

Section 905 Remedies

Section 905.1 Enforcement by Zoning Enforcement Officer

(A) It shall be the duty of the Zoning Enforcement Officer to initiate proceedings for the enforcement of these regulations. These proceedings may also be initiated by the Misenheimer Village Council, or an agent designated by them.

(B) If the Zoning Enforcement Officer or the Village of Misenheimer discovers a violation of these regulations, the Zoning Enforcement Officer or the Village of Misenheimer shall notify the violator, and give the violator a specified time to correct the violation. If the violation continues or is not corrected, the Zoning Enforcement Officer or the Village of Misenheimer shall initiate proceedings for enforcement as described in this Section.

Section 905.2 General Enforcement Provisions:

The provisions of this Section may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this Section. If a person continues to fail to comply with a particular provision of these regulations after the imposition of any one type of penalty, the person shall continue to remain subject to the remedies prescribed by this Section for the continued violation of the particular provision of these regulations. The Zoning Enforcement Officer, or any persons who would be damaged by such violation, may institute a citation to secure injunctions and abatement orders to further ensure compliance with the Zoning Ordinance, or take any other appropriate action to prevent such violation in accordance with N.C. General Statute provisions. Each day's continuing violation shall be a separate and distinct offense and may be subject to any one, all, or a combination of the remedies authorized and prescribed by this Section.

Section 905.3 Criminal Penalties:

Any person, firm or corporation who knowingly or willfully violates any provision of these regulations shall have committed a misdemeanor, and upon conviction thereof, shall be subject to a fine not exceeding \$500 or imprisonment for a period not to exceed thirty (30) days.

Section 905.4 Citations:

(A) The Zoning Enforcement Officer, or a designated agent of the Village of Misenheimer, is empowered to issue citations to any person if there is a reasonable cause to believe that the person has violated any provision of these regulations. A violator shall be deemed to include the owner of the premises, the agent of the owner authorized to be responsible for the premises and/or the occupant of the premises. Citations may be directly issued to the occupant, lessee, and/or person having immediate beneficial use of the property. The non-occupant owner or agent responsible for the premises each has a duty to maintain the premises in compliance with these regulations. A citation shall not

be issued to a non-occupant owner, agent or occupant for those premises unless there has been written notification to the owner, agent, or occupant, or mailed to the last known mailing address as shown by public records, or by making other reasonable efforts to communicate the existence to the violation to the owner, agent or occupant.

(B) The initial citation for each violation shall be \$50.00. The issuance of a second citation for any violation that has not been corrected shall be in the amount of \$200.00 upon the date of issuance, \$500.00 for the third citation and \$500.00 thereafter. Any unpaid citations and delinquency charges shall be cumulative, and shall subject the violator to a possible civil penalty to be recovered in a civil action in the nature of debt. The citations may be delivered in person to the violator(s) or, the citation may be mailed, certified return receipt requested.

(C) The citations shall direct the violator to make payment to the Village of Misenheimer within fifteen (15) days of the date of the citation or alternatively pay the citation by mail. If the violator does not make such payment, or does not mail the citation and payment within fifteen (15) days from the date of issuance, a delinquency charge of ten dollars (\$10.00) or ten (10) percent of the assessed fine, which ever is more, shall be added to the amount shown on the citation, or criminal summons may be filed if the citation and delinquency charge is not paid within fifteen (15) days form the date of the delinquency. Further, the citation shall state that the violation is a continuing violation, and additional citations may be issued.

Section 905.5 Civil Judicial Remedies:

(A) If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of these regulations, the Village, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate the violations, to prevent occupancy of the building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises. The General Court of Justice shall have jurisdiction to issue such orders as may be appropriate.

(B) If the Zoning Ordinance makes unlawful a condition existing upon, or use made of, real property, then the Zoning Ordinance may be enforced by injunction and order of abatement and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such an Ordinance occurs, the Village may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commending the defendant to correct the unlawful condition upon or cease the unlawful use of the property.

(C) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed, or that any other action be taken that is necessary to bring the property into compliance with the ordinance. If the

defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Village may execute the order of abatement. The Village shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all cost of the proceedings, and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard, and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

Section 905.6 Remedies: Stop Orders

Whenever any building or structure is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, in a manner that endangers life or property or in substantial violation of this ordinance, the Zoning Enforcement Officer may order the specific part of the work that is in violation or presents such a hazard to be immediately stopped. This stop order shall be in writing, directed to the person doing the work, and shall state the specific work conditions under which the work may be resumed. The owner or builder may appeal from a stop order to the Misenheimer Village Council within a period of five (5) days after the order is issued.

Notice of appeal shall be given in writing to the Misenheimer Village Council, with a copy to the Zoning Enforcement Officer. The Misenheimer Village Council shall promptly conduct a hearing at which the appellant and the Zoning Enforcement Officer shall be permitted to submit relevant evidence, and shall rule on the appeal as expeditiously as possible. Pending the ruling by the Misenheimer Village Council on an appeal no further work shall take place in violation of a stop order. Violation of a stop work order shall constitute a misdemeanor.