

1.1. PURPOSE AND APPLICABILITY.

- (A) **Short Title.** This ordinance shall be known and may be cited as the Misenheimer Subdivision Ordinance.
- (B) **Purpose.** The provisions of this ordinance are adopted pursuant to the authority conferred by Section 160A-371 through Section 160A-376 of the General Statutes of North Carolina for the purpose of providing for the orderly development of the Village of Misenheimer, North Carolina and its environs by regulating the subdivision of land. The regulations contained herein are intended to coordinate proposed development with existing development and with officially adopted plans for future development of the Village; to coordinate streets within subdivisions with existing or planned streets or with public facilities; to secure or protect adequate rights-of-way and easements for street or utility purposes including the dedication of rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11; to secure adequate spaces for recreation areas; to provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare; and to insure the proper legal description, monumentation, and recording of subdivided land.
- (C) **Jurisdiction.** The provisions of this ordinance shall apply to all subdivision activities, as defined in Section 1.2 of this ordinance, within the corporate limits of the Village of Misenheimer, North Carolina as now or hereafter established.
- (D) **Separability.** If any section, paragraph, subdivision, clause or provision of this ordinance is adjudged invalid by a court of competent jurisdiction, such adjudication will apply only to such section, paragraph, subdivision, clause or provision so adjudged and the remainder of this ordinance will be deemed valid and effective.
- (E) **Compliance with Ordinance.** All plats for the subdivision of land must conform to the requirements of this ordinance, and be submitted in accordance with the procedures and specifications established herein. The description by metes and bounds in an instrument of transfer or other document used in the process of selling or transferring land will not exempt the transaction from compliance with this ordinance. No utility shall be extended nor any permit be issued by an administrative agent of the Village of Misenheimer for the construction of any building or other improvement upon any land for which a plat is required until the requirements of this ordinance have been met and the final plat approved.
- (F) **Effective Date.** These regulations shall become effective upon the date of their adoption by the Village Council of the Village of Misenheimer.

1.2. DEFINITIONS AND RULES OF CONSTRUCTION.

- (A) **Definitions.** As used in this ordinance, the following terms will have the meanings indicated in this section:

APPEAL. An action requesting reversal or modification of an interpretation or decision made by Village staff or administrative agent in the application of these regulations.

BUILD-TO LINE. A line extending through a lot which is generally parallel to the front property line and marks the location from which the principle vertical plane of the front building

elevation must be erected; intended to create an even building façade line on a street. The build-to line is established on the record plat (final plat).

BUILDING FACE. The dominant structural plane of the elevation of any side of a building. For example, the building face of a two-story dwelling with one-story porch is considered to be the two-story elevation of such structure.

BUILDING SETBACK LINE. A line extending through a lot which is parallel to the front property line and between which and such line no building shall be erected.

CLUSTER DEVELOPMENT. A tract of land planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations, and in accordance with an approved site plan. The development on the tract is limited by overall density or intensity, rather than minimum lot dimensions.

CONSULTING ENGINEER. A North Carolina registered engineer appointed from time-to-time by the Misenheimer Village Council.

EASEMENT. A grant by the property owner for use by the public, a corporation, or person(s) of a strip of land for specified purposes.

LAND CLEARING AND INERT DEBRIS (LCID) LANDFILL. A landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid wastes meeting the standards of the State of North Carolina.

LOT. A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such access ways, parking area, yards, and open spaces required in these regulations.

LOT, CORNER. A lot located at the intersection of two (2) or more streets, or abutting a curved street or streets in such a way that the front building line meets either side lot line at an interior angle of less than one-hundred thirty-five degrees (135°).

LOT COVERAGE. That portion of the lot area, expressed as a percent that is covered by impervious surface cover.

LOT, DOUBLE FRONTAGE. A lot having frontage and access on two (2) or more public streets. A corner lot shall not be considered as having double frontage unless it has frontage and access on three (3) or more streets.

LOT, INTERIOR. A lot other than a corner lot with frontage on only one (1) street.

LOT, REVERSE FRONTAGE. A lot having frontage on two (2) or more streets, one of which is a minor or less important street in the community, the access to which is restricted to the minor street.

LOT, THROUGH. A lot other than a corner lot with frontage on more than one (1) street. See **LOT, DOUBLE FRONTAGE.**

LOT LINE. A line or series of connected line segments bounding a lot.

LOT LINE, FRONT. The line which separates the lot from a street right-of-way. Corner lots shall have only one (1) front lot line.

LOT LINE, INTERIOR. A side lot line, which separates one lot from another lot.

LOT LINE, REAR. That lot line which is opposite and most distant from the front lot line, except in the case of a triangular lot, a line ten (10) feet in length, entirely within the lot, parallel to, and at the maximum distance from the front lot line, or a chord thereof if the front lot line is curved, shall be considered as the rear lot line for purposes of determining the required rear yard. In cases where neither of these conditions is applicable, the Zoning Administrator shall designate the rear lot line.

LOT LINE, SIDE. A lot line other than a front or rear lot line.

LOT OF RECORD. A lot described by plat or by metes and bounds which has been recorded in the office of the Stanly County Register of Deeds.

LOT WIDTH. The horizontal distance between the side lot lines at the building setback line as measured along a straight line parallel to the front lot line or parallel to the chord thereof.

LOT, ZONING. A parcel or contiguous parcels of land which is indicated by the owner at the time of application for a building or zoning permit as being that land which is proposed for development under a single development plan.

OPEN SPACE. Land used for recreation, natural resource protection, amenities, and protection of important rural and Village vistas and/or buffer yards. Open space may include, but is not limited to lawns, walkways, active recreation areas, playgrounds, wooded areas, and greenways.

PLANNING AREA. The land located within the boundaries of the most recently adopted Misenheimer Land Use Plan, and generally consistent with the Village's corporate limits.

PLANNING BOARD. The Planning Board of the Village of Misenheimer.

PLAT. A surveyed map or plan of a parcel of land which is to be, or has been subdivided.

STREET. A right-of-way for vehicular travel.

STREET, ARTERIAL. A federal and/or state highway designed primarily for the movement of large volumes of vehicular traffic from one (1) area or region to another; a thoroughfare. Also referred to as a major thoroughfare.

STREET, COLLECTOR. A public way designed primarily to connect minor streets with arterial streets and/or to provide direct connection between two (2) or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street.

STREET, MINOR RESIDENTIAL. Those streets whose primary function is to provide direct access to residential property.

STREET, MINOR NON-RESIDENTIAL. Those streets whose primary function is to provide direct access to commercial/industrial property.

STREET, CUL-DE-SAC. A short minor street having one (1) end open to traffic and the other permanently terminated by a vehicular turnaround.

STREET, RURAL. A street designed for and located in non-urban and non-urbanizing areas as classified by the Village.

STREET, URBAN. A street designed for and located in urban or urbanizing areas as classified by the Village.

STREET, PARALLEL FRONTAGE ROAD. A public or private street adjoining or parallel to an arterial street designed to provide access to abutting property in place of the arterial.

STREET, PRIVATE. An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor is it intended to be maintained by the public.

STREET, PUBLIC. A right-of-way or fee simple tract of land which has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Village of Misenheimer or the State of North Carolina.

STREET LINE. The outer boundary of a street right-of-way.

STREET ORIENTATION. The direction of the architectural front façade of a building in relation to the street.

STREET RIGHT-OF-WAY. Street right-of-way shall mean any public right-of-way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina or the Village of Misenheimer; or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the Village of Misenheimer; or has otherwise been established as a public street prior to the adoption of this ordinance.

SUBDIVISION. A subdivision will include all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose (whether immediate or future) of sale or building development and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition:

- (1) The combination or recombination of portions of parcels platted and recorded prior to the effective date of this ordinance, or portions of lots platted in compliance with this ordinance after its effective date, where the total number of lots is not increased and the resultant lots are equal to the standards of this ordinance and the appropriate zoning classification.
- (2) The division of land into parcels greater than ten (10) acres where street right-of-way dedication or reservation is not involved.
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or the location of public utility rights-of-way.

