



OR-2025-12-01

**AN ORDINANCE OF THE VILLAGE OF MARVIN, NORTH CAROLINA**  
AN ORDINANCE TO REPEAL CHAPTER 93: TREES OF THE MARVIN CODE OF ORDINANCES  
AND REPLACE WITH THE NEW CHAPTER 93: VILLAGE OF MARVIN PUBLIC TREE  
ORDINANCE

**WHEREAS**, The State of North Carolina General Statutes give authority to municipalities to adopt ordinances to protect the public health, safety, and welfare; and

**WHEREAS**, the Marvin Planning Board unanimously recommended approval of the proposed Zoning Text Amendment at their November 18<sup>th</sup>, 2025, meeting; and

**WHEREAS**, a public hearing on the question of adopting this zoning text amendment was held at Marvin Village Hall on December 9<sup>th</sup>, 2025, after due notice by the Enquirer Journal Saturday, November 29 & Saturday, December 6, 2025; and

**WHEREAS**, the Village aspires to be recognized as a Tree City USA by The National Arbor Day Foundation, and this ordinance is being adopted to further the Villages commitment to take steps to preserve and enhance Marvin's tree canopy; and

**WHEREAS**, the proposed amendment is consistent with the Village of Marvin 2020 Land Use Plan and other officially adopted Village plans and is reasonable and in the public interest.

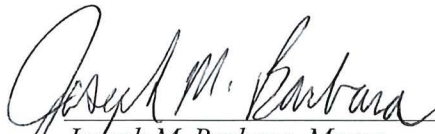
**NOW, THEREFORE, BE IT ORDAINED** by the Marvin Village Council that the Code of Ordinances, Title IX General Regulation, Chapter 93: Trees is hereby amended by replacing its entirety with the new Chapter 93: Village of Marvin Public Tree Ordinance attached hereto *at Exhibit A*.

**Exhibit A, Chapter 93: Village of Marvin Public Tree Ordinance**

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 9th day of December 2025.*

  
\_\_\_\_\_  
Joseph M. Barbara, Mayor  
Village of Marvin

Attest:   
\_\_\_\_\_  
Austin W. Yow, Clerk & Assistant to the Manager  
Village of Marvin



## EXHIBIT A – CHAPTER 93 - Village of Marvin Public Tree Ordinance

### **GENERAL PROVISIONS**

#### **§ 93.01 AUTHORITY AND ENACTMENT**

- (A) G.S. § 160A-174 and G.S. § 160D-108 authorize municipalities to adopt ordinances to protect the public health, safety, and welfare.
- (B) Regulation of the planting, maintenance, and removal of trees located on or in streets, parks, and public areas owned and controlled by the Village enhances and promotes public health, safety, and welfare by facilitating and protecting the aesthetic qualities of the Village community.
- (C) The protection and proper management of public trees in the Village promotes clean air quality, reduces harmful effects on the environment, provides wildlife habitat, reduces stormwater runoff, and enhances property values throughout the community.
- (D) Therefore, the Village Council hereby adopts this public tree ordinance governing the planting, maintenance, and removal of trees located on streets, parks, rights-of-way, and public areas owned or controlled by the Village.

#### **§ 93.02 SHORT TITLE**

This chapter shall be known and may be cited as the "Village of Marvin Public Tree Ordinance."

#### **§ 93.03 PURPOSE AND INTENT**

The purpose and intent of this chapter is to:

- (A) Establish authority and responsibility for the management of public trees within the Village of Marvin;
- (B) Provide clear guidance for the planting, maintenance, and removal of trees on streets, parks, rights-of-way, and other public property;
- (C) Adopt nationally recognized tree care standards to ensure proper care of public trees;
- (D) Protect, facilitate, and enhance the character and natural landscape qualities of the Village;
- (E) Preserve and enhance the Village's urban forest and tree canopy on public property;
- (F) Promote clean air quality by helping to reduce air pollution and carbon dioxide levels;
- (G) Reduce the harmful effects of wind, heat, noise, and glare;
- (H) Help maintain moisture levels and prevent soil erosion;
- (I) Facilitate natural drainage systems and reduce stormwater runoff;
- (J) Provide shade and reduce urban heat island effects;
- (K) Enhance wildlife habitat and biodiversity;
- (L) Increase property values and enhance the aesthetic quality of the Village;
- (M) Ensure public safety by proper maintenance of trees in public areas; and
- (N) Meet the requirements for Tree City USA designation through the Arbor Day Foundation.

