City Ordinance concerning Junk Vehicles

[PORT LAVACA POLICE DEPARTMENT](https://www.facebook.com/PortLavacaPD/)·[THURSDAY, MARCH 8, 2018](https://www.facebook.com/notes/port-lavaca-police-department/city-ordiance-concerning-junk-vehicles/2177810775570389/)

ARTICLE V. - JUNK VEHICLES, ABANDONED MOTOR VEHICLES, JUNKED BOATS, JUNKED TRAILERS, JUNKED TOWABLE RECREATIONAL VEHICLES[4]

Footnotes:

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Editor's note— Ord. No. G-5-16 , § 1, adopted April 11, 2016, changed the title of art. V from "Junk Vehicles" to read as herein set out.

State Law reference— Abandoned motor vehicles, V.T.C.A., Transportation Code ch. 683.

Sec. 20-95. - 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:

Abandoned motor vehicle means a motor vehicle that:

(1) Is inoperable, is more than five years old, and has been left unattended on public property for more than 48 hours;

(2 Has remained illegally on public property for more than 48 hours;

(3) Has remained on private property without the consent of the owner or person in charge of the property for more than 48 hours;

(4) Has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours;

(5) Has been left unattended for more than 24 hours on the right-of-way of a turnpike project constructed and maintained by the Texas Turnpike Authority division of the Texas Department of Transportation or a controlled access highway; or

(6) Is considered an abandoned motor vehicle under V.T.C.A., Transportation Code § 644.153(r).

Controlled access highway means the definition assigned by V.T.C.A., Transportation Code § 541.302.

Director means the person in charge of the department designated by the city manager to administer this article or the director's authorized representative.

Junk means an abandoned motor vehicle, junked boat, junked trailers, junked towable recreational vehicles and junked vehicle, all as defined in this article, collectively.

Junked boats, trailers, towable recreational vehicle.

(1) The term "junked boats or trailers" means any boat or trailer which does not have lawfully affixed thereto both an unexpired license plate or plates and a valid registration certificate, or the condition of which is one or more of the following:

a. Wrecked;

b. Dismantled;

c. Partially dismantled;

d. Inoperative;

e. Abandoned; or

f. Discarded.

(2) Junked towable recreational vehicle means a non-motorized vehicle that:

a. Is designed:

1. To be towable by a motor vehicle; and

2. For temporary human habitation for uses including recreational camping or seasonal use;

b. Is permanently built on a single chassis;

c. May contain one or more life-support systems; and

d. May be used permanently or temporarily for advertising, selling, displaying, or promoting merchandise or services, but is not used for transporting property for hire or for distribution by a private carrier.

e. Which does not have lawfully affixed thereto both an unexpired license plate or plates and a valid registration certificate, or the condition of which is one or more of the following:

1. Wrecked;

2. Dismantled;

3. Partially dismantled;

4. Inoperative;

5. Abandoned; or

6. Discarded.

(3) The term "junked boats, trailers or towable recreational vehicles" does not apply to:

a. Any boat, trailer or towable recreational vehicle in the process of being constructed or repaired; or

b. Any boat, trailer or towable recreational vehicle stored as the property of a member of the Armed Forces of the United States who is on active duty assignment.

Junked vehicle means a vehicle that is self-propelled, and:

(1) Does not have lawfully attached to it:

a. An unexpired license plate; and

b. A valid motor vehicle inspection certificate; and

(2) Is:

a. Wrecked, dismantled or partially dismantled, or discarded; or

b. Inoperable and has remained inoperable for more than:

1. 72 consecutive hours, if the vehicle is on public property; or

2. 30 consecutive days, if the vehicle is on private property.

Motor vehicle means every vehicle which is self-propelled.

Nuisance means junk which is located in any place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public, tending to reduce the value of private property, to invite vandalism, to create fire hazards, to constitute attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the state, by producing urban blight which is adverse to the maintenance and continuing development of the municipalities in the state, and such items are declared to be a public nuisance.

Vehicle.

(1) The term "vehicle" means every mechanical device, in, upon or by which any person or property is or may be transported or drawn upon a public highway, including motor vehicles, commercial motor vehicles, truck-tractors, and semitrailers.

(2) The term "vehicle" does not include devices moved by human power or used exclusively upon stationary rails or tracks.

(Ord. No. G-8-04, § 1, 11-8-2004; Ord. No. G-5-16 , § 1, 4-11-2016)

Sec. 20-96. - Penalty.

