

Chapter 12

HOUSING AND PROPERTY MAINTENANCE AND NUISANCE ABATEMENT*

* **Cross References:** Buildings and building regulations, ch. 6; environment, ch. 10.

State Law References: Minimum housing standards, G.S. 160A-441 et seq.; regulation of trash and garbage, G.S. 160A-192; placement of refuse within municipal limits, G.S. 160A-303.1; dumping of toxic substances, G.S. 14-284.2; oil pollution and hazardous substances control, G.S. 143-215.75 et seq.; putting poisonous substances in certain public places, G.S. 14-401; municipal abatement of nuisances, G.S. 160A-193; explosives, etc., G.S. 160A-183; junkyards near highways, G.S. 136-141 et seq.; plant pests, G.S. 106-419 et seq.

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ARTICLE II.

PROPERTY MAINTENANCE AND NUISANCE ABATEMENT

Sec. 12-36. Short title.

This article shall be known and may be cited as the Nuisance Ordinance of Mint Hill, North Carolina. (Code 1983, § 5-13)

Sec. 12-37. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building materials means materials such as lumber, bricks, plaster, foam and other substances accumulated as a result of repairs, remodeling or additions to existing buildings or construction of new buildings.

Chronic Violator means a person who owns property whereupon, in the previous calendar year, the Town gave notice of violation of this article at least three times under any provision of this article;

Debris means the remains of anything broken, broken down, taken apart, damaged or destroyed, including but not limited to litter or trash.

Garbage means the refuse of animal or vegetable foodstuff resulting from the handling, preparation, cooking or consumption of food.

Hazardous refuse means poison, acids, caustics, infected materials, explosives or other substances that are dangerous to persons or property.

Junk means any worn-out or discarded metal, old iron, used plumbing, fixtures, other metals, automobile parts, chains, copper, parts of machinery, bottles, rags, tallow, hide, worn-out automobile tires, and other articles commonly known as junk.

Noxious Growth means uncontrolled grown or overgrowth of 1) grasses over twelve (12) inches in height or 2) vines, or any growth of poisonous plants.

Nuisance means any violation of the provisions of this article.

Rubbish means combustible and noncombustible waste materials except garbage; and the term shall include paper, rags, cartons, boxes, wood, rubber, leather, tree branches, yard trimmings, cans, metals, mineral water, glass, crockery, dust and the residue from the burning of wood, coal, coke and other combustible material.

(Code 1983, § 5-14)

Cross References: Definitions generally, § 1-2.

Sec. 12-38. Territorial jurisdiction.

This article shall apply to all the incorporated area of the town.
(Code 1983, § 5-15)

Sec. 12-39. Purpose.

This article is enacted pursuant to the authority conferred upon the town by the general assembly of the state for the purposes of creating conditions essential to the health, safety, convenience and the general welfare.
(Code 1983, § 5-16)

State Law References: Protection of public health, safety and welfare, G.S. 160A-174.

Sec. 12-40. Owners or occupants to keep premises clean.

(a) Every person owning or occupying any premises shall keep the premises free from noxious weeds, garbage, rubbish, hazardous refuse and all other forms of animal or vegetable refuse which may be dangerous or prejudicial to the public health or which may constitute a public nuisance. For further clarification, every person owning or occupying any premises shall keep the premises free of overgrowth or heavy growth of weeds, bushes, or noxious growth. No owner or occupant of any premises shall bury on the premises any animal or vegetable matter which upon decaying may become dangerous or prejudicial to the public health or may constitute a nuisance.

(b) Whenever the disposal of any substance constitutes a felony under state or federal law, the town shall prosecute the violation in the appropriate court.

(Code 1983, § 5-17)

State Law References: Disposing of toxic substances, G.S. 14-284.2.

Sec. 12-41. Building materials stored on private property.

All refuse, lumber, debris and other building materials on private property which are visible from the street or an adjoining lot due to current construction in progress for the remodel or repair of any existing buildings, the erection and completion of any new buildings or the addition to existing buildings, all pursuant to a lawfully-issued and currently-active building permit, shall be removed by the property owner within 15 calendar days from the completion of the aforesaid work. An owner or occupant may need to verify that construction is currently in progress if there has been no construction activity for over thirty calendar days and show good cause why the Town should not abate (under Section 12-43) the refuse, lumber, debris and other building materials left or stored on the property.