#### **§ 93.04 SCOPE AND APPLICABILITY**

- (A) This chapter applies exclusively to public trees, defined as any tree or woody vegetation located on Village-owned or Village-maintained property, including but not limited to:
- (1) Streets and rights-of-way;
  - (2) Parks and recreational facilities;
  - (3) Village buildings and grounds;
  - (4) Greenways and trails;
  - (5) Stormwater facilities on Village property;
  - (6) Any other land owned, leased, or maintained by the Village.
- (B) This chapter does not regulate trees on private property, except:
- (1) Where trees on private property create hazards or nuisances affecting public property or public safety as specified in § 93.47; and
  - (2) Where trees on private property overhang or encroach into public rights-of-way as specified in § 93.46.
- (C) Trees on private property associated with development, subdivisions, and land-disturbing activities are regulated under Article 11 of the Marvin Development Ordinance.
- (D) This chapter shall be in continuous effect from the date of adoption.

#### **§ 93.05 LIABILITY AND DISCLAIMER**

Nothing contained in this chapter shall be deemed to impose any liability upon the Village, its officers, employees, or agents, nor to relieve the owner of any private property from the duty to keep any tree, shrub, or plant upon their property or under their control in a condition so as to prevent it from constituting a hazard or impediment to travel or vision upon any street, right-of-way, park, or public place within the Village.

## § 93.06 DEFINITIONS

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

**ANSI A300 STANDARDS.** The American National Standards Institute's standards for tree care operations, including pruning, fertilization, and other tree maintenance practices.

**ARBORIST, CERTIFIED.** A person certified by the International Society of Arboriculture (ISA) or licensed as a professional to perform arboricultural work in the State of North Carolina.

**BEST MANAGEMENT PRACTICES (BMPs).** Recommended practices published by the International Society of Arboriculture for proper tree care.

**CRITICAL ROOT ZONE (CRZ).** The area around a tree critical to its survival, typically measured as a radius of one foot from the trunk for every one inch of trunk diameter at breast height (DBH).

**DAMAGE.** Any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

**DIAMETER AT BREAST HEIGHT (DBH).** The tree trunk diameter measured in inches at a height of four and one-half feet above the ground.

**DIRECTOR.** The Planning Director or their designee, as assigned responsibility for public tree management.

**DRIP LINE.** A vertical line extending from the outermost edge of the tree canopy or tree branch to the ground.

**HERITAGE TREE.** Any tree listed in the North Carolina Big Trees List, the American Forest Association's list, or any tree that would measure 80% of the points of a tree on the most recently adopted version of the North Carolina Big Trees List.

**NUISANCE TREE.** Any tree or limb thereof on private property that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; overhangs public property creating a hazard; or threatens public health, safety, and welfare.

**PARKWAY.** The area along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved portion of the street.

**PRG BOARD.** The Village of Marvin Parks, Recreation and Greenways Board.

**PUBLIC PROPERTY.** All grounds, rights-of-way, parks, greenways, and other lands owned, leased, or maintained by the Village.

**PUBLIC TREE.** Any tree or woody vegetation located on Village-owned or Village-maintained property or rights-of-way.

**SIGHT TRIANGLE.** The triangular area formed by a diagonal line connecting two points located on intersecting property lines (or a property line and the curb or driveway), each point being 35 feet from the point of intersection.

**SPECIMEN TREE.** A tree considered to be an important community asset due to its unique or noteworthy characteristics, including but not limited to: large hardwoods (oaks, maples, poplars) with DBH of 24 inches or greater, or smaller understory trees (dogwoods, redbuds) with DBH of 10 inches or greater, all in good or better condition.