- (4) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where street right-of-way dedication or reservation is not involved and where the resultant lots are equal to or exceed the standards of the appropriate zoning classification.
- (5) The division of land into plots or lots for use as a cemetery.
- (6) Proceedings to partition interests in lots or parcels pursuant to Chapter 46 of the North Carolina General Statutes (or any successor statute) resulting in the division of a lot or parcel into two (2) or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this ordinance.

SUBDIVISION ADMINISTRATOR. Person responsible for the administration of the subdivision ordinance.

SUBDIVISION, MAJOR. A subdivision not otherwise exempt from these regulations that involves any of the following:

- (1) The creation of any new public street or street right-of-way, or improvements to an existing street.
- (2) A future public school, park, greenway, or open space site shown in any adopted plan or policy document.
- (3) The extension of any needed right-of-way or easement for the water or sewer system operated by the Village of Misenheimer or other public water or sewer provider.
- (4) The installation of drainage improvements through one (1) or more lots to serve one (1) or more other lots.
- (5) The installation of a private wastewater treatment plant or a private water supply system for more than one (1) lot or building site.
- (6) The division of land into five (5) or more lots where new right-of-way may or may not be created.

SUBDIVISION, MINOR. A subdivision that is not otherwise exempt from the provisions of this ordinance and that does not meet the criteria for the definition of a major subdivision.

THOROUGHFARE. See **STREET, ARTERIAL.**

VARIANCE. An action requesting consideration for relief from the strict enforcement of the standards of the ordinance where special circumstances or unusual considerations may exist on the parcel of land.

VILLAGE COUNCIL. The Village Council of the Village of Misenheimer.

- (B) **Rules of Construction.** For the purposes of these regulations, the following rules of construction apply.

- (1) These regulations will be construed to achieve the purposes for which they are adopted.
- (2) In the event of any conflict in limitations, restrictions, or standards applying to a project, the provision more consistent with the Misenheimer Zoning Ordinance shall apply.
- (3) The words “shall,” “must,” and “will” are mandatory in nature, implying an obligation or duty to comply with the particular provision.
- (4) The word “may” is permissive in nature except when used in the negative.
- (5) References to “days” will always be construed to be business days, excluding weekends and holidays, unless the context of the language clearly indicates otherwise.

1.3. DECISION MAKING AND ADMINISTRATIVE BODIES.

- (A) **Village Staff.** In addition to any authority granted to the Zoning Administrator by other ordinances of the Village of Misenheimer, the Zoning Administrator and the employees under his or her direction, and such agent as may, from time to time, be designated by the Village Council to administer the Subdivision Ordinance (designee), will have the following duties in accordance with these regulations.
 - (1) To review all requests for subdivision within the Village’s jurisdiction and decide whether such requests meet the requirements and intent of this ordinance. If such do meet the requirements and intent, staff shall forward the request to the Planning Board for review and recommendations and following review by the Planning Board to the Village Council for a decision. If such requests do not meet the minimum submittal requirements of this ordinance, staff shall not forward the request to the Planning Board.
 - (2) To review and provide comments on variance petitions.
 - (3) To maintain files and other public records related to the administration and enforcement of these regulations.
 - (4) To recommend and prepare amendments to the text of these regulations.
 - (5) To accept and file petitions for variances.
 - (6) To accept and file notices of appeal of an administrative interpretation or decision.
 - (7) To interpret the provisions of these regulations.
 - (8) To coordinate all local, state, and other appropriate agency review and comment on all subdivisions proposed under these regulations.
 - (9) To establish such procedures as necessary and proper for the administration of their responsibilities under these regulations.
 - (10) To approve for recordation in the Stanly County Register of Deeds those divisions of land which, according to the definition of subdivision found in Section 1.2 (A), are not subject to the requirements of this ordinance.

(B) **Planning Board.** In addition to any authority granted to the Planning Board by other ordinances of the Village of Misenheimer, the Planning Board shall have the following powers and duties to be carried out in accordance with these regulations.

- (1) To hear and make advisory recommendations on proposed amendments to the text of these regulations; to propose, as needed, amendments to change the text of these regulations.
- (2) To hear and make advisory recommendations on requests for major and minor subdivisions.
- (3) To hear and make advisory recommendations on requests for variances from the standards of this ordinance in accordance with the provisions of Section 1.4.
- (4) To hear and make advisory recommendations on appeals from the interpretation of any provisions of this ordinance by the Subdivision Administrator. The Planning Board may recommend reversal or modification of any action under appeal upon finding an error in the application of these regulations.

In all of these matters, the Planning Board may recommend approval of the request, denial of the request, or approval of the request with conditions relating to the intent and standards of this ordinance.

(C) **Village Council.** In addition to all other authority reserved to the Village Council by other ordinances, the Village Council shall have the following powers and responsibilities in accordance with these regulations.

- (1) To hear and decide requests for major and minor subdivisions.
- (2) To hear and decide proposed amendments to the text of these regulations.
- (3) To hear and decide requests for variances from the standards of this ordinance in accordance with the provisions of Section 1.4.
- (4) To hear and decide requests for appeal from the interpretation of any provisions of this ordinance by the Subdivision Administrator. The Village Council may reverse or modify any action under appeal upon finding an error in the application of these regulations.

1.4. APPEALS AND VARIANCES.

(A) **Authority.** The Planning Board may recommend and the Village Council shall decide petitions for appeals from an interpretation or decision made by the Subdivision Administrator and petitions for variances from the requirements of these regulations. Any reversal, modification or affirmation of an interpretation or any variance thus authorized will be entered in writing in the minutes of the Village Council with the justification set forth.

(B) **Initiation.** A petition for an appeal of an administrative interpretation or decision may be initiated by any person aggrieved or by any officer or department of the Village of Misenheimer. A petition for a variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.

- (1) **Filing of Notice of Appeal.** A notice of appeal, in the form prescribed by the Subdivision Administrator, must be filed with the Village Clerk within thirty (30) days of the day an administrative interpretation or decision is issued. The notice filed with the Subdivision Administrator must be accompanied by a non-refundable filing fee as established by the Village Council of Misenheimer. Failure to timely file such notice and fee will constitute a waiver of any rights to appeal under this article. The filing of such notice will require the Subdivision Administrator to transmit to the Village Clerk all administrative papers, records, and other information regarding the subject matter of the appeal.
- (2) **Standards for Granting an Appeal.** The Planning Board may recommend to reverse or to modify the decision or interpretation under appeal upon finding an error in the application of these regulations on the part of the Subdivision Administrator rendering the decision or interpretation.
- (C) **Filing of Variance Petition.** A petition for a variance, in the form prescribed by the Subdivision Administrator, must be filed with the Village Clerk, accompanied by a non-refundable filing fee as established by the Village Council.
- (D) **Standards for Granting a Variance.** Before granting a variance, the Village Council must determine that:
 - (1) The difficulty or hardship would result only from these regulations and from no other cause, including the actions of the owner or previous owners of the property; and
 - (2) The difficulty or hardship is peculiar to the property in question and is not generally shared by other properties used for the same purposes; **or**

The relationship of the property to natural topography or to the nature of adjoining properties warrants relief from the standard in question; **or**

The difficulty or hardship from the application of these regulations would prevent the owner from making a reasonable use of the property. The fact that the property could be utilized more profitably with the variance than without the variance will not be considered as grounds for granting the variance; **or**

The granting of a variance would permit the preservation of an historic structure or site, or a significant natural feature.
- (E) **Action by Village Council.** The Village Council may approve or deny the variance application, or approve with conditions relating to the intent and standards of the ordinance. The reasons that the Village Council used to reach its decision shall be recorded in the minutes.
- (F) **Rehearing.** When the Village Council has denied any petition for a variance, it will not thereafter accept any other petition for the same variance affecting the same subdivision or any portion thereof, unless it finds that there have been substantial changes in the conditions or circumstances relating to the matter.
- (G) **Effect of Grant of Variance.** After the approval of a variance by the Village Council, the petitioner will be required to follow the procedures for preliminary and final plat approval in order to proceed with development of the subject property. All decisions made by the Subdivision

Administrator or their designee shall comply with the variance to these regulations granted to the petitioner by the Village Council.

