



OR-2023-01-04

AN ORDINANCE OF THE VILLAGE OF MARVIN, NORTH CAROLINA
AN ORDINANCE TO AMEND MULTIPLE SECTIONS OF CHAPTER 150: SUBDIVISIONS AND CHAPTER
151: ZONING OF THE MARVIN CODE OF ORDINANCES AND CREATE § 151.069 OF THE MARVIN
CODE OF ORDINANCES FOR UPDATING REGULATIONS FOR GATED SUBDIVISIONS AND PRIVATE
ROADS

WHEREAS, The State of North Carolina General Statutes give authority to municipalities to conduct planning and zoning activities, in NC G.S. 160D; and

WHEREAS, the Marvin Planning Board unanimously recommended approval of the proposed Zoning Text Amendment at their December 15th, 2022, meeting; and

WHEREAS, a public hearing on the question of adopting this zoning text amendment was held at Marvin Village Hall at 6pm on January 10th, 2022 after due notice by the Enquirer Journal Thursday, December 29, 2022 & Thursday, January 5, 2023

WHEREAS, per § 151.252(D)(8) ZONING AMENDMENTS; TEXT AMENDMENTS of the Village of Marvin Code of Ordinances, the text amendment shall be effective upon the date of approval; and

WHEREAS, the text amendment shall be codified within the Village of Marvin Code of Ordinances;

WHEREAS, this ordinance is being adopted in order to effect proper compliance with the provisions of North Carolina General Statutes and the Village of Marvin Land Usage Ordinances and for the purpose of promoting public health, safety and general welfare; and promoting orderly growth of the Village of Marvin.

NOW, THEREFORE, BE IT ORDAINED by the Village Council for the Village of Marvin, North Carolina that TITLE XV: LAND USAGE, CHAPTER 150: SUBDIVISION, §150.015 and §150.066 and CHAPTER 151: ZONING, § 151.016, § 151.048, § 151.069 § 151.080 AND § 151.152 of the Code of Ordinances of the Village of Marvin, North Carolina is hereby amended by adding, new and amended sections of the existing text and inserting in lieu thereof the following:

Exhibit A, Adopted Zoning Text Amendment 2022-3

If any portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

This ordinance shall be effective upon adoption and ordered published as provided by law.

Adopted this day of 10th of January 2023


Joseph E. Pollino Jr., Mayor
Village of Marvin

Attest:


Austin W. Yow
Clerk and Assistant to the Manager,
Village of Marvin





VILLAGE OF MARVIN

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OR-2023-01-04 Exhibit A: Zoning Text Amendment (ZTA) 2022-3

Overview

The following proposed amendments are to the following sections:

- §150.015: Subdivision Definitions
 - Add/Amend Definition for Private Roads and Streets
 - Add Gated Subdivision
- §150.066: Subdivision - Streets and Roads
 - Specifically, §150.066 (E), (I) and (J)
- § 151.016: Zoning - DEFINITIONS OF THE SPECIFIC TERMS AND WORDS.
- §151.048: Zoning – Lot to Abut a Public Street
- §151.069: Zoning - SPECIAL REGULATIONS FOR CERTAIN USES
- §151.080: Zoning - R MARVIN RESIDENTIAL DISTRICT.
- §151.109: Zoning – ADDITIONAL REVIEW CRITERIA.
- §151.152: Zoning – Signs Permitted in the CC commercial District and MX Mixed Use District

The reason for these changes is to allow for private roads and gated subdivisions and make this consistent throughout the village of Marvin Code of Ordinances.

Proposed Changes:

1. Amend § 150.015 DEFINITIONS. to add the following:

GATED SUBDIVISION.: A subdivision in which access to the subdivision is restricted by gates or other access control devices as set forth in § 151.069 (A) of the zoning regulations.

PRIVATE STREETS. Any right-of-way or area set aside to provide vehicular access which has not been accepted for maintenance or intended to be accepted for maintenance by the Village or the State Department of Transportation, and which is not maintained by the Village or the State Department of Transportation. A person other than the Village, such as property owners, homeowner's association, community group, property management company, or similar type of organizations, shall be responsible for upkeep and maintenance.



