

TOWN OF MIDWAY – ORDINANCE REPORT

	Ordinance	Penalties for Violation
1	<p>Flood Damage Prevention Ordinance Promotes public health, safety and general welfare and to minimize public and private losses due to flood conditions within flood prone areas.</p>	<p>Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements, shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Midway from taking such other lawful action as is necessary to prevent or remedy any violation.</p>
2	<p>Junked Motor Vehicles Ordinance Allows for 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. Also allows for the removal of “abandoned,” “nuisance” or “junked motor vehicles” located on private property.</p>	<p>Abandoned Vehicle Unlawful (G.S. 160A-303) – Removal Authorized (a) 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 as the term is defined herein. (b) Upon investigation, proper authorized officials of the Town may determine that a vehicle is abandoned and order the vehicle removed.</p> <p>Nuisance Vehicle Unlawful – Removal Authorized (a) 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. (b) Upon investigation, the Mayor or Town Administrator may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.</p> <p>Junked Motor Vehicle – Removal Authorized (a) 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 junked motor vehicle is located to leave or allow the vehicle to remain on the property after it has ordered removed. (b) It shall be unlawful to have more than one junked motor vehicle, as defined herein, on the premises of public or private property. A single, permitted junked motor vehicle must strictly comply with the location 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</p>

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		<p>junked motor vehicle is located to fail to comply with the location requirements or concealment requirements of this section.</p> <p>(d) Subject to the provisions of subsection (e), upon investigation, the Mayor or Town Administrator may order the removal of a junked motor vehicle as defined in this ordinance after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such findings 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:</p> <ol style="list-style-type: none"> (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. <p>(e) One junked motor vehicle, in its entirety, can be located in the rear yard as defined by the Town's Zoning Ordinance if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering. The Mayor or Town Administrator has the authority 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. The covering or enclosure must be compatible with the objectives stated in the preamble of this ordinance. Any additional junked motor vehicle(s) on the same property must be kept in a garage or building structure means either 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.</p>
3	<p>Noxious Growth Ordinance</p> <p>Controls of noxious growth of grass, plant materials and noxious weeds on residential, business or vacant lots.</p>	<p>If the owner(s) of the premises fails, neglects, or refuses to abate the conditions constituting the nuisance as set out in the abatement order, within the 10 day abatement period, and if an appeal has not been timely requested, the Town Manager may have the conditions abated by either Town employees or by a contractor under the supervision of the Town. Under this chapter, Town employees or a contractor under the supervision of the Town shall have the authority to enter said premises for the express and sole purpose of abating the public nuisance identified in the abatement order.</p>

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		<p>(A) The property owner will be liable for all costs incurred by the Town for abatement actions pursuant to the immediately preceding section. Such costs may include an administrative fee not to exceed \$100.00 per abatement order issued. The Town Finance Officer shall send via first class mail a statement of such costs to the owner(s). Such costs shall be due and payable within 30 days from the date such statement is mailed.</p> <p>(B) All costs incurred by the Town in connection with the abatement of a nuisance shall be a lien upon the land or premises where the nuisance occurred. Such shall have a lien priority in the nature of ad valorem taxes and may be collected in the same manner as unpaid ad valorem taxes. See G.S. 160A-193.</p> <p>(C) All costs incurred by the Town in connection with the abatement of a nuisance is also a lien on any other real property owned by the person in default within the city limits or within one mile of the city limits, except for the person's primary residence. Such lien is inferior to all prior liens and shall be collected as a money judgment. The lien of this subsection (C) shall not apply if the person in default can show that the nuisance was created solely by the actions of another. See G.S. 160A-193.</p>
3	<p>Solid Waste Ordinance Control of waste and littering on public and private property.</p>	<p>(A) The Town may exercise remedies for violation of any provision of this ordinance as allowed and authorized by G.S. 160A-175 that provides that violation of a municipal ordinance is a misdemeanor, that the Town may levy a civil penalty for violations, and that the ordinance may be enforced by equitable remedies such as injunction or by criminal process as such as injunction or as any person, firm or corporation violating any of the provisions of this ordinance shall be guilty of a misdemeanor as described in G. S. 14-4 or may be prosecuted pursuant to G. S. 14-399 if applicable. Under G.S. 14-4, each day's continuing violation shall be a separate and distinct offense.</p> <p>(B) A citation may be issued to any person if there is probable cause to believe that the person has violated any provision of this ordinance. Citations so issued may be served upon the violator in person by the Planning Director or mailed to the person by certified mail if the person cannot be readily found. Any citation so served or mailed shall direct the violator to make payment of the fine on or before a specified day and hour to the Davidson County Finance Department and to present evidence of the remedy of any violation of this ordinance within a period of not less than 72 hours after service or</p>

