordinances, the Village Land Use Plan, other adopted land use policy documents and the North Carolina General Statutes.

(b) *Review by Outside Agents, Engineers & Consultants.* The Zoning Administrator may direct questions to engineers, consultants and outside agencies, as needed to evaluate and assess the Application. Prior to Village Council approval, applicants shall be responsible for reimbursing the Village for all engineering and consulting services with respect to review of the plans, in accord with the adopted Fee Schedule.

(c) *Zoning Administrator Comments.* After assessing the Application, the Zoning Administrator may provide the applicant with comments. If the applicant intends to amend the Application, the applicant shall notify the Zoning Administrator of his or her intent to amend the Application, in writing, within five (5) days of receiving the Zoning Administrator's review comments. If no correspondence is received on the matter, the Zoning Administrator shall consider the Administrative review complete and arrange for copies of the Application to be distributed to the Planning Board.

(d) *Planning Staff Report & Recommendation.* The Zoning Administrator shall prepare a report for the Planning Board, which outlines staff findings, provides a recommendation and a Land Use Plan Statement of Consistency. The report shall be distributed to the Planning Board approximately seven (7) days prior to the next regularly scheduled meeting.

### (4) *Planning Board Review.*

(a) The Zoning Administrator's report shall be distributed to the Planning Board approximately seven (7) days prior to the Planning Board's scheduled meeting.

(b) The Planning Board shall have sixty (60) days from the date on which it begins deliberating upon the substantive merits of the Application to submit its recommendation to the Village Council. The sixty (60) days may be extended by the Village Council upon request of the Planning Board. If a recommendation is not made during the time period, the Application shall be forwarded to the Village Council without a recommendation from the Planning Board.

(c) The Planning Board shall consider the degree to which the Application complies with Village ordinances, the Land Use Plan, adopted land use policy documents and the North Carolina General Statutes.

(d) Planning Board member participation shall be in accord with all Board Rules and Procedures consistent with State General Statutes and Planning Board Powers and Duties, pursuant to §151.200.

(e) The Planning Board may make one of the following recommendations to the Village Council:

1. Recommend adoption of the text amendment as written
2. Recommend adoption of the text amendment with modifications
3. Recommend denial of the text amendment

(g) Upon making a recommendation, the Planning Board shall advise and comment on whether the proposed amendment is consistent with the Land Use Plan and consider a Land Use Statement of Consistency.

(h) The Planning Board meeting minutes of the Planning Board shall record any motions and/or approved recommendations. The meeting minutes shall also record the Planning Board's reasons for providing their recommendation. Prior to the public hearing, the Village Staff shall provide the Planning Board meeting minutes to the Village Council for their review.

(i) Planning Board review shall be considered complete once action has been taken or the time for action by the Planning Board has expired.

(5) *Call for Public Hearing.* The Village Council shall call for a public hearing no later than the next regularly scheduled Council meeting, occurring at least five (5) days after Planning Board review is complete.

(6) *Notice of Public Hearing.*

(a) Once the Village Council has called for a public hearing, a notice shall be published in a newspaper having general circulation in the area once a week for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing.

(b) A notice shall be placed on the Village bulletin board not less than ten (10) days or more than twenty-five (25) days before the date established for the public hearing.

(c) When applicable, public hearing notices shall be made in accordance with G.S. §160A-384. With respect to divisions (6)(a) and (6)(b) above, the applicant shall reimburse the Village for copy, postage and the legal notice costs incurred per the adopted fee schedule.

(d) If any resident property owner in the Village submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the Village Clerk at least two (2) business days prior to the proposed vote on such change, the Village Clerk shall deliver such written statement to the Council and/or the Planning Board in accord with the party to whom the statement is addressed. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160A-388, the Clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the Village Council from voting.

(7) *Village Council Decision.*

(a) Prior to making a decision, the Village Council shall have held a public hearing pursuant to §151.252(D)(6).

(b) *Subsequent Public Hearings at Council Discretion.* Once a public hearing has been held the Council may deliberate and render a decision regarding the proposal. The Village Council may also hold additional public hearings regarding the Application at any time before it takes action on the Application.

(c) *Modifications to Initial Text Amendment Proposal.* Modifications to a zoning text amendment proposal, which render the proposal different from the text amendment described in the public hearing notice, must return to the Planning Board for review. The Planning Board shall review the modifications and may issue a new recommendation. Once Planning Board review is complete, a new public hearing will be held in accord following duly required notification, pursuant to §151.251(D)(6).

(d) *Conflicts of Interest.* A Village Council member shall not vote on any zoning amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

(e) *Village Council Action.* The Village Council shall have the authority to issue the following determinations with regard to the proposed text amendment:

1. Approve the zoning text amendment as submitted
2. Deny approval of the text amendment as submitted
3. Approve the zoning text amendments with modifications
4. Submit the zoning text amendment to the Planning Board for further study

(f) *Land Use Plan Consistency.* Prior to adopting or rejecting the zoning text amendment, the Village Council shall adopt a statement describing whether its action is consistent with the adopted Land Use Plan and state why the Council considers the action taken to be reasonable and in the public interest. The adopted statement is not subject to judicial review.

(8) *Effect of Approval.*

(a) The text amendment shall be effective upon the date of approval. The text amendment shall be codified within the Village of Marvin Code of Ordinances. The corresponding zoning ordinance containing the text amendment, shall be accessible to the public through the Village website until the Marvin Code is updated to reflect the text change.

(9) *Effect of Denial.*

(a) If a zoning text amendment is denied, the Zoning Administrator shall notify the applicant of the Village Council's decision in writing within ten (10) days and no further processing of the Application shall occur.

(b) If the Council has denied an Application for a zoning text amendment the Village shall not, thereafter, accept any Application for a similar zoning text change until the expiration of one year from the date of the denial.

(E) *Application Requirements.* Zoning text amendment Applications, requiring approval per the provisions of this section, shall not proceed through the review process without the provision of all items, documents and details required per the following list of submittal requirements:

(1) *Application Filing Form:* An Application filing form signed by the applicant.

(2) *Application Fee:* Per the adopted Fee Schedule.

(3) *Statement of Intent:* An applicant statement describing the intent of the Application.

(4) *General Description:* A description detailing the purpose for requesting the amendment and/or what issue might possibly be resolved by the amendment.

(5) *Ordinance References:* References to the specific ordinance section(s), subsection(s), and paragraph(s) specific to the zoning text amendment request.

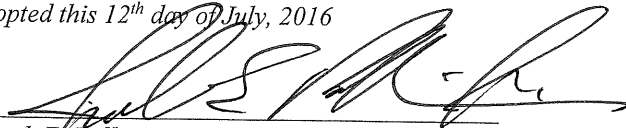
(6) *Current Ordinance Text:* An unmarked copy of the current zoning ordinance text.

(7) *Proposed Text Amendment:* A mark-up of the current zoning ordinance text demonstrating proposed amendment to the text amendment in detail.

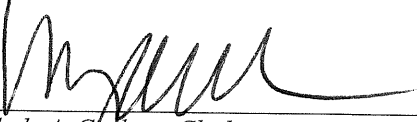
(8) *Additional Requirements*: The Zoning Administrator, the Planning Board and/or Village Council may request information in addition to what is required pursuant to this section.

**Section 2.** This ordinance shall take effect and be in force from and after the date of its adoption.

*Adopted this 12<sup>th</sup> day of July, 2016*

  
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*Joseph E. Pollino Jr., Mayor*

Attest:

  
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*Melody A. Graham, Clerk*