1.5. AMENDMENTS.

- (A) The Subdivision Administrator may from time-to-time, and at the request of the Misenheimer Village Council or Planning Board shall prepare certain improvements to the text of the Subdivision Ordinance to correct errors, update or modify the requirements, or otherwise improve the operation of the ordinance in regulating the subdivision of land.
- (B) Amendments to this ordinance may only be enacted pursuant to public notice and public hearing on the proposed amendments. Notice of such public hearing shall be published once per week for two successive weeks in a newspaper of general circulation in the Village of Misenheimer. The notice shall be first published not less than ten (10) days nor more than 25 days prior to the date fixed for the hearing. The notice shall indicate the date, time, and place of the hearing and shall include a statement of the substance of the proposed amendment.
- (C) All text amendments must be referred to the Planning Board for a recommendation prior to final action by the elected officials. Failure of the Planning Board to act within 45 days following the public hearing will be deemed to constitute an affirmative recommendation on the proposed amendment. An action to defer a recommendation for cause will constitute an action for the purposes of this article.

1.6. THE SUBDIVISION PROCESS.

- (A) **Compliance Required.** After the effective date of this ordinance, no plat of a subdivision of land subject to the jurisdiction of this ordinance will be filed or recorded by the Stanly County Register of Deeds until it has been submitted to and approved by the Village of Misenheimer in accordance with these regulations. This applies to all subdivision activities included in the definition of subdivision, found in Section 1.2 (A).
- (B) **General Requirements.** The following statements provide general requirements and policies to be used in the design, review, and approval of any subdivision under the jurisdiction of this ordinance. Questions of interpretation of any of these provisions should be discussed with the Subdivision Administrator or their designee at the earliest possible time in the development of a subdivision proposal.
 - (1) **Consistency with Adopted Public Plans and Policies.** All subdivisions of land approved under these regulations shall be consistent with the most recently adopted public plans and policies for the area in which it is located. This includes general policy regarding development objectives for the area as well as specific policy or plans for public facilities such as streets, parks and open space, schools, and other similar facilities. Plans and policies for the community are on file in the offices of the Village of Misenheimer.
 - (2) **Conformity.** All proposed subdivisions shall be planned so as to facilitate the most advantageous development of the entire neighboring area. In areas with established development, new subdivisions shall be planned to protect and enhance the stability, environment, health, and character of neighboring areas. The geometry of streets and intersections and the location of street connections will be assessed to minimize the detrimental effects of high volume, high-speed neighborhood through traffic. This

assessment will consider the location of large-scale traffic generating uses, as well as the adopted Land Use Plan.

- (3) **Access Between Adjoining Properties.** To the maximum extent practicable, all streets shall connect to create a comprehensive network of public areas which allows free movement of automobiles, bicyclists, and pedestrians.
- (4) **Relation to Topography.** In sloping terrain, streets will generally parallel the contours of the land insofar as practicable, to avoid steep grades and the concentration of surface storm water runoff. Variations are allowed to meet design objectives for the development and/or to calm vehicular speeds.
- (5) **Mature Trees and Natural Vegetation.** Streets and development sites shall be designed to protect and preserve, to the greatest extent practicable, stands of mature trees and other areas of significant natural vegetation. Minor adjustment of street alignment on the ground is permitted to achieve this objective, so long as standard drainage requirements continue to be met and the actual location of the street on the ground is reflected on the final plat or an amended final plat.
- (6) **Access to Parks, Schools, etc.** Streets and sidewalks shall be designed to assure convenient access to parks, greenways, playgrounds, schools, and other places of public assembly. Supplemental walkways not associated with streets may not be less than ten (10) feet in width and may be required to be large enough to provide vehicular access for maintenance vehicles.
- (7) **Discourage Through Traffic.** Methods to discourage high volume, high speed through traffic shall consider street geometry, intersection design, and other traffic calming measures.
- (8) **Relationship to Railroad Rights-of-Way.** When a subdivision adjoins a railroad right-of-way the subdivider may be required to arrange the street pattern to provide for future grade separation of street and railroad crossings.
- (9) **Half Streets.** Whenever an existing half street is adjacent to a tract of land to be subdivided, the other half of the street shall be platted within such tract. New half streets are prohibited except when essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where it will be practicable to require the dedication of the other half when the adjoining property is subdivided.
- (10) **Parallel Streets Along Thoroughfares.** Where a tract of land to be subdivided adjoins a federal or state highway or a major arterial street, the subdivider may be required to provide a marginal access street parallel to the highway.
- (11) **Proposed Street Names.** Naming of proposed streets shall be coordinated with the Stanly County Emergency Management Department, Stanly County Planning Department and/or other departments responsible for addressing.
- (12) **Easements.** Easements established to the width and in the locations required by the consulting engineer, public utilities, or the Village of Misenheimer, shall be provided for open or piped storm drainage, sanitary sewers, water lines, and other utilities. This

requirement applies to such lines installed at the time of the development of the subdivision, and to easements for such lines which may reasonably be expected to be installed in the future.

- (13) **Proposed water and sewerage system.** The preliminary subdivision plan must be accompanied by satisfactory evidence as to the proposed method of providing potable water and a system of sanitary sewage collection and disposal.
- (a) Where, at the time of preliminary plat approval, these systems are to be a part of a public water and/or sanitary sewerage system, the preliminary subdivision plan shall be accompanied by a complete set of construction plans for the proposed systems, prepared by a registered engineer, which shall be required to meet the standards established by said utility owner/operator for connection to the system upon completion and dedication.
 - (b) Where, at the time of preliminary plat approval, the proposed systems to serve more than one (1) structure do not contemplate the use of facilities owned and operated by a public water and/or sanitary sewerage system, the proposed systems must be reviewed and approved by the agency or agencies with jurisdiction over the approval. This shall also include, but not be limited to; review and approval by the Village of Misenheimer to establish that construction plans meet public utility standards for adequacy and compatibility with the public system(s) in order to provide for the future orderly development of the Village. Whether the proposed system serves one (1) structure or more than one (1) structure, the developer must provide evidence prior to preliminary plat approval of the required discharge permit or a perk test for sewage disposal on each lot, whichever is applicable. Where lots are to be served by septic tank systems, the preliminary plat and the final plat shall clearly label any lots which do not perk and for which a building permit shall not be issued until alternate sewage disposal methods are available to such lots. Prior to final plat approval, evidence must be provided that both the sewage and water system designs have been approved for construction. Prior to the issuance of any certificate of occupancy for any structure, evidence must be provided that both the water and sewer systems have been approved and are operational for the structures in question.
 - (c) Where local standards exceed those of state or federal agencies and where those standards may be enforced over those of state or federal agencies, then the Village of Misenheimer will coordinate all reviews for such standards. However, the approval of the proposed systems remains with the responsible agency or agencies, which may include the Village of Misenheimer.
- (14) **Restrictions on the Subdivision of Land Subject to Flooding.** Lots that are subject to flooding shall not be established in subdivisions except as provided in Section 1.7 (C)(6).
- (C) **Sketch Plan Required for Major Subdivisions.** Prior to the filing of an application for approval of a major subdivision preliminary plan, a sketch plan shall be submitted to the Subdivision Administrator for review. When submitted, this sketch plan shall be on a topographical map showing original contours at intervals of not less than four (4) feet and existing tree lines. It shall show in sketch form the proposed layout of streets, lots, and other features in relation to existing conditions. It shall also include the following information:

- (1) The boundary lines of the property being subdivided;
 - (2) Water courses on the land to be subdivided;
 - (3) The location, names, and rights-of-way of any existing streets on or within 300 feet of the land to be subdivided;
 - (4) The location of all property lines which intersect the boundaries of the property being subdivided; the zoning district of each adjacent property;
 - (5) Rough finished grades, the location of proposed streets, lots, parks or other open spaces, reservations, building lines, street cross sections, number and type of buildings, and the location of any building restriction flood lines required by Section 1.7 (C)(6);
 - (6) Zoning information for the proposed project site;
 - (7) Proposed front, rear, and side yard dimensions for each building type along each street type;
 - (8) For projects within a regulated watershed protection area, the location of required buffers, if applicable;
 - (9) The location of general buffers or screens required for the project area, as a whole;
 - (10) The scale of the plan, which shall not be smaller than 100 feet to the inch; north point; date;
 - (11) A small-scale vicinity map.
- (D) **Sketch Plan Also Required for Minor Subdivisions.** In order to facilitate the review and approval of a minor subdivision for which a preliminary plat is not required, a sketch plan must be submitted to the Subdivision Administrator who will advise the applicant of any deficiencies that must be corrected prior to submission of the final plat.
- (E) **Review of Major Subdivision Sketch Plan.** Upon submission, the Subdivision Administrator shall have 30 working days to review and comment on the sketch plan. A technically deficient sketch plan shall be returned to the subdivider with comments.
- (F) **Preliminary Plat Requirements.** The preliminary subdivision plat shall be drawn to the following specifications and shall contain or be accompanied by the information listed below. No processing or review of a preliminary plat will proceed without all of the information listed.
- (1) The boundary of the area to be subdivided and the location within the area, or contiguous to it, of any existing streets, railroad lines, water courses, easements or other significant features of the tract.
 - (2) The location, size, elevations of existing sanitary sewers, storm drains, and culverts within the tract and immediately adjacent thereto.
 - (3) Original contours, including tree lines, shown at intervals of not less than four (4) feet for the entire area to be subdivided and extended into adjoining property for a distance of

300 feet at all points where street rights-of-way connect to the adjoining property. These contours shall be referenced to mean sea level datum established by the U.S. Coast and Geodetic Survey. Proposed contours for the full width of all street rights-of-way, along open drainage channels and in all other portions of the subdivision where extensive grading is proposed must be shown. These requirements shall not apply where the size of the subdivision and the topography make such information unnecessary.

- (4) The location of proposed streets, alleys, easements, lots, parks or other open spaces, reservations, other property lines, front build-to lines and rear and side yard dimensions for each lot, street dimensions, tentative building locations, and the location of any building restriction flood lines required by Section 1.7 (C)(6).
- (5) The location of all proposed storm drains and appurtenances with grades, inverts, and sizes indicated, together with a map of the drainage area or areas tributary to the proposed storm drains, a copy of the data used in determining the sizes of drainage pipes and structures, and the building restriction floodline and flood protection elevation for each lot subject to flooding as defined in Section 1.7 (C)(6).
- (6) The name of the subdivision; the name and signature of the owner or the owner's duly authorized agent; the name of the surveyor, engineer or designer; the names of proposed streets; the names of adjoining subdivisions or property owners. The name assigned to the subdivision and the names assigned to streets at this time will be used throughout the review and approval process for preliminary and final plats and may not be changed without approval of the Subdivision Administrator.
- (7) The scale of the plan, which shall not be smaller than 100 feet to the inch, north point, and date.
- (8) Typical cross sections of internal or abutting streets showing width, sidewalks and proposed construction of roadways.
- (9) Proposed Profiles of Roadways. Where a proposed street is an extension of an existing street the profile shall be extended to include 300 feet of the existing roadway and storm drains, if present, and a cross section of the existing street shall be shown. Where a proposed street within the subdivision abuts a tract of land that adjoins the subdivision and where said street may be expected to extend into said adjoining tract of land, the profile shall be extended to include 300 feet of the said adjoining tract.
- (10) The proposed method of water supply and sewer disposal.
- (11) A small-scale vicinity map showing the location of the subdivision with respect to adjacent streets and properties.
- (12) The location of any existing LCID landfills on the site and the location of any proposed LCID landfills on the site.
- (13) A timetable for estimated project completion of the area covered by the preliminary plat.
- (14) The zoning district(s) in which the project is located.

- (15) For non-single-family residential projects in the Watershed Overlay District, the calculated built-upon area permitted for each building lot, taking into account permanently preserved open space, is required.
- (16) For subdivisions within which open space is required, a draft of the documents by which irrevocable preservation of open space shall be assured.

(G) **Procedures for Approval.**

(1) **Preliminary Plat: Submission and Approval.**

- (a) A preliminary plat of the proposed subdivision developed in accordance with the specifications set forth in Section 1.6 (F) may be submitted to the Subdivision Administrator at any time provided, however, in order to be eligible to be placed on an agenda of a Planning Board meeting, such submittal shall have been filed with the Subdivision Administrator at least 30 days prior to that meeting. The plat shall be accompanied by an application in duplicate signed by the owner or his duly authorized agent on application forms to be furnished by the Subdivision Administrator. At the time of submission, the applicant will be advised as to the number of copies of the plat and related data required in Section 1.6 (F). The application for preliminary plat approval shall be accompanied by the appropriate development review fee(s) as established by the Village Council.
- (b) The Subdivision Administrator shall review the preliminary plat, distribute copies of the plat to other interested parties such as NCDOT, Stanly County, utility companies, consulting engineers, etc. and forward the plat to the Planning Board for review and recommendations. The Planning Board shall review the preliminary plat and make a recommendation to approve, approve with conditions or to deny the plat within 30 days of its first consideration. The preliminary plat time limits listed above do not apply to plans for which no sketch plan has been submitted. The applicant may consent to an extension of any of the time limits.
- (c) Following review of the preliminary plat by the Planning Board, the plat and all comments shall be forwarded to the Village Council for action 30 days after review by the Planning Board. The Village council shall review the preliminary plat and take action to approve, approve with conditions or to deny the plat within 30 days of its first consideration. The Village of Misenheimer reserves the right to approve, disapprove in whole or in part, or condition its approval of the whole or any of its parts upon such requirements of this ordinance as may be necessary for the health, safety and general welfare, and to achieve compliance with Section 1.6 (F). If a preliminary plat is disapproved, the Village Council shall furnish a written notice of the denial and the reasons for the denial.

(2) **Exceptions: When Preliminary Plat Not Required.**

- (a) The required preliminary plat may be waived by the Subdivision Administrator for subdivisions defined as minor subdivisions in Section 1.2 of these regulations provided that:
 - (i) A minor subdivision sketch plan has received approval; and

- (ii) A plat of the tract being subdivided, accompanied by two (2) applications signed by the owner or his duly authorized agent has been filed with the Subdivision Administrator and the required fee submitted; and
 - (iii) The subdivider has provided topographic information to determine flood elevations whenever the property proposed to be subdivided, or re-subdivided, is traversed by or adjacent to a known water course.
- (b) However, whenever a preliminary plat is waived by the Village, a final plat must be prepared and recorded as provided in Section 1.6 (H).
- (3) **Effect of Approval of Preliminary Plat.** An approved preliminary plat will be valid for a period of three (3) years from the date of approval. If no work in furtherance of the plan except grading on the site has commenced within the three (3) year period, the preliminary plat approval will become null and void and a new application will be required to develop the site. If work on the site in furtherance of the plan has commenced, and such work involves any utility installations or street improvements except grading, the plan will remain valid and in force.
- (4) **Release of Grading Permit.** Preliminary plat approval is required for the issuance of a grading permit for any grading work on the site for the installation of any improvements in furtherance of the development. Once the preliminary plat is approved, further approvals under this provision are not required for grading permits for individual sites within the development, so long as grading conforms to the approved preliminary plan.
- (5) **Final Plat: Submission and Approval.**
 - (a) Upon approval of the preliminary subdivision plan, the subdivider may proceed to comply with the other requirements of this ordinance, and the preparation of the final subdivision plat. The final plat may include all or only a portion of the subdivision as proposed and approved on the preliminary subdivision plan, provided that all required improvements to any existing or new streets shown on the preliminary plat within the boundaries of the final plat have been provided for or been assured by the posting of a surety as provided for in Section 1.8 (I) (3) prior to any final plat approval.
 - (b) The final subdivision plat must be developed in accordance with the specifications set forth in Section 1.6 (H). The official plat or plats, together with copies thereof sufficient for distribution, shall be presented for approval to the Subdivision Administrator for review. The plat shall be accompanied by an application for final plat approval, submitted in duplicate and signed by the owner and/or his duly authorized agent. The Village shall have 30 working days to review and comment on the final plat.
 - (c) The Village Council shall approve, disapprove, approve with conditions or deny the approval of the final plat.
 - (d) If a final plat is disapproved, the Village Council shall furnish a written notice of the denial and the reasons for the denial upon request of the applicant. An

administrative disapproval may be appealed in accordance with the provisions of Section 1.4.