**STREET TREE.** A tree planted in the parkway or planting strip along a public or private street.

**TOPPING.** The non-standard practice of cutting back limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Also referred to as heading, stubbing, or dehorning.

**TREE.** A living woody plant with an erect perennial trunk and a definitely formed crown.

**TREE, CANOPY.** Any tree growing to 35 feet or more in height at maturity and having a canopy diameter of 30 feet or more at maturity.

**TREE, UNDERSTORY.** Any tree growing to more than 15 feet but less than 35 feet in height at maturity.

## **§ 93.07 ENFORCEMENT AND ADMINISTRATIVE RESPONSIBILITIES**

**(A) Primary Authority.** The Planning Director, and any other person designated by the Village Manager or Village Council, shall have the authority to administer and enforce this chapter. Such person shall be referred to as the "Director."

**(B) Inspections.** The Director is authorized to inspect public property to determine compliance with this chapter.

**(C) Stop Work Authority.** The Director shall have the authority to issue stop-work orders for any violations of this chapter.

**(D) Appeals.** Any decision of the Director may be appealed as provided in § 93.67.

**(E) Emergency Actions.** The Director shall have the authority to take immediate action, without prior notice, to address emergency situations involving public trees that pose imminent threats to public health, safety, or property.

## **ADVISORY AND ADMINISTRATIVE STRUCTURE**

### **§ 93.15 PARKS, RECREATION AND GREENWAYS BOARD - TREE ADVISORY DUTIES**

**(A) Designation.** The Village of Marvin Parks, Recreation and Greenways (PRG) Board shall serve in an advisory capacity to the Director and Village Council regarding public tree management.

**(B) Tree Advisory Duties.** In addition to its other duties, the PRG Board shall:

- (1)** Coordinate and promote Arbor Day activities and celebrations;
- (2)** Review and recommend updates to a five-year plan for planting and maintaining trees on public property;
- (3)** Support public awareness and education programs relating to trees and the urban forest;
- (4)** Review concerns relating to public tree care brought by Village departments or citizens;
- (5)** Submit an annual report of tree-related activities to the Village Council;
- (6)** Assist with the annual application to maintain Tree City USA designation;
- (7)** Review and recommend updates to the list of preferred tree species for planting on public property (Appendices A and B);
- (8)** Recommend policies and programs to enhance the Village's urban forest;
- (9)** Review and make recommendations on the annual public tree maintenance budget;
- (10)** Coordinate with the Director on public tree issues; and
- (11)** Perform other tree-related duties as may be assigned by the Village Council.

**(C) Meetings.** The PRG Board shall address public tree matters at its regular meetings as needed, but shall dedicate discussion to public tree issues at least quarterly.

**(D) Annual Arbor Day Observance.** The PRG Board shall coordinate an annual Arbor Day observance in accordance with Tree City USA requirements.

### **§ 93.16 DUTIES OF THE PLANNING DEPARTMENT**

**The Planning Department shall have full authority and responsibility to:**

- (A)** Enforce the provisions of this chapter;
- (B)** Issue permits for work on public trees as required by this chapter;
- (C)** Maintain the official list of preferred tree species for public planting;
- (D)** Develop and maintain spacing requirements and planting standards for public trees;
- (E)** Maintain records of public tree inventory, maintenance activities, and removals; and
- (F)** Coordinate with the PRG Board on public tree matters.

### **§ 93.17 DUTIES OF THE PUBLIC WORKS DEPARTMENT**

**The Public Works Department shall have full authority and responsibility to:**

- (A)** Plant, prune, maintain, and remove trees and woody plants growing in or upon all municipal streets, rights-of-way, parks, greenways, and other public property;
- (B)** Coordinate with utility companies regarding tree maintenance and utility clearance;
- (C)** Remove trees that may threaten electrical, telephone, gas, water, sewer lines, or other utilities;
- (D)** Remove or treat trees affected by fungus, insect, disease, or other pest infestations;
- (E)** Develop and implement a public tree management plan;
- (F)** Coordinate with the PRG Board on public tree matters; and
- (G)** Prepare an annual report on public tree activities and budget.