(Code 1983, § 5-18)

Sec. 12-42. Junk; removal.

It shall be unlawful for any owner or occupant of any building, structure, dwelling or dwelling unit to place or leave (or allowed to be placed or remain) outside of any such building, structure, dwelling or dwelling unit any dilapidated furniture, icebox, refrigerator, stove or other appliance, machinery, equipment, building material or other item or junk which is either in a wholly or partially rusted, wrecked, junked, dismantled or inoperative condition or which is not completely enclosed within a building.

(Code 1983, § 5-19)

Sec. 12-43. Abatement by Town; Recovery of Costs.

(a) Contract for Abatement Services. Whenever the Town Manager, or his or her authorized designee, has determined that a violation of this article and/or a nuisance exists and has provided proper notice thereof, the property owner, occupant or person in possession of the premises on which the nuisance is located may contract with the Town to remove such conditions at a fee paid in advance and upon such terms and conditions as the Town Manager, or his or her authorized designee, may approve, except that as a condition of all such agreements the property owner, occupant or person in charge of the premises shall by signed writing in advance of any work release the Town from any liability arising from or resulting from the removal of such conditions. In the event the owner of the property is not the occupant, then a signed release shall be required from both the property owner and the occupant before the Town will proceed.

(b) Abatement for Chronic Violations. Under the authority of Section 11-1 of the Town Code of Ordinances, whenever the Town Manager, or his or her authorized designee, has determined that a violation of this article and/or a nuisance exists and has provided proper notice thereof pursuant to this subsection, the Town of Mint Hill may proceed to abate a nuisance on property owned by a chronic violator. In such a case, the Town shall notify a chronic violator of this article and that, if the violator's property is found to be in continued violation of this article, the Town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. For a chronic violator, the Town's initial annual notice (that the Town will abate the nuisance) shall be served by registered or certified mail, with a copy sent by regular mail.

(c) Summary Abatement for Health and Safety Violations. Whenever the Town Manager, or his or her authorized designee, has determined that a violation of this article and/or a nuisance exists and has provided proper notice thereof, upon the failure of the property owner, occupant or person in possession of the premises to take the corrective action ordered by the Board or the Town Manager, or his or her authorized designee, within the time specified, the Town may remove, abate or remedy the condition that is dangerous or detrimental to the public health or public safety and the expense of such action shall be paid by the person in default pursuant to G.S. § 160A-193. If not paid, such expenses shall become a lien upon the land or premises where the violation occurred and may be collected as unpaid ad valorem taxes.

(d) Each of these remedies shall be and remain available to the Town notwithstanding any civil penalties that have been issued under **12-44 Civil Penalties**.

Sec. 12-44. Civil Penalties.

Any violation of this article or the failure to abide by any lawful order issued pursuant to this Article shall be punishable as provided herein:

(a) Notwithstanding Sections 1-11(b) and (f) of the Town of Mint Hill Code of Ordinances, in accordance with the requirements of G.S. § 160A-175(b), it is expressly declared that violation of any provision hereof or a failure to comply with any of this article's requirements or orders issued hereunder shall not be considered a misdemeanor or infraction under G.S. § 14-4 or § 14-3.1, but shall constitute a civil offense and shall subject the offender to a civil penalty as set forth herein. After Notice of Violation/Warning Citation has

been issued and the violation is not corrected at the end of 15 calendar days, a Civil Citation shall be issued and civil penalties assessed as set forth in the table below.