- (e) Upon approval, the final plat will be noted approved and shall be recorded in the Office of the Register of Deeds for Stanly County, North Carolina.

(H) **Final Plat Requirements.** The final plat shall be prepared by a registered surveyor and must be drawn to scale not smaller than 100 feet equals one inch (1"=100'), and must contain the following information:

- (1) The exact boundary of the tract of land being subdivided, showing clearly the disposition of all portions of the tract.
- (2) The lines and names of all streets, lot lines, lot and block numbers, front build-to line and side and rear yard dimensions for each lot, easements, reservations, and areas dedicated to public purposes with notes stating their purposes. In addition, on-site LCID landfills must be shown on the final plat and on deed(s) for affected lot(s). Also, the plat for all lots subject to flooding shall include a statement as follows:

NOTE REQUIRED FOR LOTS SUBJECT TO FLOODING

This lot is subject to flooding during heavy rainfall and the construction of buildings or structures below the flood protection elevation of _____ is prohibited.

as further described by Section 1.7 (D)(6) of this ordinance. Plats for multiple lots may include the flood protection elevations in tabular form. In areas where the floodway regulations are applicable, the following statement shall be inscribed on the plat:

NOTE REQUIRED FOR PLATS WHERE FLOODWAY REGULATIONS ARE APPLICABLE

Any construction or use within the areas delineated by floodway fringe district boundary line and floodway district encroachment line is subject to the restrictions imposed by floodway regulations.

For subdivisions within which open space is required, a designation on the plat denoting the area of preservation and the limitations on its use and a reference to the recorded documents by which irrevocable preservation of open space shall be assured. A copy of such documents shall also be provided to the Subdivision Administrator.

Any amendment to a previously approved final plat must note in writing on the amended plat the nature and extent of the changes and the deed or plat book and page number where previously recorded.

- (3) Sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street, lot line, building line, easements required hereunder or of record in Stanly County or ascertainable by physical inspection of the property, and boundary lines of reserved or dedicated areas. All linear dimensions shall be in feet and hundredths thereof. The maximum allowable error of linear closure shall not be in excess of 1:10,000.

- (4) Sufficient data to determine readily and reproduce accurately on the ground the location and extent of rural and/or urban open space to be preserved, the method of preservation, and any limits on use. In addition, the subdivider shall provide to the Misenheimer Subdivision Administrator a copy of any covenants and restrictions governing disposition and use of the preserved open space.
- (5) As-built drawings and plans of all water system, sewer system, and storm drainage system facilities. Such plans shall show all easements and rights-of-way to demonstrate that the facilities are properly placed. These drawings need not be placed on the final plat but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later.
- (6) As-built cross-sections of each Village street type used in the development. Such cross-sections shall show improvements in the public rights-of-way and in any easement associated with the detail of the street. Features to be shown will usually include: travel lanes; parking lanes (if any); curb and gutter (or ditch); planting strips; sidewalks; and utility allocation. These drawings need not be placed on the final plat, but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later.
- (7) For non-single-family residential projects in the Watershed Overlay District, the calculated built-upon area permitted for each building lot, taking into account permanently preserved open space.
- (8) The name of the township in which the subdivision is located, the name of the subdivision, the zoning district, the name of the owner, the name, registration number and seal of the registered surveyor under whose supervision the plat was prepared, the date of the plat and north point, with indication of whether the north point is true, magnetic, or grid, and a small vicinity map showing the location of the subdivision with respect to adjacent streets and properties.
- (9) Control corners and permanent markers with adequate and sufficient description to enable a surveyor to locate such control corners or markers shall be shown on the plat. One (1) or more corners shall be designated as control corners, and shall establish two (2) or more street center lines or offset lines within or on the street right-of-way lines to be permanently monumented at intersecting center line or offset lines, points of curvature or such other control points, which monuments shall also be designated as control corners. In addition to the above, control corners must be established along the rear property lines of lots with a minimum of two (2) per block located along a common line. Coordinates must be computed from the North Carolina Plane Rectangular Coordinate System, as extended therefrom, provided such a control monument is within 2,000 feet of the subdivision. The corners of all lots and parcels must be marked with iron pins driven flush with the ground. The iron pins must be placed where lot boundaries intersect railroad and public street rights-of-way.
- (10) The following signed certificates (lettered or stamped) shall appear on each copy of the final plat submitted by the subdivider:

(a) **Certificate of Ownership and Dedication**

I hereby certify that I am the owner of the property shown and described hereon and that I hereby adopt this plan of subdivision with my free consent, and dedicate all streets, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I dedicate all sewer lines and all water lines to the Village of Misenheimer, if applicable.

Date Owner(s)

- (b) Certificate of Approval for Recording. Final written approval by the Subdivision Administrator must be entered on the plat for recording. Changes or amendments to an approved final plat which already bears the written approval prior to recording the plat constitutes a violation of this ordinance. A copy of the sealed and recorded final plat must be delivered to the Misenheimer Subdivision Administrator within five (5) days of recording.

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the subdivision regulations for the Village of Misenheimer, North Carolina, and that this plat has been approved for recording in the office of the Register of Deeds of Stanly County.

Date Owner(s)

- (c) Certificate of Survey and Accuracy.

Certificate of Survey and Accuracy

I, _____, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book ____, Line ____, Page ____, etc.) (other); that the error of closure as calculated by latitudes and departure is 1: ____; that the boundaries not surveyed are shown as broken lines plotted from information found in Book ____, Page ____; that this map was prepared in accordance with G.S. 47-30 as amended. Witness my hand and seal this ____ day of _____, 20 ____.

Registered Land Surveyor License or Registration Number

- (I) **Plats Already Established by Survey and Record.** Plats already established by survey and recorded in the Stanly County Register of Deeds office prior to the effective date of this ordinance will be eligible for development and other administrative permits without complying with the requirements of this ordinance, but must be developed in accordance with the provisions of the subdivision ordinance in effect at the time of the approval.

1.7 SUBDIVISION DEVELOPMENT REQUIREMENTS.

- (A) **Design Standards for Streets.** For Village maintained streets, the North Carolina Department of Transportation, Division of Highways, *Minimum Construction Standards for Subdivision Roads*, as amended, shall serve as minimum guidelines for design. In addition, standards as set forth in

the Village of Misenheimer Zoning Ordinance and this section of the subdivision ordinance shall control. The Village may impose additional standards or waive one (1) or more required standards whenever, in its opinion, such standards are necessary to ensure public safety and the integrity of the public street system or, conversely, the waiver of such standards will not result in a degradation of public safety or the integrity of the public street system.

(B) Additional Standards for Streets.

(1) Right-of-Way Required.

(a) Minimum right-of-way by street classification.

Street Type	Feet
Freeway or Expressway (Class I)	250 - 350
Limited Access Arterial (Class II)	200
Commercial Arterial (Class III-C)	150
Major Arterial (Class III)	100
Minor Arterial (Class IV)	70
Collector (Class V)	60
Village Street	Varies

(b) These standards represent the normally required rights-of-way for state standard streets. Additional right-of-way may be necessary in the area of interchanges, intersections, cut/fill areas, or areas where horizontal or vertical alignments must be improved and will be determined on a case-by-case basis. When a subdivider elects to establish a roadway divided with a center strip or median, the right-of-way width must be at least the proposed width of the center strip or median plus 62 feet.