### **§ 93.18 COORDINATION AMONG VILLAGE DEPARTMENTS**

All Village departments shall coordinate as necessary with the Director and shall provide services as required to ensure compliance with this chapter as it relates to streets, rights-of-way, drainage, easements, parks, greenways, and other public properties not under direct jurisdiction of the Director.

## **PUBLIC TREE CARE STANDARDS**

### **§ 93.25 ANSI A300 STANDARDS ADOPTED**

- (A) Standards Adopted.** All planting, maintenance, pruning, fertilization, and removal of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" as may be amended from time to time.
- (B) Best Management Practices.** All public tree care shall follow Best Management Practices (BMPs) published by the International Society of Arboriculture, including but not limited to BMPs for:
- (1)** Tree planting
  - (2)** Pruning
  - (3)** Fertilization and soil management
  - (4)** Managing trees during construction
  - (5)** Tree risk assessment
  - (6)** Lightning protection
  - (7)** Integrated pest management
- (C) Application.** These standards shall apply to all work on public trees conducted by Village employees, contractors, utility companies, or any other person or entity.

### **SPECIES LIST**

- (A) Official List.** The Director shall maintain an official list of preferred tree species for planting on public property, containing:
- (1)** Canopy trees - Trees 35 feet or greater in height at maturity
  - (2)** Understory trees - Trees 15-35 feet in height at maturity
- (B) Approval for Planting.** Trees from the approved lists may be planted on public property without special permission. Other species may be planted only with written approval from the Director.
- (C) Prohibited Species.** The Director may maintain a list of prohibited species that shall not be planted on public property due to invasive characteristics, disease susceptibility, structural weakness, or other undesirable traits.
- (D) Updates.** The preferred species list shall be reviewed at least every five years and may be updated by the Director with input from the PRG Board.
- (E) Diversity.** When planning public tree plantings, the Director should consider species diversity to promote a resilient urban forest, avoiding over-reliance on any single species.



## § 93.27 PLANTING DISTANCES AND LOCATIONS

**(A) Spacing from Infrastructure.** The Director shall develop and maintain standards for spacing of public trees from:

- (1) Street intersections (no tree within sight triangle)
- (2) Fire hydrants (minimum 10 feet)
- (3) Streetlights
- (4) Utility poles
- (5) Driveways
- (6) Building foundations
- (7) Other infrastructure

**(B) Spacing Between Trees.** Trees shall be spaced to accommodate mature canopy spread, typically:

- (1) Canopy trees: 40-50 feet apart
- (2) Understory trees: 30-40 feet apart

**(C) Planting Locations.** Public trees may be planted in:

- (1) Parkways and planting strips
- (2) Parks and recreational areas
- (3) Greenways and trails
- (4) Village facility grounds
- (5) Medians (where appropriate)
- (6) Other public property as approved by the Director

**(D) Sight Triangles.** No tree may be planted within the visibility triangle of a street intersection that would obstruct the view of motorists.

## § 93.28 PLANTING UNDER UTILITY LINES

**(A) Height Restrictions.** Only trees listed as understory trees (Appendix B) on the official preferred species list may be planted under or within 15 lateral feet of any overhead utility wire.

**(B) No Canopy Trees.** Canopy trees shall not be planted where overhead power distribution or transmission lines would interfere with normal tree growth.

**(C) Utility Coordination.** The Director shall coordinate with utility companies when planning tree plantings near utility infrastructure.

