

Policy Number <u>P-2025-07-01</u> <u>Superseding</u> <u>P-2024-06-01</u>	Title Right-of-Way Abandonment Policy	Subject Planning and Zoning
Date of Adoption <u>June 27, 2024</u> <u>July 31, 2025</u>	Adopted by Village Council	Number of Pages 2



Right-of-Way Abandonment Policy

A Right-of-Way Abandonment application is required when an owner of property located adjacent to a street or other public right-of-way seeks to close the street or other public right-of-way and convert it to private property. Upon request, the Village may consider abandonment of public right-of-way.

North Carolina General Statute (NCGS) 160A-299 gives the Village Council the authority to abandon street right-of-way following a public hearing and a determination that the abandonment:

- Is not contrary to the public interest.
- Does not deprive any individual(s) that own property nearby of reasonable means of ingress and egress to their property.
- Is not contrary to the adopted policy to preserve existing right-of-way for connectivity.
- In consideration of the statutory requirements above, the Village shall require the following, as applicable,
 - Where roads are located within a platted subdivision, all roads offered for public dedication, within the subdivision must be abandoned and 100% of all lot owners owning property within the subdivision must provide written consent.
 - A Maintenance Plan and Agreement must be signed with the Village, ensuring the maintenance of all roads and other related structures and amenities, will be maintained by the subdivision.
 - Declaration of Covenants, Conditions and Restrictions ensure the HOA has established provisions for maintaining all roads within the subdivision and has adopted adequate provisions to ensure road maintenance is funded and shared equally among all lot owners and that all lot owners shall bare responsibility for the funding and maintenance of roads within the subdivision.

INSTRUCTIONS:

1. **Application Procedure:** To initiate the process to close a street or alley, public right-of-way or any portion thereof, the applicant must submit a written application to the Marvin Planning Department using the Application for Right-of-Way Abandonment forms included in this packet. The non-refundable application fee shall be charged according to the adopted Fee Schedule.
2. **Site Plan / Legal Survey:** ~~To~~ The following documents shall be included with the application:
 - a. A legal survey or subdivision plat properly identifying the area to be abandoned.
 - b. The boundaries of the right-of-way shall be described on the survey or plat map.
 - c. Dimensions shall be shown clearly defining the location of the right-of-way subject to abandonment. The survey map shall also show the names of all abutting/adjoining property owners to the abandonment area.
 - d. The original survey map should be labeled "Exhibit A" and be on 8" x 11" paper.
 - e. The legal description (metes/bounds) should be labeled "Exhibit B."

- f. If multiple streets/alleyways are submitted, the original survey maps should be labeled “Exhibits A-1, A-2...” and the legal descriptions (metes/bounds) labeled “Exhibits B-1, B-2...”
3. **List of Property Owners.** Signatures are required by the owners of all abutting/adjoining property to the area proposed for abandonment.
4. **Public Hearing:** The processing of applications for permanently closing streets is prescribed by the NCGS §160A-299. Upon submittal of a complete application packet and filing fee payment, the Planning Department will prepare the information, provide a recommendation, and submit a report to the Marvin Village Council. The Village Council may adopt a *Resolution of Intent* declaring its intent to close the street or alleys, set a date for a public hearing on the proposed closure, and authorize its advertisement.
5. **Effect of the Resolution of Intent:** If the *Resolution of Intent* is adopted by the Village Council, the following actions shall be completed:
 - a. Petitioner receives a copy of the resolution fixing the date of the public hearing.
 - b. Advertise the public hearing for four successive weeks prior to the hearing in accordance with NCGS §160A-299.
 - c. Provide the Village Council with the names and addresses of all surrounding property owners and land uses.
 - d. Send by registered or certified mail, public hearing notification letters to all owners of property adjoining the street.
 - e. Post a notice of the closing and public hearing in at least two places along the street or alley.
 - f. Hold a public hearing before the Village Council and the resolution ordering the closing of the street or alley is either adopted or denied.
6. **Council Approval:** If adopted, petitioner will receive a copy of the adopted resolution by mail. Resolution ordering the closure will be recorded at the Register of Deeds office. Once recorded, the portion of the street or alley is considered formally closed. Each adjoining property owner receives his/her portion of the closed area unless modified as set out in the General Statutes of North Carolina.
7. **Utility Improvements or Easements:** The Village may reserve its right, title, and interest in any utility improvement or easement within a street closed pursuant to NCGS §160A-299.
8. **Questions about Right-of-Way Abandonments:** Questions about the applicable procedures should be directed to the Village Planning and Zoning Director.
9. **Village of Council Submittal Deadline and Schedule of Meetings:** Complete application packets are required prior to Council Adoption of the Resolution of Intent. This provides the Planning Department and Village engineers with time to review the application and assess the information provided in the application packet. All signatures are required. If the Planning Department determines required signatures are missing from the petition, application processing shall be delayed until required signatures are provided.
10. **Submission of the Application.** All items noted above shall be delivered to Village Hall or Submitted to the Planning and Zoning Director electronically.