(c) Along existing streets, neither right-of-way dedication nor reservation is required unless:

(i) An existing street has a right-of-way less than 60 feet wide and will provide access to the subdivision, in which case a right-of-way up to 30 feet on each side of the centerline may be required to be dedicated; or

(ii) An existing street will provide access to the subdivision and volume of traffic projected to be generated by the subdivision necessitates intersection and/or other improvement(s), in which case dedication of right-of-way sufficient for the subdivision developer to make intersection and/or other improvements to serve said subdivision may be required.

(d) The Village Council, after consulting applicable plans and programs and appropriate county, state, and/or federal officials, is responsible for classifying streets or segments thereof within the zoning and subdivision jurisdiction of the Village of Misenheimer.

(2) Arterial Street Right-of-Way (New Streets). Whenever a tract of land to be subdivided includes any part of a planned arterial or extension of an existing arterial street shown on the adopted thoroughfare plan, and whenever a right-of-way for such a street has been

further defined by acceptable locational procedures sufficient to identify properties to be affected, a right-of-way for the arterial street must be platted in the location and to the width specified in the plan. The subdivider is responsible for the dedication and/or reservation of the right-of-way in accordance with the provisions of this section. The entire right-of-way (that which has been reserved and that which has been dedicated) must be shown as such on the final plat. All measurements involving minimum lot standards under this ordinance and under the zoning ordinance will be made at the edge of the full right-of-way.

- (3) **Cul-de-sacs.** Cul-de-sacs (streets designed to be permanently closed at one end), may not be longer than 600 feet and must be terminated by a vehicular turnaround design as accepted by the Village of Misenheimer; provided, however, that this requirement may be waived where topographical or other unusual conditions exist.
- (4) **Street Off-sets.** Where there is an off-set in the alignment of a street across an intersection, the off-set of the center lines shall not be less than 300 feet for arterials. Off-sets for other street types will be determined based upon projected traffic volumes and the applicability of traffic calming measures.
- (5) **Block Lengths and Widths.** Block lengths and widths shall comply with the Misenheimer Zoning Ordinance.

(C) **Design Standards for Lots.**

- (1) **Frontage on Street.** Each lot shall have frontage on a street as required by the Misenheimer Zoning Ordinance.
- (2) **Side Lines.** Side lot lines shall, as nearly as practicable, be at right angles or radial to street lines. Where side lot lines intersect at the rear of the lot, the angle of intersection shall not be less than 60 degrees (60°).
- (3) **Lot Sizes.** Lot dimensions and yard dimensions are controlled by the Misenheimer Zoning Ordinance.
- (4) **Building Lines.** Building lines shall be established on all lots in residential subdivisions and shall be determined on the basis of zoning district and classification of any abutting streets, existing or planned, in accordance with the Misenheimer Zoning Ordinance.
- (5) **Driveway Connections.** Prior to the construction of any driveway or other connection within the right-of-way of a public street, a permit must be secured from the North Carolina Department of Transportation (NCDOT) or the Village of Misenheimer, for a state or a local road respectively. However, in a residential major subdivision, access to individual lots from streets constructed as part of the subdivision shall be reviewed and approved at the time each building permit is issued and individual driveway permits will not be required on a lot-by-lot basis.
- (6) **Lots Subject to Flooding.**
 - (a) The Village of Misenheimer will determine which lots are subject to significant flooding, which will include those lots along any significant water course, whether or not the stream is enclosed with pipes or culverts, and may also

include areas where it can reasonably be expected that significant overland flow of stormwater or flooding will occur. If any part of a proposed lot is subject to flooding, the subdivider shall make a determination of the crest elevation of the flood expected to be equaled or exceeded, on the average, of one (1) time in 100 years (the “100-Year Flood”) in accordance with generally accepted engineering practice, which is to be submitted with the seal and signature of a professional engineer to the Village of Misenheimer. This determination must reflect the actual conditions imposed by the completed subdivision, and must give due consideration to the effects of urbanization and obstructions.

- (b) No proposed building lot that is wholly or partly subject to flooding shall be approved unless there is established on the final plat a line representing an actual contour, as determined by field survey, at an elevation one (1) foot above the 100-year flood crest. Such line shall be known and identified on the final plat as the “building restriction floodline”. In addition, a “flood protection elevation” for each lot subject to flooding shall be noted on the lot plan as determined by the Village’s Engineer based on the building restriction floodline, or for lots upstream of street crossings, the low elevation of the street plus one (1) foot, whichever is greater.
- (c) All habitable buildings or structures shall be located outside the “building restriction floodline”, or the lowest usable and functional part of the structure shall not be below the flood protection elevation. Usable and functional parts of the structure shall be defined as being inclusive of living areas, basements, sunken dens, basement utility rooms, crawlspaces, attached carports, and mechanical appurtenances such as furnaces, air conditioners, water pumps, electrical conduits and wiring, but shall not include water lines or sanitary sewer traps, piping and clean-outs; provided, openings serving the structure are above the flood protection elevation.
- (d) Where only a portion of a proposed lot is subject to flooding as defined herein, such lot may be approved only if there will be available for building a usable lot area of not less than 1,200 square feet. The usable lot area shall be determined by deducting from the total lot area the area of all yards and setbacks required by the applicable zoning district regulations and any remaining area of the lot lying below the building restriction floodline.
- (e) During the construction of a subdivision, the developer shall maintain the streambed of each stream, creek or backwash channel contiguous to the subdivision in an unobstructed state and shall remove from the channel and bank of the stream all debris resulting from the land development process, including logs, timber, junk and other accumulations of a nature that would, in time of flood, clog or dam the passage of waters in their downstream course. Installation of appropriately sized stormwater drains, culverts, bridges or erosion control devices will not be construed as obstructions in the stream. In areas of the Village that are covered by the provisions of the floodway regulations, the floodway regulations will supersede the provisions of this ordinance regarding land within the regulated floodplain.

1.8 REQUIRED WORK ON THE GROUND.

(A) **Standards and Specifications.**

- (1) Unless specifically noted, before any final plat of a subdivision is eligible for final approval, and before any street is accepted for maintenance by the Village or the State Department of Transportation, minimum improvements (including drainage and soil erosion) must have been completed by the developer and approved by the Village of Misenheimer, or other designated engineer, in accordance with state or Village standards whichever applies. Minimum improvements not completed and approved must be bonded in accordance with the provisions of Section 1.8 (K) prior to final plat approval.
- (2) The intent of the specifications set out in this article is to prescribe minimum requirements for storm drainage and street improvements to be undertaken by the developer. Satisfactory completion of these improvements, attested by approval of the Village of Misenheimer, will qualify streets in the Village to be accepted for maintenance by the Village or, in the case of state standard streets, to be considered for maintenance by the state.

(B) **Street Improvement Responsibility.** In order to facilitate the provision of street rights-of-way and necessary improvements, the following sections establish responsibilities for the installation of streets and related improvements for each class of street.

(1) **Major Arterial.**

- (a) **Right-of-way.** For new major arterial streets, the developer is responsible for the dedication of up to 100 feet of right-of-way, 50 feet on each side of the centerline. Along existing major arterial streets, any development which requires specific improvements of the street to meet vehicular and/or pedestrian access needs of the particular development must dedicate the right-of-way necessary to accommodate those improvements.
- (b) **Improvements.** Installed by the public in accordance with a schedule of public street improvements, except on existing streets where specific improvements are required to meet vehicular and/or traffic needs of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be responsible. The developer has the option, after consultation with the Village Council, to construct all or a portion of a new or extended street if the developer wants to make use of the street for access to the development. Development along new major arterial streets or extensions of major arterial streets must limit access points to public streets or specifically approved street type entrances.

(2) **Minor Arterial.**

- (a) **Right-of-way.** For new minor arterial streets the developer is responsible for the dedication of up to 70 feet of right-of-way, 35 feet each side of the centerline. Along existing Class IV streets any development which requires improvements of the street to meet vehicular and/or pedestrian access needs of the particular

development must dedicate the right-of-way necessary to accommodate those improvements.