## **§ 93.29 TREE CARE BEST MANAGEMENT PRACTICES**

**(A) Planting Standards.** All public trees shall be planted according to ISA Best Management Practices, including:

- (1)** Proper hole size and depth
- (2)** Root ball preparation
- (3)** Backfill specifications
- (4)** Mulching (3-4 inches depth, away from trunk)
- (5)** Staking when necessary
- (6)** Initial watering requirements

**(B) Maintenance Standards.** Public trees shall be maintained according to:

- (1)** Regular inspection schedules
- (2)** Pruning cycles appropriate to species and location
- (3)** Pest and disease monitoring
- (4)** Soil management
- (5)** Watering during establishment period

**(C) Minimum Tree Size.** Newly planted public trees shall meet the following minimum sizes:

- (1)** Canopy trees: 2 inches caliper, measured 6 inches above grade
- (2)** Understory trees: 1.5 inches caliper, measured 6 inches above grade

**(D) Quality Standards.** All trees shall meet or exceed the American Standard for Nursery Stock published by the American Association of Nurserymen.

## **PROHIBITION AGAINST HARMING PUBLIC TREES**

### **§ 93.35 DAMAGE OR REMOVAL PROHIBITED**

**(A)** It shall be unlawful for any person, firm, or corporation to damage, remove, or cause the damage or removal of a public tree without written permission from the Director.

**(B)** Prohibited actions include but are not limited to:

- (1)** Cutting, removing, or destroying any part of a public tree
- (2)** Damaging bark or tree tissue
- (3)** Disturbing soil within the critical root zone
- (4)** Compacting soil within the critical root zone
- (5)** Changing grade within the critical root zone
- (6)** Applying harmful chemicals
- (7)** Breaking or damaging branches
- (8)** Unauthorized pruning

**(C) Exceptions.** This section does not apply to:

- (1)** Authorized Village employees or contractors performing their duties
- (2)** Utility company personnel performing authorized work
- (3)** Emergency removal of trees posing imminent danger (must notify Village within 24 hours)

### **§ 93.36 ATTACHMENT OF OBJECTS PROHIBITED**

It shall be unlawful for any person, firm, or corporation to attach any cable, wire, rope, sign, poster, placard, advertisement, decoration, or any other object to any public tree, except:

- (A)** Temporary tree support systems installed according to proper horticultural practices during establishment period;
- (B)** Scientific monitoring equipment installed with written permission from the Director;
- (C)** Temporary decorations for approved Village events, with prior written permission; or
- (D)** Items installed by authorized Village personnel.

### § 93.37 TOPPING PROHIBITED

- (A) It shall be unlawful for any person, firm, or corporation to "top" any public tree.
- (B) Topping includes any severe pruning practice that removes major portions of the tree's crown, resulting in removal of more than one-third of the foliage and limbs, or any pruning that leads to disfigurement of the natural shape of the tree.
- (C) **Exception.** Trees severely damaged by storms or other causes, where best pruning practices are impractical, may be exempted from this provision at the determination of the Director.
- (D) Public trees that require topping due to storm damage or other extraordinary circumstances shall be evaluated for complete removal and replacement rather than topping whenever feasible.

### § 93.38 PROTECTION DURING CONSTRUCTION

- (A) **Consultation Required.** Any person, firm, corporation, utility, or Village department performing construction near any public tree(s) shall consult with the Director prior to beginning work.
- (B) **Protection Measures Required.** Appropriate measures shall be employed to protect public trees during construction, according to procedures contained in the ISA Best Management Practices for "Managing Trees During Construction."
- (C) **Protection Measures Include:**
  - (1) Installation of tree protection fencing around the critical root zone
  - (2) No storage of materials, equipment, or soil within protected zones
  - (3) No grade changes within protected zones
  - (4) No trenching within protected zones without specific approval and use of tunneling/boring methods
  - (5) Protection of trunks and branches from equipment damage
- (D) **Inspection.** The Director shall inspect protection measures before construction proceeds and may conduct follow-up inspections.
- (E) **Stop Work Authority.** The Director may issue stop-work orders if protection measures are inadequate or not being followed.

## **§ 93.39 PERMITS REQUIRED FOR WORK ON PUBLIC TREES**

**(A) General Requirement.** No person, firm, or corporation shall perform any work on public trees, including planting, pruning, removal, or treatment, without first obtaining written permission or a permit from the Director.