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2. Amend § 150.066 STREETS AND ROADS.

a. Amend § 150.066 (E) Private streets and reserve strips.

Current:

- E. Private streets and reserve strips. Private streets or reserve strips are not permitted and shall not be platted in any subdivision except privately maintained alleys, as herein defined, shall be allowed under the following conditions:
1. The alley accesses homes whose architectural rear facades front the alley; and/or
 2. The alley shall be designed as specified by the Engineering Standards and procedures Manual unless otherwise directed by the Village Engineer.

Proposed Changes:

- E. Private streets and reserve strips. Private streets or reserve strips are not permitted and shall not be platted in any subdivision ~~except privately maintained alleys~~ **except for the following**, as herein defined, shall be allowed under the following conditions:
1. **Gated Subdivisions as provided for in § 151.069 (A)**
 2. **Privately Maintained Alleys**
 - a. The alley accesses homes whose architectural rear facades front the alley; and/or
 - b. The alley shall be designed as specified by the Engineering Standards and procedures Manual unless otherwise directed by the Village Engineer.

Clean Copy of Adopted Zoning Text:

- E. Private streets and reserve strips. Private streets or reserve strips are not permitted and shall not be platted in any subdivision except for the following, as herein defined, shall be allowed under the following conditions:
1. Gated Subdivisions as provided for in § 151.069 (A)
 2. Privately Maintained Alleys
 - a. The alley accesses homes whose architectural rear facades front the alley; and/or
 - b. The alley shall be designed as specified by the Engineering Standards and procedures Manual unless otherwise directed by the Village Engineer.



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b. Amend § 150.066 (I) Maintenance.

Current:

- I. Maintenance. The developer shall be responsible for the repairs to streets within subdivisions until such time as the streets are accepted by the village.

Proposed:

- I. Maintenance. The developer shall be responsible for the repairs to streets within subdivisions until such time as the streets are accepted by the Village. Private streets as part of an approved Gated Subdivision will be maintained by the developer until such time as the private streets are turned over to the homeowners association or applicable responsible person as outlined in § 151.069 (A)

Clean Copy of Adopted Zoning Text:

- I. Maintenance. The developer shall be responsible for the repairs to streets within subdivisions until such time as the streets are accepted by the Village. Private streets as part of an approved Gated Subdivision will be maintained by the developer until such time as the private streets are turned over to the homeowners association or applicable responsible person as outlined in § 151.069 (A)



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c. Amend § 150.066 (J) Gates and other traffic obstructions across streets.

Current:

- J. Gates and other traffic obstructions across streets. The use of any vehicular traffic obstruction on or across streets, including but not limited to gates, fences, structures, buildings or utilities, shall be prohibited at all times. This prohibition shall be enforced both before and after the acceptance of any street, or portion of said street, by a public entity. This provision shall not apply if the traffic obstruction in question is part of a subdivision plat approved by another governmental agency preceding annexation into the village jurisdiction. This section does not intend to prohibit traffic calming devices as allowed and approved by the village or by the NCDOT.

Proposed:

- J. Gates and other traffic obstructions across streets. The use of any vehicular traffic obstruction on or across streets, including but not limited to gates, fences, structures, buildings or utilities, shall be prohibited at all times **for public streets**. This prohibition shall be enforced both before and after the acceptance of any street, or portion of said street, by a public entity. This provision shall not apply if the traffic obstruction in question is part of a subdivision plat approved by another governmental agency preceding annexation into the village jurisdiction. This section does not intend to prohibit traffic calming devices as allowed and approved by the village or by the NCDOT.

Clean Copy of Adopted Zoning Text:

- J. Gates and other traffic obstructions across streets. The use of any vehicular traffic obstruction on or across streets, including but not limited to gates, fences, structures, buildings or utilities, shall be prohibited at all times for public streets. This prohibition shall be enforced both before and after the acceptance of any street, or portion of said street, by a public entity. This provision shall not apply if the traffic obstruction in question is part of a subdivision plat approved by another governmental agency preceding annexation into the village jurisdiction. This section does not intend to prohibit traffic calming devices as allowed and approved by the village or by the NCDOT.