NOTICE OF VIOLATION (NOV) OR INITIAL WARNING		
Opportunity to Appeal to the Board of Commissioners within 15 days of NOV or initial warning		
CITATION	CIVIL PENALTY AMOUNT	
<u>First Penalty Citation</u>	\$	50.00
The fine shall be paid within 15 days and the violation shall be corrected within 15 days from citation.		
<u>Second Penalty Citation</u>	\$	100.00
Issued after 15 days for on-going failure to abate and the violation shall be corrected within 15 days from citation.		
<u>Third Penalty Citation</u>	\$	300.00
Issued after 15 days for on-going failure to abate and the violation shall be corrected within 15 days from citation.		
<u>Fourth Penalty Citation*</u>	\$	500.00
Issued after 15 days for on-going failure to abate.	*per day for each day the nuisance continues	

Any person violating this article shall be issued a warning citation and in the event of failure to abate, a subsequent civil penalty citation per the procedures set forth in Sections 1-11(h), (i) and (j) of the Town of Mint Hill Code of Ordinances. Any citation for a violation may be issued by any police officer, Town Manager, Building Inspection Officer, Code Enforcement Officer or such other office as is charged from time to time by the Board of Commissioners with the enforcement of this article. However, the Town Manager or his or her designee in his or her sole discretion may 1) reduce a civil penalty assessed based upon the totality of the circumstances, or 2) withhold issuance of a civil penalty citation in the event a property owner has commenced in good faith to abate the Nuisance but the abatement has not been completed at the expiration of the initial fifteen (15) day warning period.

(b) Each day’s continuing violation after the deadline set forth in the Third Civil Penalty citation notice shall be a separate and distinct offense for purposes of the penalties and remedies set forth herein.

Sec. 12-45. Appeal.

With respect to any nuisance for which a Notice of Violation or Warning Citation notice was given, the owner, occupant or person in possession of the premises has a right to appeal to the Board of Commissioners. Such appeal shall be made to the Board of Commissioners, in writing, and filed with the code enforcement officer no later than fifteen (15) calendar days after the date of the Notice of Violation or Warning Citation. The appeal shall be heard at the next regularly scheduled meeting of the Board of Commissioners, and except in

cases of imminent danger or circumstances that pose a substantial threat to the health and safety of citizens, further proceedings to abate the nuisance or issue a civil penalty shall be stayed until the appeal is heard and decided.

Secs. 12-46--12-75. Reserved.

ARTICLE III.

ABANDONED, JUNKED, AND NUISANCE MOTOR VEHICLES*

* **Cross References:** Traffic and vehicles, ch. 28.

Sec. 12-76. Title.

This article shall be known and cited as the Abandoned and Junked Motor Vehicle Ordinance of the Town of Mint Hill, North Carolina. This article is authorized by the provisions of G.S. 160A-193, 160A-303, and 160A-303.2.

(Ord. No. 344, § 5-20, 9-11-1997)

Sec. 12-77. Territorial jurisdiction.

This article shall apply to all incorporated areas of the town.
(Ord. No. 344, § 5-21, 9-11-1997)

Sec. 12-78. Purpose.

The purpose of this article is to regulate abandoned motor vehicles, junked motor vehicles, and nuisance vehicles on public grounds and on private property. The board of commissioners determines that such regulation is necessary and desirable for the following reasons:

- (1) Protection of property values.
- (2) Promotion of tourism and other economic development opportunities.
- (3) Indirect protection of public health and safety.
- (4) Preservation of the liveability and attractiveness of neighborhoods and overall community.
- (5) Promotion of the comfort, happiness and emotional stability of area residents.

(Ord. No. 344, § 5-22, 9-11-1997)

Sec. 12-79. Definitions.

The following words, terms and phrases when used in this article have the meanings ascribed to them in this section, except where the context indicates a different meaning:

Abandoned vehicle means one that is:

- (1) Left upon a public street or highway in violation of a law or ordinance prohibiting parking.
- (2) Left on property owned or operated by the town longer than 24 hours.
- (3) Left on private property without the consent of the owner, occupant or lessee for longer than two hours.
- (4) Left on any public street or highway longer than seven days.

Building structure or garage means a lawful, nonconforming use or a garage or building structure erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all zoning and building code regulations.

Code enforcement officer means an employee of the planning and zoning division of the town designated to enforce the provisions of this article.

Designated employee means the town administrator, code enforcement officer or any official employee appointed by the board of commissioners.

Junked motor vehicle, as authorized and defined in G.S. 160A-303.2, means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five years old and appears to be worth less than \$500.00.