**(B) Exemptions.** Permits are not required for:

- (1) Village employees performing authorized duties
- (2) Village contractors under Village contract
- (3) Emergency work as provided in this chapter
- (4) Utility companies performing routine maintenance within their easements, provided they notify the Director in advance

**(C) Application.** Permit applications shall be submitted to the Director and shall include:

- (1) Name and contact information of applicant
- (2) Location of tree(s)
- (3) Description of proposed work
- (4) Justification for work
- (5) Qualifications of persons performing work
- (6) Proof of insurance as required
- (7) Other information as requested by the Director

**(D) Review and Approval.** The Director shall review applications and may approve, approve with conditions, or deny applications based on:

- (1) Tree health and condition
- (2) Public safety considerations
- (3) Compliance with ANSI A300 standards
- (4) Qualifications of persons performing work
- (5) Best interests of the public and the tree

## **ADJACENT OWNER RESPONSIBILITIES**

### **§ 93.45 RIGHT TO PLANT IN PARKWAY**

- (A) Planting Permitted.** The owner of land adjacent to any Village street, when acting within the provisions of this chapter, may plant and maintain trees in the adjacent parkway area with prior written approval from the Director.
- (B) Requirements.** Trees planted by adjacent owners in parkways shall:
- (1)** Be selected from the approved species list (Appendices A or B)
  - (2)** Be planted in approved locations per § 93.27
  - (3)** Comply with sight triangle requirements
  - (4)** Be properly planted according to § 93.29
  - (5)** Be maintained by the property owner
- (C) Approval Process.** Property owners shall submit a planting plan to the Director showing proposed species, locations, and sizes. No planting shall occur without written approval.
- (D) Maintenance.** Property owners who plant trees in parkways shall maintain those trees in good condition. Failure to maintain may result in the Village performing maintenance at the owner's expense.

### **§ 93.46 DUTY TO MAINTAIN CLEARANCES**

- (A) Clearance Requirements.** Every owner of any tree overhanging any street, right-of-way, sidewalk, or other public property within the Village shall maintain the tree to provide:
- (1)** A clear space of thirteen (13) feet above the street surface
  - (2)** A clear space of eight (8) feet above the sidewalk surface
  - (3)** Clear sight lines at intersections and driveways
- (B) Obstruction of View.** No property owner shall allow a tree or other plant growing on their property to obstruct or interfere with:
- (1)** Pedestrian traffic on sidewalks
  - (2)** The view of drivers at intersections
  - (3)** Visibility of traffic control devices or signs
  - (4)** Sight triangles
  - (5)** Streetlights

**(C) Notice and Correction.** If a tree on private property creates an obstruction or hazard affecting public property:

- (1) The Director shall notify the property owner in writing to prune or remove the tree
- (2) The owner shall have thirty (30) days to comply (or shorter period if immediate hazard exists)
- (3) If the owner fails to comply, the Village may undertake the necessary work
- (4) The Village shall charge the cost to the property owner

**(D) Dead or Diseased Limbs.** Property owners shall remove all dead, diseased, or unsafe limbs that overhang public property.

### **§ 93.47 NUISANCE TREES ON PRIVATE PROPERTY**

**(A) Nuisance Declared.** Any tree or limb thereof on private property determined by the Director to meet any of the following conditions is declared a nuisance:

- (1) Has contracted a lethal, communicable disease or insect infestation that threatens public trees
- (2) Is dead or dying and poses a threat to public property or safety
- (3) Obstructs the view of traffic signs or the free passage of pedestrians or vehicles
- (4) Creates a hazard to public utilities
- (5) Threatens public health, safety, or welfare

**(B) Owner Responsibility.** Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property that affect or threaten public property or public safety.

**(C) Notice to Owner.** Upon determination that a nuisance tree exists:

- (1) The Director shall provide written notice to the property owner
- (2) The notice shall describe the condition and required remedy
- (3) The notice shall specify a reasonable time period (12 days minimum, or less if imminent threat) for compliance
- (4) The notice shall be sent by first-class mail or hand-delivered

**(D) Village Authority to Act.** If the owner does not correct the condition within the specified time:

- (1) The Village may enter the property and perform the necessary work
- (2) The Village shall bill the owner for actual costs incurred
- (3) If the owner fails to pay within thirty (30) days, the amount shall become a lien against the property
- (4) The lien shall be collected in the same manner as delinquent taxes

**(E) Immediate Threats.** In situations involving an immediate threat to public health, safety, or welfare, the Village may act without prior notification to the property owner.