3. Amend § 151.016 DEFINITIONS OF THE SPECIFIC TERMS AND WORDS. To add the following:

Add the following Definition:

GATED SUBDIVISION.: A subdivision in which access to the subdivision is restricted by gates or other access control devices as set forth in § 151.069 (A) of the zoning regulations.



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4. Amend § 151.048 LOT TO ABUT A PUBLIC STREET.

Current:

No building or structure shall be erected or located, nor shall any principal use be instituted on a lot, which does not abut a public street with the following exceptions:

- A. A single-family dwelling or mobile home may be constructed on a lot which does not abut a street provided the lot existed as such prior to the date this chapter became effective and provided the lot is provided access to a public street by an easement at least 20 feet in width for occupants of the dwelling established on the lot and further provided that the easement is maintained in a condition passable for service and emergency vehicles; and
- B. The easement may also be used, where needed for the installation and maintenance of utility facilities.

Proposed:

No building or structure shall be erected or located, nor shall any principal use be instituted on a lot, which does not abut a public street with the following exceptions:

- A. A single-family dwelling or mobile home may be constructed on a lot which does not abut a street provided the lot existed as such prior to the date this chapter became effective and provided the lot is provided access to a public street by an easement at least 20 feet in width for occupants of the dwelling established on the lot and further provided that the easement is maintained in a condition passable for service and emergency vehicles; and
- B. The easement may also be used, where needed for the installation and maintenance of utility facilities.
- C. The lot is a part of an approved Gated Subdivision as defined in § 151.016

Clean Copy of Adopted Zoning Text:

No building or structure shall be erected or located, nor shall any principal use be instituted on a lot, which does not abut a public street with the following exceptions:

- A. A single-family dwelling or mobile home may be constructed on a lot which does not abut a street provided the lot existed as such prior to the date this chapter became effective and provided the lot is provided access to a public street by an easement at least 20 feet in width for occupants of the dwelling established on the lot and further provided that the easement is maintained in a condition passable for service and emergency vehicles; and
- B. The easement may also be used, where needed for the installation and maintenance of utility facilities.
- C. The lot is a part of an approved Gated Subdivision as defined in § 151.016



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5. Establish §151.069 SPECIAL REGULATIONS FOR CERTAIN USES. To Add Special Provisions for Gated Subdivisions

Add the following:

A. Gated Subdivisions

1. New residential subdivisions may be proposed to have a gate and private road, subject to the following standards:
 - a. Before the approval of a final plat, the developer shall submit to the Village the design and layout of any access gate, external fence, and walls. Berms shall be located outside any public street right-of-way and shall be designed to blend in, to the greatest degree feasible, with the proposed development and shall be attractive to motorists and pedestrians from adjoining public streets.
 - b. The road upon which will serve the proposed subdivision is the only means of ingress and egress for the subdivision;
 - c. Neighborhoods to have an entrance gate are subject to the regulations for rural entryway gates as provided for in § 151.152 (H).
 - d. Prior to the approval of a final plat, the developer shall provide written evidence that the developer has created a homeowners' association whose responsibility it will be to maintain common areas and private streets within the development. Such evidence shall include filed copies of the articles of incorporation, declarations and homeowners' association bylaws, and maintenance agreements.
2. Existing Residential Developments
 - a. If the developer, person and/or the homeowners' association requests a gated entrance after Final Plat approval, the applicant shall submit an updated final plat along with the required fee to the Planning and Zoning Administrator for Village Council Approval.
 - b. Furthermore, the proposed gate must comply with the regulations for rural entryway gates as provided for in § 151.152 (H).
 - c. Additionally, the developer and/or the homeowners will need to Village Council approval of a Special Use Permit in accordance with §§ 151.100 through 151.109



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6. Amend § 151.080 R MARVIN RESIDENTIAL DISTRICT. to add Gated Subdivision as Special Use

Current §151.080(C):

