

## **ARTICLE 4                    GENERAL REQUIREMENTS**

### **4.1        CONFORMITY REQUIRED.**

No person may use, occupy, or sell any land, structure, or building or authorize or allow the use, occupancy, or sale of any land, structure, or building under his control except in accordance with all of the applicable provisions of this ordinance. For the purpose of this ordinance, the use or occupancy of structures and buildings shall relate to anything and everything that is done to, on, or in the land, structures, or buildings.

### **4.2        HEIGHT, DENSITY, AND ACCESS.**

No building shall hereafter be erected or altered so as to exceed the height limit, or to exceed the density regulations of this ordinance for the district in which it is located. No commercial or residential structure or building shall be erected or placed on any lot which does not abut a publicly dedicated street, or a developed and recorded right-of-way affording legal access to a publicly dedicated street.

### **4.3        STREET FRONTAGE REQUIRED.**

Any lot on which a building (or buildings) is to be erected or use is to be established such lot shall abut a public street with the following exceptions:

- (A)      Any lot for which a residential use or lot has been legally established prior to the effective date of this ordinance in accordance with provisions permitting establishment of use on a lot served by a private and exclusive recorded easement of at least 20 feet in width connecting said lot to a public street, may be used as if it abutted a street, provided that it is served by a driveway located on said easement.
- (B)      Any lot for which a non-residential use has been legally established prior to the effective date of this ordinance in accordance with provisions permitting establishment of use on a lot served by a private, exclusive recorded easement of at least 20 feet in width connecting said lot to a public street, may be construed in the same manner as a lot abutting a street provided that it is served with a driveway built to appropriate standards located on the permanent, recorded easement.
- (C)      A development site consisting of one (1) or more legal lots of record which is developed under a coordinated, approved site specific plan and which is accessed solely by driveways shall only be required to abut a public street along some portion of the development site the minimum distance of which shall be determined by the Village to be adequate for public and emergency vehicle access but which shall not be less than 35feet.
- (D)      A multi-family, townhouse, condominium, or industrial development site consisting of one (1) or more legal lots of record which is developed under a coordinated, approved site specific plan may be permitted, on a case-by-case basis, to be served by a private street network and shall only be required to abut a public street along some portion of the development site the minimum distance of which shall be determined by the village to be adequate for public and emergency vehicle access but which shall not be less than 35 feet.

- (E) The minimum right-of-way width where a public street frontage is not available shall be 15 feet. Easements serving more than one (1) residence may be required to have greater minimum width as provided in other applicable zoning ordinance sections. The minimum lot frontage on a publicly dedicated or publicly maintained road shall be 35 feet. Pre-existing non-conforming lot frontage or easement width shall not prevent issuance of certificate of zoning compliance.

**4.4 LOT SIZE.**

No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in size so that the lot width or depth, front, side or rear yards, lot area per dwelling unit, or other requirements of this ordinance are not maintained. This prohibition shall not be construed to prevent the conterminous of narrow strips of land for public utilities or street right-of-way purposes.

**4.5 YARD USE LIMITATIONS.**

No part of a yard or other open space required around any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space similarly required for another building.

**4.6 MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT OF RECORD.**

Two or more principal structures may be constructed or placed on a lot of record not intended to be subdivided into customary streets and lots provided the following conditions are met:

- (A) Structures shall be limited to those uses permitted within the zoning district in which they are located. In no case shall a use not permitted in the district be approved.
- (B) The distance of every structure from the nearest property line shall meet side and rear yard setbacks required within the applicable district, in accordance with orientation of each structure upon the lot. No structure shall be located closer to the front property line or road right-of-way than is required within the zoning district regardless of structure orientation on the lot.
- (C) No more than three (3) dwelling units may be placed on any single lot of record (excepting a bona fide farm or within an approved multifamily project). Each structure shall be located on the property so that:
  - (1) Total lot area shall equal no less than two (2) acres per dwelling unit in the R-A or the R-S Districts, if more than one (1) residence is to be placed on a lot or parcel of record;
  - (2) Each residential site must abut a public right-of-way or be located so that a 35 foot right-of-way giving access to a public roadway could be provided; and

- (3) Minimum lot size and setback requirements of this ordinance, as well as any requirements of the Village Subdivision Ordinance, could be maintained were the land to be divided into separate lots of record.
- (D) The overall intensity of land use shall be no higher and the standard of open space no lower than permitted in the zoned district in which the structures are located.
- (E) Upon request by a citizen of The Village of Misenheimer, or by the owner of the property under consideration, the Village Council, Planning Board, or a designated sub-committee, may review development plans. Also, any other necessary information involving development of more than one (1) principal structure on any lot of record to assure compliance with the above requirements may be included in this review process.