## UTILITY COMPANY REQUIREMENTS

### § 93.50 UTILITY CLEARANCE STANDARDS

**(A) Standards Required.** The maintenance of public trees for utility clearance by franchise utility companies shall conform to:

- (1) ANSI A300 standards
- (2) All applicable utility industry standards
- (3) ISA Best Management Practices
- (4) This chapter

**(B) Prohibited Practices.** Utility companies shall not engage in tree topping except as allowed under § 93.37(C).

**(C) Advance Notice.** Utility companies shall provide advance notice to the Director prior to performing tree work on public property, except in emergency situations.

**(D) Emergency Work.** In emergency situations, utility companies shall notify the Director within 24 hours of performing tree work

### § 93.51 COORDINATION WITH PUBLIC WORKS

**(A)** Utility companies shall coordinate tree planting and maintenance activities with the Village to:

- (1) Avoid conflicts with underground utilities
- (2) Ensure proper species selection near utility lines
- (3) Plan utility projects to minimize tree impacts
- (4) Provide for adequate clearances

**(B)** The Director and utility companies shall work cooperatively to maintain both public trees and utility infrastructure.



## **TREE CARE PROFESSIONAL REGULATION**

### **§ 93.55 PERMIT REQUIRED FOR COMMERCIAL TREE WORK**

- (A) Permit Requirement.** It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing public trees without first obtaining written permission or a permit from the Director.
- (B) Application.** Applications shall include:
- (1)** Business name and contact information
  - (2)** Names and certifications of personnel
  - (3)** Proof of insurance (see § 93.57)
  - (4)** Agreement to comply with ANSI A300 standards
  - (5)** List of services offered
  - (6)** Other information as required by the Director
- (C) Fee.** A permit fee shall be charged as established in the Village fee schedule.
- (A) Certified Arborist Required.** Approval shall only be granted to individuals, businesses, or companies that employ at least one ISA Certified Arborist or North Carolina Licensed Arborist to perform or supervise all tree work on public property.
- (B) ANSI A300 Compliance.** All permit holders must sign an affidavit agreeing to abide by ANSI A300 standards for tree care.
- (C) Topping Prohibited.** The topping of public trees shall be prohibited except as allowed under § 93.37(C).

### **§ 93.57 INSURANCE REQUIREMENTS**

Before any approval shall be issued, each applicant must file evidence of:

- (A) Liability Insurance.** Commercial general liability insurance with minimum coverage amounts as established by the Village, indemnifying the Village and any person for injury or damage resulting from tree care activities.
- (B) Workers' Compensation Insurance.** Workers' compensation insurance as required by North Carolina law.
- (C) Certificate of Insurance.** A certificate of insurance naming the Village of Marvin as an additional insured.
- (D) Continuous Coverage.** Insurance coverage must be maintained throughout the permit period. Cancellation of coverage shall result in automatic suspension of the permit.

## **§ 93.58 SUSPENSION OR REVOCATION OF PERMITS**

**(A) Authority.** The Director is authorized to suspend or revoke Permits or Approvals.

**(B) Grounds for Suspension or Revocation:**

- (1)** Violation of this chapter
- (2)** Failure to comply with ANSI A300 standards
- (3)** Engaging in tree topping
- (4)** Working without required insurance
- (5)** Falsifying information on permit application
- (6)** Creating safety hazards
- (7)** Damaging public trees through improper practices
- (8)** Failing to comply with Director's instructions

**(C) Notice.** The Director shall provide written notice of suspension or revocation stating the reasons.

**(D) Appeal.** Permit holders may appeal suspension or revocation to the Village Council as provided in § 93.67.

**(E) Effect.** Suspension or revocation prohibits the person or company from performing tree work on Village property.

## **ENFORCEMENT**

### **§ 93.65 INSPECTIONS**

**(A) Authority.** Authorized Village employees are authorized to inspect public property and work being performed on public trees to determine compliance with this chapter.