- C. Conditional Uses. The following uses may be permitted by the Village Council in accordance with §§ 151.100 through 151.109:
1. Public parks and recreation facilities;
 2. Churches, synagogues and other places of worship, and their customary related uses;
 3. Essential services, class II and III;
 4. Cemeteries;
 5. Golf courses and country clubs;
 6. Public safety stations;
 7. Lighting for proposed or existing sports fields or sports fields proposed as an accessory use, but it will be a permitted use if the sportsfield and sportsfield lighting was included in the original Education Overlay District rezoning; and
 8. Elementary and secondary schools, but it will be a permitted use if the parcel is rezoned to an Education Overlay District.

Proposed:

- C. **Conditional Special** Uses. The following uses may be permitted by the Village Council in accordance with §§ 151.100 through 151.109:
1. Public parks and recreation facilities;
 2. Churches, synagogues and other places of worship, and their customary related uses;
 3. Essential services, class II and III;
 4. Cemeteries;
 5. Golf courses and country clubs;
 6. Public safety stations;
 7. Lighting for proposed or existing sports fields or sports fields proposed as an accessory use, but it will be a permitted use if the sportsfield and sportsfield lighting was included in the original Education Overlay District rezoning; and
 8. Elementary and secondary schools, but it will be a permitted use if the parcel is rezoned to an Education Overlay District.
 9. **Gated Subdivision, in accordance with §151.069(A);**



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Clean Copy of Adopted Zoning Text:

- C. Special Uses. The following uses may be permitted by the Village Council in accordance with §§ 151.100 through 151.109:
1. Public parks and recreation facilities;
 2. Churches, synagogues and other places of worship, and their customary related uses;
 3. Essential services, class II and III;
 4. Cemeteries;
 5. Golf courses and country clubs;
 6. Public safety stations;
 7. Lighting for proposed or existing sports fields or sports fields proposed as an accessory use, but it will be a permitted use if the sportsfield and sportsfield lighting was included in the original Education Overlay District rezoning; and
 8. Elementary and secondary schools, but it will be a permitted use if the parcel is rezoned to an Education Overlay District.
 9. Gated Subdivision, in accordance with §151.069(A);



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7. Amend §151.109 ADDITIONAL REVIEW CRITERIA. To Add Review Criteria for considering Gated Subdivisions as a Special Use

Add the following:

G. Gated Subdivision.

1. The gated subdivision proposed are in harmony with the surroundings and consistent with Land Use Plan requirements;
2. The gated subdivision proposed are compliant with goals and objectives of applicable Land Use Plan and any other Officially adopted plan requirements;
3. The gated subdivision does not interfere with visibility for motorists, pedestrians or bicyclists;
4. The proposed gate, where located, will not require a significant number of healthy trees or shrubs to be removed;
5. All property owners as listed on the recorded deed, who have the right to use the road, have provided their written consent to the permit application and approval of all site plans and elevations;
6. Maintenance of the gate, supplement equipment, landscaping and subdivision roads has been provided through a maintenance agreement and homeowners' association declarations, executed and recorded by all property owners who have joined in the permit application;
7. The road upon which the gate will be installed is not a through road, and is the only means of ingress and egress for the subdivision;
8. The Gated Subdivision shall comply with the requirements outlined in §151.068 and any other applicable sections of Chapter 150 and 151 of the Marvin Code of Ordinances.

8. Amend title of § 151.152 SIGNS PERMITTED IN CC COMMERCIAL DISTRICT AND MX MIXED-USE DISTRICT.

Current

§ 151.152 SIGNS PERMITTED IN CC COMMERCIAL DISTRICT AND MX MIXED-USE DISTRICT.

Redlines

§ 151.152 ~~SIGNS PERMITTED IN CC COMMERCIAL DISTRICT AND MX MIXED-USE DISTRICT.~~
SUBDIVISION ENTRYWAY SIGNAGE, MONUMENTS AND APPURTENANCES.

New Text

§ 151.152 SUBDIVISION ENTRYWAY SIGNAGE, MONUMENTS AND APPURTENANCES.