**4.7 NON-RESIDENTIAL PRINCIPAL STRUCTURE SETBACKS IN RESIDENTIAL DISTRICTS.**

Wherever non-residential principal structures are allowed within residential zoned districts, nonresidential principal structures shall be required to maintain the same setbacks as required of residential structures in that district.

**4.8 MINOR SITE DEVELOPMENT PLANS.**

Site improvements or building additions to existing developments may submit the following in lieu of a major site development plan:

- (A) If the site has a previously reviewed and approved site plan, the changes or additions to the plan may be submitted in accordance with Section 11.3 (F) with the title block being properly amended.
- (B) If no previously reviewed and approved site plan exists, a site plan as described in Section 11.3 (F) must be submitted.

**4.9 GENERAL STANDARDS FOR SITE DEVELOPMENT.**

All development, other than single-family, two-family and agriculture, shall conform to the following standards:

- (A) **Land Ownership.** All land within multi-unit developments shall be in single, or joint ownership or whatever for the petitioner shall have the right to acquire ownership under a valid option, and this information shall be included in the submission. Satisfactory arrangements shall be made for the ownership of land in common space.
- (B) **Pedestrian Ways.** Sidewalks or pathways systems shall be provided from parking areas to the main building entrance. Surface materials, width, and alignment shall be shown.
- (C) **Land Coverage.** Land covered by impermeable surfaces shall not exceed 80% of the total site outside of any rights-of-way.
- (D) **Storage.** Storage areas either proposed now or in the future shall be shown.

All provisions of this zoning ordinance which apply to the site under review of the development shall be included with the site plan. Areas deserving particular attention include the following: buffering, landscaping, visibility at intersections and signage locations.

**4.10 FRONT YARD SETBACKS FOR DWELLINGS.**

The front yard setback requirements of this ordinance for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within 100 feet on either side of the proposed dwelling and on the same side of the same block and use district and fronting on the same street as such lot is less than the minimum required front yard depth. In such case, the setback on such lots may be less than the required setback, but not less than the average of the existing setbacks on the aforementioned lots, or a distance of ten (10) feet, from the street right-of-way line, whichever is greater.

**4.11 LOCATION OF REQUIRED YARDS ON IRREGULAR LOTS.**

The location of required front, side and rear yards on irregularly shaped lots will be determined by the Administrator. The determination will be based on the spirit and intent of this ordinance to achieve an appropriate spacing and location of buildings on individual lots.

**4.12 HEIGHT LIMITATIONS AND EXCEPTIONS.**

(A) The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, telecommunications towers, chimneys, smokestacks, conveyors, radio towers, television towers, masts, aerials, and similar structures except as otherwise provided in the vicinity of airports.

(B) In no instance shall any of the provisions of this section apply to:

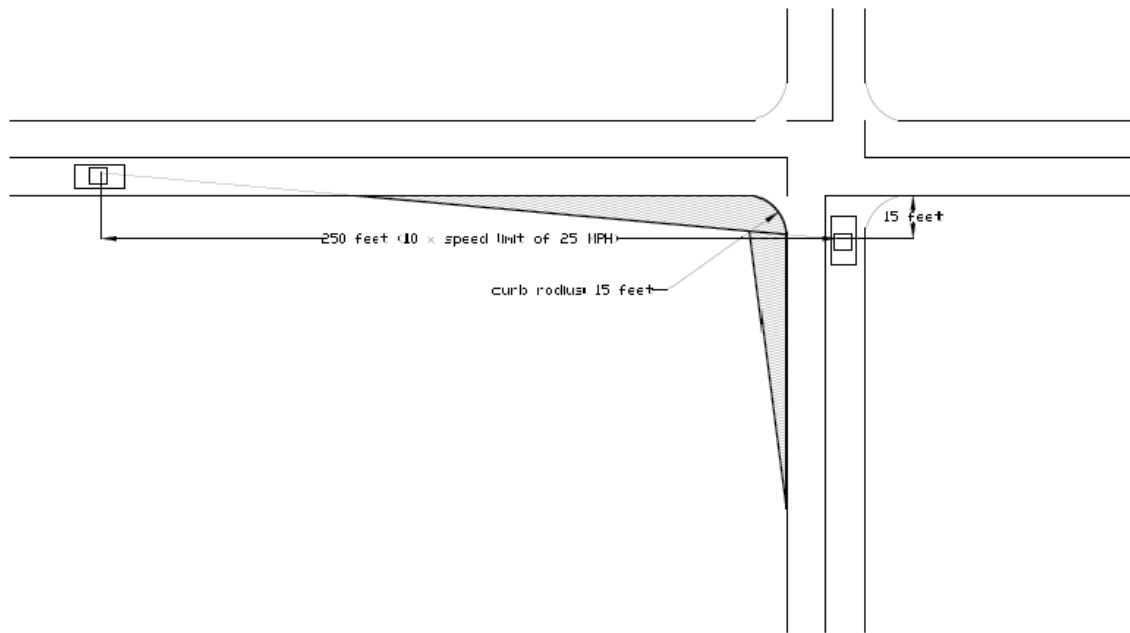
- (1) Telecommunications towers and facilities (as defined in Article 13). Refer to Article 5 for specific requirements.
- (2) Towers erected and maintained by a public authority for public safety or emergency communication purposes except as stated below.
- (3) Antennas or antenna structures used by individuals or groups licensed in the amateur radio service by the Federal Communication Commission except as stated below:

Towers shall not be used by any other use, company or agency unless in accordance with Section 5.36 of this ordinance.

**4.13 VISIBILITY AT INTERSECTIONS.**

(A) A clear view at each corner of an intersection shall be maintained by establishing an unobstructed "sight triangle." The extent of the required sight triangle varies according to the speed limit of streets forming the intersection. For streets signed 35MPH or greater,

the area to be clear of view obstructions at unsignalized intersections is generally to be the triangular area formed by the point of intersection of street right-of-way lines and a point located along each right-of-way line at a distance of 35 feet from the point of intersection. For intersecting streets signed for less than thirty-five MPH, the shaded area in the figure below illustrates the area which must, in most instances, be clear of obstructions to driver visibility at unsignalized intersections. As indicated, the clear sight triangle will vary according to speed limit for traffic on the approaching street.



- (B) No planting, structure, sign, fence, wall, man-made berm, or other obstruction to vision shall be installed, constructed, set out, or maintained so as to obstruct cross-visibility in the sight triangle between 30 inches and 72 inches above the level of the center of the street intersection.
- (C) The limitations of this section may be modified by the Zoning Administrator in the instances noted below, so long as adequate visibility is maintained relative to intended speed limit:
  - (1) Existing natural grades;
  - (2) Trees trimmed such that no limbs or foliage extend into the area between 30 and 72 inches above the level of the adjacent intersection;
  - (3) Fire hydrants, public utility poles, street markers, government signs, electrical junction boxes, and traffic control devices;
  - (4) The approved and intentional use of traffic calming techniques to reduce speed; these include, but are not limited to: a series of hill crests, neckdowns, intersection diverters, and curb bulbs.

#### 4.14 BUILDING SEPARATION.

All detached principal structures in all districts shall preserve a minimum building separation of ten (10) feet. The requirement of the district or the existing pattern of building spacing along a street may require a greater separation or the provision of specified side yards.

**4.15 USE OF LOUD SPEAKERS PROHIBITED.**

The use of outdoor loud speakers to communicate with workers, customers or other individuals, to amplify or project phone signals or ringers or to broadcast music or information of any kind shall be prohibited except that outdoor broadcasts of emergency sirens shall be permitted and the use of such devices at or in conjunction with any outdoor event, theatrical production, or similar occasion approved by the Village Council, and speakers which are not audible to persons with normal sensitivities who are located on immediately adjacent parcels or streets shall also be permitted.