Motor vehicle or vehicle means all machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

Nuisance vehicle means a vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (3) A point of collection of pools or ponds of water;
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;

- (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, etc.;
- (6) So situated or located that there is a danger of it falling or turning over;
- (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
- (8) One which has sharp parts which are jagged or contain sharp edges of metal or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and public nuisance by the board of commissioners.

Tow, in any of its forms, means to remove a vehicle by means including towing and to store the vehicle.

Tower means the person who towed the vehicle.

Towing fee means the fee charged for towing and storing.

(Ord. No. 344, § 5-23, 9-11-1997)

Cross References: Definitions generally, § 1-2.

Sec. 12-80. Administration.

The code enforcement officer or designated employee, and the Mint Hill Police Department are empowered to enforce this article. The police department shall be responsible for administering the removal and disposition of vehicles determined to be abandoned on the public streets and highways within the town and on property owned by the town. The code enforcement officer or other designated official shall be responsible for administering the removal and disposition of vehicles determined to be abandoned, nuisance or junked motor vehicles located on private property. Such persons shall have the right, upon presentation of proper credentials, to enter on any premises within the town limits at reasonable hours to inspect vehicles for compliance with this article. Such persons are also authorized to obtain an administrative search and inspection warrant if deemed necessary. The town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this article and applicable state laws. Nothing in this article shall be construed to limit the legal authority or powers of officers of the Mint Hill Police Department and Mint Hill Fire Department in enforcing other laws or in otherwise carrying out their duties.

(Ord. No. 344, § 5-24, 9-11-1997; Ord. No. 447, 6-12-2003)

Sec. 12-81. Abandoned vehicle unlawful; removal authorized.

It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned. Upon investigation, the code enforcement officer or other designated official with concurrence of the town administrator or the planning/zoning coordinator may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

(Ord. No. 344, § 5-25, 9-11-1997)

Sec. 12-82. Nuisance vehicle unlawful; removal authorized.

It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle or for the owner, lessee or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle. Upon investigation, the code enforcement officer or other designated official with concurrence of the town administrator or the planning/zoning coordinator may determine and declare that a vehicle is a nuisance vehicle and order the vehicle removed. (Ord. No. 344, § 5-26, 9-11-1997)

Sec. 12-83. Junked motor vehicles regulated; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle or for the owner, lessee or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

(b) It shall be unlawful to have more than one junked motor vehicle on the premises of private property except as provided in subsection (e) of this section. A single, permitted junked motor vehicle must strictly comply with the locational and concealment requirements of this section.

(c) It shall be unlawful for any owner, person entitled to the possession of a junked motor vehicle, or for the owner, lessee or occupant of the real property upon which a junked motor vehicle is located to fail to comply with the locational requirements of this section.

(d) Subject to the provisions of subsection (e) of this section, upon investigation, the code enforcement officer or other designated employee with concurrence of the town administrator or the planning/zoning coordinator may order the removal of a junked motor vehicle after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant factors may be considered:

- (1) Protection of property values;
 - (2) Promotion of tourism and other economic development opportunities;
 - (3) Indirect protection of public health and safety;
 - (4) Preservation of the character and integrity of the community; and
 - (5) Promotion of the comfort, happiness and emotional stability of area residents.
- (e) Permitted concealment or enclosure of junked motor vehicles is regulated as follows:
- (1) One junked motor vehicle, in its entirety, can be located in the established rear yard as defined by appendix A to this Code if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering. The code enforcement officer or other designated official is empowered to determine whether any junked

motor vehicle is adequately concealed as required by this provision. The covering must remain in good repair and must not be allowed to deteriorate. Acceptable coverings include but are not limited to a commercially manufactured canvas covering specifically made to fit the vehicle or a canvas tarp which is securely fastened around the vehicle.

- (2) If there is more than one junked motor vehicle, any other junked motor vehicles must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicles cannot be seen from a public street or abutting property.

(Ord. No. 344, § 5-27, 9-11-1997)

Sec. 12-84. Removal of abandoned, nuisance and junked motor vehicles; pretowing notice requirements.

