

## ARTICLE 2                    APPLICABILITY OF ORDINANCE

### 2.1        APPLICABILITY.

No building, structure, or land shall be used, occupied, or altered; nor shall any building, structure, or part thereof be erected, constructed, reconstructed, moved, enlarged, or structurally altered; nor shall any changed use be established for any building, structure, or land, unless in conformity with the general provisions of this ordinance and the specific provisions for the district in which it is located, except as otherwise provided by these regulations.

### 2.2        BONA FIDE FARMS EXEMPT.

This ordinance shall in no way regulate, restrict, prohibit or otherwise deter any bona fide farm (crop lands, timber lands, pasture lands, or other farm lands, nor any other farm buildings or housing to be occupied by the farm owner, relatives, or other employees of the farm). However, this exemption should not be construed to exempt said farms from requirement of buffers or setbacks that may be required to maintain the desirability of adjoining properties and any use of farm property for non-farm purposes shall be subject to any applicable zoning regulations. Because the existing property uses within the corporate limits of the Village of Misenheimer are primarily residential and/or institutional in nature, and because the Land Use Plan of the Village of Misenheimer projects and expands an extension of this nature into future development, large commercial livestock operations, such as commercial poultry houses or hog farms, or composting facilities, except as incidental to and subordinate to a bona-fide farm use, and only for the purpose of composting waste produced on the subject property are not envisioned within Village jurisdiction and are viewed as being incompatible with existing or future residential or institutional development.

**NOTE:** For the purposes of this ordinance, a Bona Fide farm shall be defined as any parcel or lot of record having ten (10) or more acres being in active agricultural use as defined by N.C. General Statutes Section 105-277.1 et. seq. as interpreted by the Village Council, or as determined by any other available method upon approval of the Village Council.

### 2.3        VESTED DEVELOPMENT RIGHTS.

- (A)    **In General.** Any amendments, modifications, supplements, repeal or other changes in these regulations or the zoning maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses:
- (1)    For which a building permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to G.S. 160A-418 and the building permit has not been revoked pursuant to G.S. 160A-422; or;
  - (2)    For which a zoning permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to this article; or

- (3) For which a vested right has been established and remains valid and unexpired pursuant to this section.
- (B) **Additional Procedures for Establishing a Vested Right.** A vested right to commence with a planned development or use of property according to a site specific development plan shall be established upon approval of a special use permit by the Village Council. The vested right thus established is subject to the terms and conditions of the site plan. Only those design elements shown on or made a part of the site plan or permit shall be vested.
- (C) **Term of a Vested Right.** A right, which has been vested by the Village of Misenheimer, shall remain vested for a period of two (2) years from date of approval. Modifications or amendments to an approved plan do not extend the period of vesting unless specifically so provided by the Village Council when it approves the modification or amendment. A vested right obtained under this sub-section is not a personal right, but shall attach to and run with the subject property. A right which has been vested under the provisions of this sub-section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit has been issued except that:
- (1) When a vested development plan has been at least 50% completed by the end of the vesting period, the project as a whole shall be given two (2) more years to complete development in conformance with the approved plan not to exceed a total vested period of four (4) years; and
- (2) Prior to the vested right terminating at the end of the two (2) year period, the owner of the property may petition the Village Council for a one (1) time two (2) year extension of the vested right not to exceed a total vested period of four (4) years. In its deliberations regarding the extension request, the Council may consider, among other things: a) the percentage of the project completed; b) a demonstration by the petitioner of good faith efforts made towards project completion; c) the reasons for the delay of project build-out; and d) the compatibility of the planned development with current Village plans and the surrounding landscape. The Council may choose to extend the vested right for the entire project or only a portion of the project and may require one (1) or more design features shown on the plan or incorporated in the permit to meet the current code.
- (D) **Declaration of a Vested Right Upon Voluntary Annexation.** A petition for annexation filed with the Village under G.S. 160A-31 or G.S. 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established. A statement that declares that no zoning vested right has been established under G.S. 160A-385.1 or G.S. 153A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established shall be binding on the landowner, and any such zoning vested right which may have existed shall be terminated.

- (E) Nothing in this section is intended to or shall be interpreted as granting, conferring or recognizing a vested right superior to or more expansive than vested rights granted, conferred, or recognized by North Carolina law.