**4.16 FENCES OR WALLS PERMITTED.**

Except as otherwise noted, fences or walls are permitted in the various districts subject to the following regulations:

- (A) In Residential (R-A, R-R, R-S, and R-M) and Institutional (I-U) districts:
  - (1) Within the required rear and side yard areas, the maximum height of a fence or wall shall be eight (8) feet.
  - (2) Within the required front yard area, the maximum height of a fence or wall shall be four (4) feet.
  - (3) No electrical or barbed wire fence is permitted in any R-S or R-M district.
- (B) In Business (H-B, C-B, and G-B) or Industrial (M-1) districts:
  - (1) Within all required yard areas the maximum height of a fence or wall shall be eight (8) feet.

**4.17 TEMPORARY STRUCTURES AND USES.**

Temporary structures and uses, when in compliance with all applicable provisions of this ordinance and all other ordinances of the Village of Misenheimer, shall be allowed. The following temporary structures and uses shall be permitted:

- (A) Construction trailers are permitted provided that the following conditions are met:
  - (1) Such trailers shall be located upon a building site upon receipt of a valid building permit for the construction project.
  - (2) Such trailers may remain upon a construction site as long as there is a valid building permit for the construction project.
  - (3) All construction trailers homes shall be located at least 20 feet from all street rights-of-way.
- (B) Carnivals, circuses, sales of Christmas trees, 4-H shows, and other commercial and

charitable uses of a limited nature and for a limited time are allowed only after having received a permit from the Village Council or their designee. The permit shall be for a period of time as determined by the Village Council or their designee.

- (C) Structures, whether temporary or permanent, located in a subdivision, and used as sales offices for the subdivision development are permitted. At the completion of the sales in a tract, or within two (2) years of the date the office began operation, whichever comes first, the temporary structure shall be removed, and the permanent structure, temporarily used as a sales office, shall be used only for the purpose for which it was constructed.

#### **4.18 ACCESSORY USES AND STRUCTURES.**

Minor uses or structures which are necessary to the operation or the enjoyment of a permitted principal use, and are appropriate, incidental and subordinate to any such uses, shall be permitted in all districts. The following provisions apply to all accessory uses.

- (A) Accessory uses shall be located on the same lot as the principal use except in instances when an adjoining lot is owned by the same property owner. In such instance, an accessory use may be located on the adjoining lot subject to all required yard restrictions.
- (B) No portion of any accessory structure shall be located within ten (10) feet of any side or rear lot line. Additional side yard setbacks may be required as indicated in Section 3.5. Accessory structures, with the exception of garages used primarily to house automobiles, shall be located in the rear yard only. Detached automobile garages may be located in any non-required yard. On corner lots, accessory structures shall be set back at least 25 feet from any side street right-of-way line.
- (C) On any lot containing a principal residential use, no accessory use or structure shall be permitted that involves or requires any construction features which are commercial or industrial in nature or character.
- (D) All accessory structures shall be one (1) story in height unless a special use permit is issued by the Village Council. Accessory buildings, including garages, swimming pools and other accessory structures shall not cover more than 30% of any rear yard.
- (E) An accessory building or structure, attached to, or which is part of, a principal structure, shall comply with all the yard requirements of the principal structure.

#### **4.19 USE OF MANUFACTURED HOMES AND SIMILAR STRUCTURES.**

Manufactured homes shall be used for residential purposes only, as prescribed by this Ordinance, except where permitted on a temporary basis in compliance with Section 4.17 of this Ordinance.

#### **4.20 SWIMMING POOLS.**

Swimming pools located on any site, including single family residential sites, shall be:

- (A) Located in a side or rear yard only.
- (B) Located a minimum of 20 feet from any property line.
- (C) Completely enclosed by a fence or wall no less than four feet and no more than eight (8) feet in height above grade as measured on the side of the fence or wall which faces away

from the swimming pool. This fence or wall shall enclose the pool itself and may include any other additional portions of the lot. All fence or wall openings into the pool area shall be equipped with a gate that opens outward away from the pool and shall be self-closing and have a self-latching device.