(a) Except as set forth in section 12-85, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice shall retain a written record to show the name and address to which mailed, and the date mailed. In addition, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the town after a specified date (no sooner than fifteen calendar days after the notice is affixed). Such notice shall state that the vehicle will be removed by the town after a specified date, no sooner than fifteen calendar days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

(b) With respect to abandoned vehicles on private property, nuisance vehicles and junked motor vehicles to which notice is required to be given, the registered owner or person entitled to possession has a right to appeal to the board of commissioners. If such person does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle, or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, such appeal shall be made to the board of commissioners, in writing, and filed with the code enforcement officer no later than fifteen calendar days after the notice of violation was posted on the vehicle. The appeal shall be heard at the next regularly scheduled meeting of the board of commissioners, and further proceedings to remove the vehicle or assess civil penalties shall be stayed until the appeal is heard and decided.

(Ord. No. 344, § 5-28, 9-11-1997)

Sec. 12-85. Exceptions to pretowing notice requirement.

The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include:

- (1) *Vehicles abandoned on the streets.* For vehicles left on public streets and highways, the board of commissioners determines that immediate removal of such vehicles may be warranted when they are:

- a. Obstructing traffic;
- b. Parked in violation of an ordinance prohibiting or restricting parking;
- c. Parked in a no stopping or standing zone;
- d. Parked in loading zones;
- e. Parked in bus zones; or
- f. Parked in violation of temporary parking restrictions imposed under other Code sections.

(2) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on town-owned property other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

(Ord. No. 344, § 5-29, 9-11-1997)

Sec. 12-86. Post-towing notice requirements.

(a) Any abandoned, junked or nuisance motor vehicle which has been ordered removed may, as directed by the town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the town. Whenever an abandoned, nuisance or junked motor vehicle is removed, the code enforcement officer or other designated employee shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

- (1) A description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation which caused the vehicle to be towed;
- (4) The procedure the owner must follow to redeem the vehicle;
- (5) The procedure the owner must follow to request a probable cause hearing on the removal; and
- (6) The possible sale or other disposition that may be made of the vehicle under this section.

(b) The town shall attempt to give notice to the violation owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in subsection (a)(1)--(6) of this section shall also be mailed to the registered owner's last known address, unless this notice is waived

in writing by the vehicle owner or his agent.

(c) If the vehicle is registered in the state, notice shall be given within 24 hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within 72 hours from the removal of the vehicle.

(d) Whenever an abandoned, nuisance or junked motor vehicle is removed, and that vehicle has no valid registration or registration plates, the authorizing town official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information set forth in subsection (a)(1)--(6) of this section.

(Ord. No. 344, § 5-30, 9-11-1997)

Sec. 12-87. Right to probable cause hearing before sale or final disposition of vehicle.

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, and before the sale or disposition, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated by the chief district court judge to receive such hearing requests. The magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. 20-219.11.

(Ord. No. 344, § 5-31, 9-11-1997)

Sec. 12-88. Redemption of vehicle during proceedings.

At any stage during the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violation of this article.

(Ord. No. 344, § 5-32, 9-11-1997)

Sec. 12-89. Sale and disposition of unclaimed vehicle.

Any abandoned, junked or nuisance motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the town and in accordance with G.S. 44A-1 et seq.

(Ord. No. 344, § 5-33, 9-11-1997)

Sec. 12-90. Conditions on removal of vehicles from private property.

As a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of that property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the town from private property without a written request of the owner, occupant or lessee of the property except in the cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the code enforcement officer. The town may require any person requesting

the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the town against any loss, expense or liability incurred because of the removal, storage or sale of the vehicle.
(Ord. No. 344, § 5-34, 9-11-1997)

Sec. 12-91. Exceptions.

Nothing in this article shall apply to any vehicle which is:

- (1) Located in a bona fide automobile graveyard or junkyard as defined in G.S. 136-143, in accordance with the Junkyard Control Act, G.S. 136-141 et seq.;
- (2) In an enclosed building as described in section 12-83;
- (3) On the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise;
- (4) In an appropriate storage place or depository maintained in a lawful place and manner by the town; and

- (5) A junked vehicle and used on a regular basis as a vehicle for business or personal use.