**(B) Right of Entry to Public Property.** Village employees may enter upon public property at reasonable times for inspection purposes.

**(C) Right of Entry to Private Property.** For nuisance trees affecting public property under § 93.47, the Director may enter upon private property after providing notice to the owner.

**(D) Interference Prohibited.** No person shall hinder, prevent, delay, or interfere with the Director or authorized Village employees while engaged in carrying out the execution or enforcement of this chapter.

## § 93.66 VIOLATIONS AND PENALTIES

- (A) **Civil Penalties.** Any person, firm, or corporation violating any provision of this chapter shall be subject to civil penalties as specified in § 93.99.
- (B) **Mitigation Value.** In addition to civil penalties, violators may be required to pay the appraised value of public trees damaged or removed in violation of this chapter, calculated using the most recent edition of the "Guide for Plant Appraisal" published by the Council of Tree and Landscape Appraisers.
- (C) **Replacement.** Violators shall be required to replace damaged or removed public trees as determined by the Director, at the violator's expense.
- (D) **Separate Offenses.** Each public tree damaged or removed in violation of this chapter shall constitute a separate offense. Each day a continuing violation exists shall constitute a separate offense.
- (E) **Restoration.** The Director may require restoration of sites where violations have occurred, including:
- (1) Replanting of trees
  - (2) Soil restoration
  - (3) Restoration of turf or groundcover
  - (4) Other remedial measures
- (F) **Stop Work Orders.** The Director may issue stop-work orders for any ongoing violations.

## § 93.67 APPEALS

- (A) **Right to Appeal.** Any person aggrieved by a decision of the Administrator under this chapter – such as denial of a tree removal permit or conditions required – may appeal to the Board of Adjustment within **30 days** of the decision. The Board of Adjustment shall hear the appeal as prescribed in Article 6 of the Marvin Development Ordinance of the zoning regulations, and may affirm, reverse, or modify the administrator's decision, considering the intent of this ordinance and evidence presented. Enforcement actions (e.g., notice of violation) may similarly be appealed if provided for by general code procedures.

## § 93.99 PENALTY

- (A) **Not Criminal.** A violation of this chapter shall not be considered a criminal offense or misdemeanor under N.C. General Statute § 14-4.
- (B) **Civil Penalty Amount.** Any person, firm, or corporation violating any provision of this chapter shall be subject to a civil penalty of up to five hundred dollars (\$500.00) for each offense.
- (C) **Daily Violations.** Each day that a violation continues shall constitute a separate offense subject to an additional penalty of up to fifty dollars (\$50.00) per day.

- (D) Assessment.** Civil penalties shall be assessed by the Director. The decision to assess a civil penalty may be delivered by personal service, registered mail, certified mail return receipt requested, or any means authorized under G.S. 1A-1, Rule 4.
- (E) Tree Value.** In addition to civil penalties, violators who damage or remove public trees shall be liable for the appraised value of the tree(s) using current Council of Tree and Landscape Appraisers methodology.
- (F) Collection.** Civil penalties and assessed values that are not paid within thirty (30) days shall:
- (1)** Be recovered by the Village in a civil action in the nature of a debt in Superior Court; or
  - (2)** Become a lien against the property where the violation occurred, to be collected in the same manner as delinquent taxes.
- (G) Restorative Nature.** Civil penalties assessed under this section are considered restorative, intended to provide compensation to the Village for costs associated with monitoring, enforcement, and correction of violations.
- (H) Additional Remedies.** The Village may seek any other remedies available under North Carolina law, including:
- (1)** Injunctive relief
  - (2)** Mandatory orders requiring correction of violations
  - (3)** Recovery of Village costs for correction work
  - (4)** Attorney's fees and court costs
- (I) No Double Penalty.** No person shall be subject to penalties under both this chapter and Article 11 of the Development Ordinance for the same tree or the same act.