- (b) **Improvements.** Installed by the public in accordance with a schedule of public street improvements, except where specific improvements are required to meet the vehicular and/or pedestrian access needs of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option, after consultation with the Village Council, to construct all or a portion of a new or extended street if the developer wants to make use of the street for access to the development. Development along new minor arterial streets or extensions of minor arterial streets must limit access points to public streets or specifically approved street type entrances.

(3) **Major and Minor Collector.**

- (a) **Right-of-way.** Dedicated by the developer.
- (b) **Improvements.** Constructed by the developer.

(4) **Village Streets.**

- (a) **Right-of-way.** Dedicated by the developer.
- (b) **Improvements.** Constructed by the developer.

- (5) All public streets must be constructed to comply with all applicable Village or state requirements. Public improvements shall be made in accordance with adopted plans, programs, and budgets. It shall not be expected that the occurrence of development will result in the immediate installation of public street improvements by the public sector unless those improvements are scheduled and funded in accordance with public policies and programs.

- (6) Minimum standards for private streets shall be as set forth by the North Carolina Department of Transportation with respect to horizontal and vertical geometry, sight distance, materials and quality of construction. The minimum street width shall be 20 feet from paving edge to paving edge. Street design and final construction quality shall be certified by a professional engineer licensed to practice in North Carolina. Geotechnical Reports indicating subgrade competence shall be provided with the street certification.

(C) **Responsibility for State Roads.** No dedication or reservation of right-of-way for a new street or highway within a corridor for a street or highway on a plan established and adopted pursuant to G.S. 136-66.2 for a street or highway that is included in the Department of Transportation's Transportation Improvement Program will be required by the provisions of this ordinance unless and until the Village Council has determined and certified in writing that;

- (1) The dedication or reservation does not result in the deprivation of a reasonable use of the original tract; and

- (2) The dedication or reservation is either reasonably related to the traffic generated by the proposed subdivision or use of the land remaining in the original tract, or the impact of the dedication or reservation is mitigated by measures provided in this ordinance. For these purposes the term “original tract” will mean all contiguous land owned by the applicant. The ability of the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant is deemed to be a measure which mitigates the impact of the dedication or reservation.

(D) **Drainage.**

- (1) Storm drainage adequate to accommodate a ten (10) year storm must be provided throughout the subdivision by means of storm drainage pipe or properly graded channels or natural drainage. Where adequate storm drainage has been provided by means of approved storm drainage pipe and the necessary easements to provide access to the drainage facilities, in accordance with the standards of the Village, and has been dedicated and accepted or otherwise conveyed to the Village, the Village will assume the responsibility for maintenance of the drainage pipe. Where adequate storm drainage has been provided by means of properly graded channels or ditches, the maintenance thereof will remain the responsibility of the property owner and must be so noted on the final plat and on deeds for the affected lots.
- (2) In addition to drainage improvements as required by this section, the subdivider may provide for storm water detention to serve the entire subdivision as part of the drainage plan to be approved by the Village of Misenheimer. For the purposes of this article, the subdivision shall include the streets, sidewalks, driveways, rooftops and other impervious surfaces proposed to be constructed upon completion of the subdivision.

- (E) **Curb and Gutter.** Curb and gutter is required on all arterial and collector streets with the exception of rural street applications. Standard (raised) curb and gutter must be constructed on all arterial and commercial streets, and on Village streets or portions of Village streets which serve primarily urban functions, such as that of the workplace or the shopping district. Standard curb and gutter is recommended for curb and gutter installations on all street types. However, valley (mountable) curb and gutter may be used in lieu of standard curb and gutter on collector streets.

- (F) **Sidewalks.** Five (5) foot wide sidewalks shall be required on one (1) side of all streets serving five (5) or more lots. Sidewalks shall also be required on all streets that may be extended in the future to serve five (5) or more lots.

Approval of sidewalk construction plans must be obtained from the Village of Misenheimer as part of the subdivision review process. The Village will review and comment on the location of the required facilities at the time of plan review. Except in unusual circumstances, sidewalks may not be located less than five (5) feet, but preferably seven (7) to ten (10) feet, from the back of the curb or edge of pavement when no curb and gutter is required. If existing public street right-of-way is not available, the developer will be required to construct the sidewalk outside the street-right-of-way on a permanent easement. While in most instances a sidewalk will be placed parallel to and off-set from the curb line, developers are encouraged and expected to meander sidewalks to preserve existing trees of significance. Adjustments may be made in the field to accommodate such circumstances.

- (G) **Street Lights.** Street lighting will be installed in each new subdivision pursuant to a street lighting plan which shall be submitted to the Subdivision Administrator for approval. This shall be the responsibility of the developer. Street lights compatible in height and scale with the streetscape are strongly recommended but in any case shall comply with minimum standards for lighting set forth in Article 8 – Outdoor Lighting of the Misenheimer Zoning Ordinance.
- (H) **Street Signs and Barricades.**
- (1) Standard street markers must be installed by the developer at one (1) corner of all street intersections, including private streets, before any certificates of occupancy may be issued for buildings or residences along those streets. The design, material, location and installation of the signs must be in accordance with standards specified by the Village of Misenheimer unless an alternative design is approved. Alternatives to the standard design for street markers may be submitted by the developer for consideration by the Village Council. If an alternative design is approved by the Village Council, responsibility for the installation, maintenance, and replacement of non-standard street markers remains with the developer and subsequently with the homeowners. If maintenance and replacement of non-standard street markers is not provided by the developer or homeowners, the Village shall install standard street markers as replacements are needed. All standard street markers will be maintained and replaced by the Village once initial installation has been completed by the developer.
 - (2) Barricades must be installed at the end of all dead-end streets except cul-de-sac streets, which have been improved with a permanent turnaround, as required by this ordinance. Design, material and installation of the barricades must be in accordance with the Village of Misenheimer standards.
- (I) **No Service Unless Street Accepted/Approved.** No department, officer, agent, or employee of the Village will accept for maintenance, lay out, open, improve, grade, pave or light any streets or authorize the laying of water mains, sewers, electrical service extensions or other facilities or utilities in any street within the Village unless:
- (1) Such street has been accepted or opened as, or has otherwise received the legal status of, a public street prior to the effective date of this ordinance; or
 - (2) For any new street, such street corresponds in its location and lines with a street shown on a preliminary subdivision plan, tentatively approved by the Village Council; or
 - (3) Such street has been accepted as a public street by a vote of a majority of all the members of the Village Council or by the State of North Carolina; or
 - (4) Such street has been accepted as a public street by the State of North Carolina; or
 - (5) Such street is an approved private street built in conformance with the provisions of all applicable ordinances.
- (J) **Modification of Requirements; Bond.**
- (1) In subdivisions adjoining already established streets that have been accepted for maintenance by the North Carolina Department of Transportation, the requirements of Section 1.8 will apply as hereinafter provided; those requirements that would necessitate

the general removal and reconstruction of established permanent pavements will not be applicable; where the adjoining established street is a part of the North Carolina Department of Transportation's street system, the adjoining street must be improved in accordance with either the requirements of Section 1.8 and the requirements of the Village of Misenheimer or the North Carolina Department of Transportation, whichever establishes the higher standard.