The municipal court judge shall hear any case brought before the court, as set out in section 20-100, and shall determine whether the defendant is, in fact, in violation of this article. Upon finding the defendant is in violation of this article, such defendant shall be deemed guilty of a misdemeanor and subject to a fine not to exceed $500.00. The municipal court judge shall further order the defendant to remove and abate such nuisance within ten days. If the defendant shall fail and refuse, within ten days to abate or remove the nuisance, the judge of the municipal court may issue an order to the director to have the same removed and the director shall take possession of such motor vehicle and have it removed from the premises. Each day that such a nuisance shall continue after time of abatement shall constitute a separate offense. The director shall thereafter dispose of such junk as the city may provide, consistent with state law, and such vehicle shall not be reconstructed or made operable.

(Ord. No. G-8-04, § 7, 11-8-2004; Ord. No. G-5-16 , § 1, 4-11-2016)

Sec. 20-97. - Unlawful to maintain a nuisance; exceptions.

It shall be unlawful for any person to cause or maintain a public nuisance on the real property of another or to suffer, permit or allow any nuisance to be left or maintained on his own real property; provided that this section shall not apply with regard to:

(1) Any junk in an enclosed building;

(2) Any junk, or a part thereof, parked or stored in a lawful manner on private property in connection with the business of a licensed vehicle dealer or licensed junkyard;

(3) Any junk in an appropriate storage place or depository maintained at a location officially designed and in the manner approved by the city; and

(4) Any accumulation of junk by a duly licensed junk dealer.

(Ord. No. G-8-04, § 2, 11-8-2004; Ord. No. G-5-16 , § 1, 4-11-2016)

Sec. 20-98. - Nuisance declared.

Junk which is located on any private lot, tract or parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, visible from any public place or right-of-way or other public property within the city, is detrimental to the safety and welfare of the general public, tending to reduce the value of private property, to invite vandalism, to create a fire hazard, to constitute an attractive nuisance creating a hazard to health and safety of minors, and is detrimental to the economic welfare of the state and by producing urban blight which is adverse to the maintenance and continuing development of the municipalities of the state and therefore such junk is declared a public nuisance.

(Ord. No. G-8-04, § 3, 11-8-2004; Ord. No. G-5-16 , § 1, 4-11-2016)

Sec. 20-99. - Notice.

(a) Not less than ten days' notice of the nature of the nuisance and its location must be personally delivered, sent by certified mail with a five-day return requested, or delivered by the United States Postal Service with signature confirmation service to:

(1) The last known registered owner of the nuisance;

(2) Each lienholder of record of the nuisance; and

(3) The owner or occupant of:

a. The property on which the nuisance is located; or

b. If the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.

(b) The notice shall order that such junk be removed and the nuisance abated within ten days. The notice shall further state that if a hearing is desired, a request for such hearing must be made not later than the date by which the nuisance must be abated and removed. If the post office address of the last known registered owner of the junk is unknown the notice may be placed on the junk, or, if the last known registered owner is physically located, the notice may be hand delivered.

If the owner or occupant of the premises fails or refuses to comply with the order of the director within the ten-day period after service thereof, the judge may issue an order authorizing the director to take possession of the junk and remove it. If the notice is returned undelivered by the United States Postal Service, official action to abate the nuisance shall be continued to a date not less than ten days after the date of return.

(Ord. No. G-8-04, § 4, 11-8-2004; Ord. No. G-5-16 , § 1, 4-11-2016)

Sec. 20-100. - Removal—By court order.

If there is junk on public property, on private premises that is occupied or unoccupied, or on the public right-of-way adjacent to the occupied or unoccupied premises and the owner or occupant of the premises cannot be found and notified to remove the junk, then, upon showing of the facts to the municipal court judge, the court may issue an order to the director to have the junk removed, and the director shall take possession of the junk and remove it. If the notice in section 20-99 is returned undelivered by the United States Postal Service, then after ten days from the date of return and after notice is published, the court may issue an order to the director to have the junk removed and the director shall take possession of the junk and have it removed. The director shall thereafter dispose of the junk in a manner provided by state law.

(Ord. No. G-8-04, § 5, 11-8-2004; Ord. No. G-5-16 , § 1, 4-11-2016)

Sec. 20-101. - Same—Hearing.

(a) The owner or occupant of the premises, or the owner or occupant of the premises adjacent to the public right-of-way on which the junk is located, may, within the ten-day period, after service of notice to abate the nuisance, request to the municipal court clerk, in person or in writing, and without the requirement of bond that a date and time be set when he can appear before the judge of the municipal court for a public hearing to determine whether he is in violation of this article. The public hearing shall not constitute a criminal action against the person, but shall merely be a finding of fact to determine the legal status of the junk in question. At the hearing, it is presumed that the junk is inoperable unless demonstrated otherwise by the owner.

(b) If a hearing is requested within ten days after notice to abate the nuisance, the director shall not order the removal of the junk until ordered to do so by the municipal court judge. If at the hearing the municipal court judge finds that the junk in question is junk, he shall order that the junk be rehabilitated or removed within ten days from the date of the hearing and shall sign an order allowing the director to remove the junk after the tenth day. If the municipal court judge finds that the junk is

not in violation of this article, no further action against the junk until such time as the status of the junk has changed.