(Ord. No. 344, § 5-35, 9-11-1997)

Sec. 12-92. Unlawful removal of impounded vehicle.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any vehicle which has been impounded pursuant to the provision of this article unless and until all towing and impoundment fees which are due, or bond in lieu of such fee, have been paid.

(Ord. No. 344, § 5-36, 9-11-1997)

Sec. 12-93. Changes in law.

Should G.S. 160A-303, 160A-303.2 or any other section of the General Statutes incorporated by reference or otherwise referred to in this article be changed or amended or should such statutes require or mandate a different procedure or change or impose new, different or additional requirements, this article shall be deemed to have been amended without further action to have complied with such new, additional or amended regulations.

(Ord. No. 344, § 5-37, 9-11-1997)

Sec. 12-94. Protection against criminal or civil liability.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of such vehicle as provided in this article.

(Ord. No. 344, § 5-38, 9-11-1997)

12-95. Civil Penalties. Notwithstanding the other remedies available to the Town under this Article, but prior to the Town’s removal and/or sale or disposition of a vehicle hereunder, any violation of this Article or the failure to abide by any lawful order issued pursuant to this Article shall be punishable as provided herein:

1. Notwithstanding Sections 1-11(b) and (f) of the Town of Mint Hill Code of Ordinances, in accordance with the requirements of G.S. § 160A-175(b), it is expressly declared that violation of any provision hereof or a failure to comply with any of its requirements or orders issued hereunder shall not be considered a misdemeanor or infraction under G.S. § 14-4 or § 14-3.1, but shall constitute a civil offense and shall subject the offender to a civil penalty as set forth herein. After Notice of Violation/Warning Citation has been issued and the violation is not corrected at the end of 15 calendar days, a Civil Citation shall be issued and civil penalties assessed as set forth in the table below.

NOTICE OF VIOLATION (NOV) OR INITIAL WARNING	
Opportunity to Appeal to the Board of Commissioners within 15 days of NOV or initial warning	
CITATION	CIVIL PENALTY AMOUNT
<u>First Penalty Citation</u>	\$ 50.00
The fine shall be paid within 15 days and the violation shall be corrected within 15 days from citation.	
<u>Second Penalty Citation</u>	\$ 100.00
Issued after 15 days for on-going failure to abate and the violation shall be corrected within 15 days from citation.	
<u>Third Penalty Citation</u>	\$ 300.00
Issued after 15 days for on-going failure to abate and the violation shall be corrected within 15 days from citation.	
<u>Fourth Penalty Citation*</u>	\$ 500.00
Issued after 15 days for on-going failure to abate.	*per day for each day the nuisance continues

Any person violating this article shall be issued a warning citation and in the event of failure to abate, a subsequent civil penalty citation per the procedures set forth in Sections 1-11(h), (i) and (j) of the Town of Mint Hill Code of Ordinances. Any citation for a violation may be issued by any police officer, Town Manager, Building Inspection Officer, Code Enforcement Officer or such other office as is charged from time to time by the Board of Commissioners with the enforcement of this article. However, the Town Manager or his or her designee in his or her sole discretion may 1) reduce a civil penalty assessed based upon the totality of the circumstances, or 2) withhold issuance of a civil penalty citation in the event a property owner has commenced in good faith to remedy the violation but has not completed doing so at the expiration of the initial fifteen (15) day warning period.

2. Each day's continuing violation after the deadline set forth in the Third Civil Penalty citation notice shall be a separate and distinct offense for purposes of the penalties and remedies set forth herein.

12-96 Appeal.

With respect to any violation for which a Notice of Violation or Warning Citation notice was given, the owner, occupant or person in possession of the premises has a right to appeal to the Board of Commissioners. Such appeal shall be made to the Board of Commissioners, in writing, and filed with the code enforcement officer no later than fifteen (15) calendar days after the date of the Notice of Violation or Warning Citation. The appeal shall be heard at the next regularly scheduled meeting of the Board of Commissioners, and except in cases of imminent danger or circumstances that pose a substantial threat to the health and safety of citizens, further proceedings to remove the vehicle or issue a civil penalty shall be stayed until the appeal is heard and decided.