- (2) Plats for new lots fronting on already dedicated or established streets or roads that have not been accepted for maintenance by the Village Council or the North Carolina Department of Transportation or which have been accepted for maintenance by the North Carolina Department of Transportation, but have not been improved with a paved roadway, will be eligible for final approval when the requirements of Section 1.8 have been complied with as closely as may be reasonably required considering the existing condition of the road, the extent of area to be platted and the cost of required improvements in relation to the comparative benefits to accrue to the subdivider and the other owners of property on both sides of the street or road.
- (3) Where the improvements required by this article have not been completed prior to the submission of the final subdivision plat for approval, the approval of the plat will be subject to the owner filing a surety bond or an irrevocable letter of credit with the Subdivision Administrator, in an amount to be determined by the Village Council in consultation with the Village's consulting engineer or local road and utility contractors and affected agencies such as the Department of Environmental Health, with sureties satisfactory to the Village Council in order to guarantee the installation of the required improvements, allowing credit for improvements completed prior to the submission of the final plat. For landscaping required by this subdivision ordinance, the developer shall provide a contractor's estimate for provision and installation of such landscaping, the estimate shall be reviewed for adequacy, and a surety bond or irrevocable letter of credit sufficient to guarantee the provision and installation of required landscaping shall also be filed in the manner provided above. Upon completion of the improvements and the submission of "as built" drawings, written notice thereof must be given by the subdivider to the Village of Misenheimer. The Subdivision Administrator will arrange for an inspection of the improvements and if found satisfactory, will within 30 days of the date of such notification authorize in writing the release of the security given, subject to the warranty requirement below.
- (4) **Maintenance Guarantee.** All improvements required by this ordinance shall be guaranteed against defects in workmanship and materials by the subdivider for a period of two (2) years from the date of the filing of the final plat or the date of the completion of the improvement, whichever is later. The subdivider shall file with the Subdivision Administrator a maintenance bond with adequate sureties in an amount determined by the Subdivision Administrator or consulting engineer to be sufficient to assure proper maintenance and repair of such improvements for the two (2) year warranty period.

(K) **Inspection.**

- (1) The Village of Misenheimer must be notified two (2) days in advance of the work to be started so that an authorized representative of the Village or other responsible agency may be assigned to make any and all necessary inspections of the work performed.

- (2) The inspector must be allowed access to all parts of the work, and must be furnished with every reasonable facility to ascertain whether or not the work as performed is in compliance with the specifications.
- (3) No materials may be placed nor any work performed except in the presence of the inspector without special permission of the appropriate agency. Such inspection, however, does not relieve the contractor from any obligation to perform all of the work strictly in accordance with the specifications.
- (4) In the case of any disputes arising as to the material furnished or the manner of performing the work, the inspector will have authority to reject materials or suspend work until the question or issue can be referred to and decided by the appropriate agency. The contractor must remove any work or material condemned as unsatisfactory by the inspector and must rebuild and replace the work or material to the standard required by the specifications, all at his or her own expense.

1.9 ENFORCEMENT.

- (A) After the effective date of this ordinance, a plat of a subdivision within the jurisdiction of this ordinance which is filed or recorded in the office of the Register of Deeds of Stanly County without the approval of the Village of Misenheimer will be null and void for purposes of this ordinance.
- (B) Any person who, being the owner or the agent of the owner of any land located within the area of jurisdiction of this ordinance, subdivides land in violation of this ordinance, or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this ordinance and recorded in the office of the Register of Deeds of Stanly County shall, upon conviction, be guilty of a misdemeanor which shall be punishable by a fine not to exceed \$500.00, or imprisonment for not more than 30 days for each and every offense. The Village of Misenheimer through the Village Attorney may enjoin such transfer or sale by action for injunction. All administrative actions relating to such land, including the issuance of any grading, construction, building, or occupancy permit will be suspended. This ordinance will not affect the sale or transfer of any land, a plat of which was recorded prior to the effective date of this ordinance.
- (C) In order to properly enforce the provisions of the subdivision regulations as stated in this ordinance prior to the beginning of any construction, reconstruction, use, or alteration of any land, building, or structure, the appropriate permit must be obtained from the Subdivision Administrator. No permit will be issued unless there has been a determination made that the proposed use, building, or structure complies with the requirements of this ordinance.

1.10 APPLICATION AND PROCESSING FEES.

- (A) Fees for the submittal of preliminary and/or final subdivision plats shall be established, and from time to time revised, by the Village Council of the Village of Misenheimer and shall be collected when a subdivision application is submitted. Fees shall be collected by the Subdivision Administrator, Village Clerk, or an administrative agent designated by the Village Council to administer the subdivision ordinance.
- (B) Fees for variances and appeals of administrative decisions or interpretations shall be in accordance with the fee schedule established by Village Council and shall be collected by the

Subdivision Administrator, Village Clerk, or an administrative agent designated by the Village Council to administer the subdivision ordinance.

1.11 CERTIFICATES.

(A) All subdivision final plats shall contain the following certificates if applicable:

(1) **Certificate of Subdivision Administrator Approval.**

Certificate of Subdivision Administrator Approval

Approved for recording by the Village of Misenheimer, NC Subdivision Administrator. This plat shall be recorded within 30 days of this date.

Date Subdivision Administrator

(2) **Certificate of Ownership and Dedication.**

Certificate of Ownership and Dedication

I (We) hereby certify that I am (we are) owner(s) of the property shown and described herein, that the property is within the Subdivision Jurisdiction of the Village of Misenheimer and that I (we) hereby adopt this plan of subdivision with my (our) free consent and hereby establish all lots and dedicate to the public all streets, easements, walks, parks and other open spaces as shown hereon unless otherwise noted as private.

Date Owner

STATE OF NORTH CAROLINA
COUNTY OF _____

I, Notary Public in and for the County of _____ ,
and the State of North Carolina, do hereby certify that
_____, owner(s) personally appeared
before me this day and acknowledged the due execution of the
foregoing certificate and upon his/her oath, swore to the truth of the
statements set forth therein.

Witness my hand and notarial seal this _____ day of
_____, 20____ .

Notary Public

My commission expires _____ SEAL

(3) **Notary Certificate of Surveyor Statement.**

STATE OF NORTH CAROLINA
COUNTY OF _____

I, Notary Public in and for the County of _____ , and the State
of North Carolina, do hereby certify that _____
surveyor, personally appeared before me this day and acknowledged
the due execution of the foregoing certificate and upon his oath,
swore to the truth of the statements set forth therein.

Witness my hand and notarial seal this _____ day of

_____, 20____.

Notary Public

My commission expires _____ SEAL

(4) **Certificate of Survey and Accuracy.**

Certificate of Survey and Accuracy

I, certify that this map as (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision)(a deed description recorded in Book _____, Page _____, of the Stanly County Registry) (other); that the error of closure as calculated by latitudes and departures is 1:_____; that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page _____, and that this map was prepared in accordance with G.S. 47-30. Witness my hand and seal this _____ day of _____, A.D., 20_____.

Surveyor License or Registration number

(maximum allowable error: 1:10,000) SEAL

(5) **NCDOT Construction Standards Certification.**

(For all plats involving new street right-of-way and any plat inside Village limits which changes a State system street)

Department of Transportation
Division of Highways
Proposed Subdivision Road
Construction Standards Certificate

Approved: _____
District Engineer

Date: _____

(6) **On-site Water and/or Sewer Note.** *(where appropriate)*

On-site Water and/or Sewer Note.

Note: (ALL the LOTS) or (LOTS #) as shown on this Plat are Proposed to be served with on-site water and/or sewer systems. The lots as shown meet the minimum size prescribed by the Stanly County Health Department for such system(s). However, the recording of this Plat does not guarantee that any such lots will meet the requirements for the approval by the Health Department for such on-site system(s).

(7) **Special Flood Hazard Area Note.** *(word to represent actual situation)*

Special Flood Hazard Area Note

(Part of) this property (does) (does not) lie in a Special Flood Hazard Area
Reference: Floodway Panel # _____

Date: _____ (of Panel)

NOTE: (If part of the property is in a Special Flood Hazard Area it shall be shown graphically on the Plat.)

(8) **Register of Deeds Certificate.**

State of North Carolina, _____ County
The foregoing certificate of, Notary Public, is certified to be correct. This instrument was presented for registration and recorded in Map Book _____, Page _____, this ____ day of _____, 20____ at ____am/pm

Register of Deeds

(9) **Statement Required for All Plats.**

All zoning information on this plat is shown for illustrative purposes only. Dimensional requirements for all lots in this subdivision should be obtained from the Village of Misenheimer Zoning Administrator.