(c) A resolution or order requiring the removal of junk must include a description of the junk and the correct identification number and license number of the junk if the information is available at the site.

(d) If the owner or occupant of the premises fails to either remove and abate the nuisance or request a hearing within ten days after service of the notice to abate the nuisance then the director may, upon showing proof to the municipal court judge, and obtaining an order thereof, cause the removal of the junk. The director may at any time cause to be filed a complaint in the municipal court for the violation of maintaining a public nuisance.

(Ord. No. G-8-04, § 6, 11-8-2004; Ord. No. G-5-16 , § 1, 4-11-2016)

Sec. 20-102. - Same—Permission of owner.

If, within ten days after receipt of notice from the director to abate the public nuisance, the owner or occupant of the premises shall give written permission to the director for removal of the junk, the director is authorized to accept such permission and withdraw and not pursue a criminal complaint based on such junk.

(Ord. No. G-8-04, § 8, 11-8-2004; Ord. No. G-5-16 , § 1, 4-11-2016)

Sec. 20-103. - Same—Vehicle not to be reconstructed or made operable again.

After any junk is removed under the authority of this article, it shall not be reconstructed or made operable again.

(Ord. No. G-8-04, § 9, 11-8-2004; Ord. No. G-5-16 , § 1, 4-11-2016)

Sec. 20-104. - Notice of removal given to state highway department.

Within five days after the date of the removal of any junk under the authority of this article, notice shall be given to the state highway department, identifying the junk or part thereof.

(Ord. No. G-8-04, § 10, 11-8-2004; Ord. No. G-5-16 , § 1, 4-11-2016)

Sec. 20-105. - Applicability.

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

Antique vehicle means a passenger car or truck that is at least 25 years old.

Motor vehicle collector means a person who:

(1) Owns one or more antique or special interest vehicles; and

(2) Acquires, collects or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Special interest vehicle means a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

(b) This article shall not apply to a vehicle or vehicle part:

(1) That is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or

(2) That is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:

a. Maintained in an orderly manner;

b. Not a health hazard; and

c. Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

(Ord. No. G-8-04, § 11, 11-8-2004)

Sec. 20-106. - Immediate removal permitted when on public property or obstructing traffic.

Nothing in this article shall affect ordinances that permit the immediate removal of junk that is on public property, which constitutes a danger or obstruction to traffic.

(Ord. No. G-8-04, § 12, 11-8-2004; Ord. No. G-5-16 , § 1, 4-11-2016)

Sec. 20-107. - Enforcement.

The director or his agent may enter upon private property for the purposes specified in this article to examine junk or parts thereof, obtain information as to the identity junk and to remove or cause to be removed junk or parts thereof declared to be a nuisance pursuant to this article. The municipal court shall have the authority to issue all orders necessary to enforce this article.

(Ord. No. G-8-04, § 13, 11-8-2004; Ord. No. G-5-16 , § 1, 4-11-2016)

Sec. 20-108. - License to maintain junk.

(a) Required; application; fee.

(1) Any person desiring to use or maintain any property for the accumulation of junk, within the city shall make a written application to the city inspections department for a license which said application shall set forth the name and address of the applicant and a legal description of the property or premises upon which said business is to be conducted, and the city building official, or his duly authorized representative, shall have the power either to grant or reject such application. No license shall be granted to any applicant unless such applicant is in full compliance with the Highway Beautification Act.

(2) There is a fee as established in appendix A to this Code to obtain a license to operate such business, and any license so issued shall expire on January 1 next succeeding the date of its issuance, but may be renewed from year-to-year in like manner as is provided for the original license.

(b) Operation and maintenance. Any person granted a license as provided for in subsection (a) of this section shall keep the premises used in the operation and maintenance of said business in a neat and orderly condition. The property and premises on which such business is conducted shall be enclosed in a tight board fence at least ten feet high, and said fence shall be kept in a neatly painted

condition and no junk of any character, or parts, or machinery of any kind shall be allowed to remain outside such fence.

(c) Revocation. The city council shall have the power to revoke the license provided for in subsection (a) of this section at any time for good cause, but only after notice has been given to the owner of the business of a hearing to be held not less than ten days after service of such notice.

(Ord. No. G-8-04, §§ 14—16, 11-8-2004; Ord. No. G-5-16 , § 1, 4-11-2016)

Sec. 20-109. - Administration.

The administration of this article shall be by regularly salaried, fulltime employees of the city, except that the removal of junk or other property may be by other duly authorized persons.

(Ord. No. G-8-04, § 17, 11-8-2004; Ord. No. G-5-16 , § 1, 4-11-2016)

Secs. 20-110—20-128. - Reserved.