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		<p>delivery to the violator to the Davidson County Planning Department. If served by certified mail, the violator shall have six days after the return receipt date to respond to the citation. Appeals from any citation or order may be addressed in writing to the Planning Director within the above-mentioned time frames.</p> <p>(C) If the violator does not respond to the citation, the Planning Director shall forthwith proceed with enforcement remedies as described in G.S. 160A-175 or criminal sanctions as described in G. S. 14-4 or 14-300 against the person.</p> <p>(D) A warning may be issued by the Planning Director without fine when the officer is of the opinion that a violation of this ordinance may be remedied without the necessity of prosecution; however, a warning citation may not be issued in the case where public health and/or safety are endangered.</p> <p>(E) Civil penalties for any violation of this ordinance are as follows:</p> <ul style="list-style-type: none"> (a) First offense: \$75; (b) Second offense: \$200; and (c) Third offense: \$300. (d) A citation may be issued for multiple violations and the violator assessed the sum of the penalties for each offense. <p>(F) A civil penalty of \$500 may be assessed for flagrant and willful violation. A violation may constitute grounds for the Planning Director to seek injunctive relief</p>
4	<p style="text-align: center;">Subdivision Ordinance</p> <p>Establishes procedures and standards for the development and subdivision of land within the territorial jurisdiction of the Town of Midway</p>	<p>After the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this ordinance, thereafter subdivides his 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 the terms of this ordinance and recorded in the office of Davidson County Register of Deeds, shall be guilty of a misdemeanor. The descriptions by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town, through its attorney or other official designated by the Town Council, may enjoin illegal subdivision, transfer of sale of land by action for injunction. Further violators of this ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G. S. 14-4.</p>

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5	<p style="text-align: center;">Watershed Ordinance</p> <p>Includes surface water standards and protections that are consistent with Statewide Administrative Code Title 15, Chapter 02B.0215, applicable to WS-III Watershed development areas located within the Town of Midway. All development within the designated boundaries must obtain watershed permits as part of the development process.</p>	<p>Section 104: Criminal Penalties Any person violating any provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with NCGS 14-4. The maximum fine for each offense shall not exceed \$100.00 per day.</p> <p>Section 105. Remedies If any subdivision, development and/or land use is found to be in violation of this ordinance, the Midway Governing Board may institute a civil penalty in the amount of \$100.00, for action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the NC. EMC may assess civil penalties in accordance with G. S. 143-215.G(a).</p> <p>If the Watershed Administrator finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures, removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Review Board.</p>
6	<p style="text-align: center;">Zoning Ordinance</p> <p>Establishes zoning regulations for designated portions of the Town of Midway in accordance with G.S. 160A-Article 19.</p>	<p>Section 8.05 – Civil Penalties – Assessment and Procedures (A) Penalties – Any person who violates any provisions of this ordinance shall be subject to assessment of a civil penalty in the amount of twenty-five dollars (\$25.00) for the first violation; fifty dollars (\$50.00) for the second violation; one hundred dollars (\$100.00) for the third violation; and two hundred dollars (\$200.00) for the fourth and succeeding violations thereafter. Any penalties assessed shall be stayed during an appeal process until all appeals are resolved.</p> <p>(B) Notice – No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation in accordance with Section 8.02 (Notice of Violation). If after receiving a notice of violation, the owner or other violator fails to take corrective action within five (5) days, a civil penalty may be imposed under this Section in the form of a citation. The citation shall be served in the manner of a Notice of Violation.</p>

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	<p>The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator and shall direct the violator to pay the civil penalty within fifteen (15) days of the notice.</p> <p>(C) Responsible Parties – The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this ordinance may be held responsible for the violation and subject to the civil penalties and remedies herein provided.</p> <p>(D) Continuing Violation – For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.</p> <p>(E) Demand for Payment – The Zoning Administrator shall make written demand for payment upon the property owner or the person in violation and shall set forth in detail a description of the violation for such the civil penalty has been imposed.</p> <p>(F) Settlement – The Zoning Administrator, in conjunction with legal counsel, may negotiate for the equitable settlement of fine levied herein, so long as the violation in question has been remedied.</p> <p>(G) Nonpayment of Penalties – If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty.</p> <p>Section 8.06 - Other Powers and Action</p> <p>(A) State and Common Law Remedies – In addition to other enforcement provisions contained in this ordinance, the Governing Body may exercise any and all enforcement powers granted to it by G.S. 153A-123 or common law.</p> <p>(B) Previous Enforcement – Nothing in this ordinance shall prohibit the continuation of previous enforcement actions.</p>
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