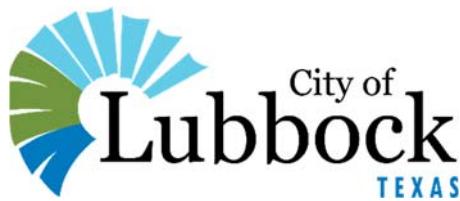


Brooks Jones, Chair
Garrott Nalle, Vice Chair
Cecile Garcia
Thomas Hawkins
Donald Stubbs



Courtney Paz, City Secretary
Jimmy Maynard, Deputy City
Secretary
Ryan Brooke, Assistant City
Attorney

Permit & License Appeal Board

Agenda

September 20, 2023

11:30 A.M.

Citizens Tower
2nd Floor, Room 201A/B, 1314 Avenue K, Lubbock, Texas

Permit & License Appeal Board meetings are available to all persons regardless of disability. If you require special assistance, please contact the Office of the City Secretary at 806.775.2061, e-mail ocs@mylubbock.us, or write to Post Office Box 2000, Lubbock, Texas 79457 at least 48 hours in advance of the meeting.

1. Call to order
2. Public Comment - Any citizen wishing to appear before a regular meeting of the Permit & License Appeal Board regarding any matter posted on the Permit & License Appeal Board Agenda may speak.
3. Minutes
 - 3.1 August 10, 2023 Permit & License Appeal Board Meeting
4. Regular Session
 - 4.1 Junked Vehicle Determinations – May be enacted by one motion without separate discussion. If the Permit & License Appeal Board desires to discuss an item, the item is removed and considered separately.
 - 4.1.1 Case No. JV-2023-000576 of Inspector Mike Baker regarding one (1) vehicle at 3410 25th Street
 - 4.1.2 Case No. JV-2023-000614 of Inspector Cynthia Perez regarding one (1) vehicle at 3011 Duke Street
 - 4.1.3 Case No. JV-2023-000625 of Inspector Lisa Lavender regarding one (1) vehicle at 6505 Avenue Q
 - 4.1.4 Case No. JV-2023-000634 of Inspector Tyler Brewer regarding one (1) vehicle at 207 N. Avenue R
 - 4.1.5 Case No. JV-2023-000644 of Inspector Ysenia Vargas regarding one (1) vehicle at 4207 36th Street

- 4.1.6 Case No. JV-2023-000646 of Inspector Ysenia Vargas regarding one (1) vehicle at 4207 36th Street
- 4.1.7 Case No. JV-2023-000661 of Inspector Dan Tawney regarding one (1) vehicle at 6804 Rochester Avenue
- 4.1.8 Case No. JV-2023-000666 of Inspector Cynthia Perez regarding one (1) vehicle at 3219 1st Street
- 4.1.9 Case No. JV-2023-000673 of Inspector Billy Wootan regarding one (1) vehicle at 1310 33rd Street
- 4.1.10 Case No. JV-2023-000674 of Inspector Mike Baker regarding one (1) vehicle at 2519 25th Street
- 4.1.11 Case No. JV-2023-000677 of Inspector Mike Baker regarding one (1) vehicle at 2519 25th Street
- 4.1.12 Case No. JV-2023-000697 of Inspector Randy Merrick regarding one (1) vehicle at 314 Keel Avenue
- 4.1.13 Case No. JV-2023-000728 of Inspector Tyler Brewer regarding one (1) vehicle at 314 Buddy Holly Avenue
- 4.1.14 Case No. JV-2023-000732 of Inspector Cynthia Perez regarding one (1) vehicle at 2621 Madison Street
- 4.1.15 Case No. JV-2023-000744 of Inspector Cynthia Perez regarding one (1) vehicle at 2711 Erskine Street
- 4.1.16 Case No. JV-2023-000755 of Inspector David Hill regarding one (1) vehicle at 5401 I-27
- 4.1.17 Case No. JV-2023-000760 of Inspector Randy Merrick regarding one (1) vehicle at 214 E. 36th Street
- 4.1.18 Case No. JV-2023-000769 of Inspector Randy Merrick regarding one (1) vehicle at 224 E. 36th Street
- 4.1.19 Case No. JV-2023-000770 of Inspector Randy Merrick regarding one (1) vehicle at 224 E. 36th Street
- 4.1.20 Case No. JV-2023-000771 of Inspector Angel Padilla regarding one (1) vehicle at 6707 6th Street

- 4.1.21 Case No. JV-2023-000775 of Inspector Cynthia Perez regarding one (1) vehicle at 2402 Colgate Street
- 4.1.22 Case No. JV-2023-000790 of Inspector Mike Baker regarding one (1) vehicle at 3415 31st Street
- 4.1.23 Case No. JV-2023-000800 of Inspector Cynthia Perez regarding one (1) vehicle at 2820 Emory Street
- 4.1.24 Case No. JV-2023-000801 of Inspector Randy Merrick regarding one (1) vehicle at 3111 Teak Avenue
- 4.1.25 Case No. JV-2023-000802 of Inspector Lisa Lavender regarding one (1) vehicle at 6113 Sherman Avenue
- 4.1.26 Case No. JV-2023-000823 of Inspector Billy Wootan regarding one (1) vehicle at 1725 24th Street
- 4.1.27 Case No. JV-2023-000872 of Inspector Angel Padilla regarding one (1) vehicle at 7439 18th Street
- 4.1.28 Case No. JV-2023-000886 of Inspector Billy Wootan regarding one (1) vehicle at 1913 23rd Street

**Permit & License Appeal Board
Minutes**
City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas
August 10, 2023
2:00 P.M.

Board Members Present

Brooks Jones, Chair
Garrott Nalle, Vice Chair
Cecile Garcia
Thomas Hawkins
Donald Stubbs

Staff Members Present

Courtney Paz, City Secretary
Jimmy Maynard, Deputy City Secretary
Ryan Brooke, Assistant City Attorney
Mary Falcon, Management Assistant

1. Call Meeting to Order

Brooks Jones, chair, called the meeting to order at 2:02 p.m.

2. Public Comment

No one appeared to speak.

3. Executive Session

The meeting recessed at 2:03 p.m. and reconvened in Executive Session under the provisions of Section 551, Texas Government Code. The Permit & License Appeal Board recessed from Executive and reconvened in open session at 3:06 p.m.

3.1 Hold an executive session in accordance with Texas Government Code, Section 551.071, with legal counsel for advice about pending or contemplated litigation or settlement agreement and on matters in which the duty of the attorney under the Texas Disciplinary Rules of Professional Conduct conflicts with Chapter 551.

3.1.1 Process and procedures for conducting a Permit & License Appeal Board hearing.

4. Minutes

4.1. Approve the December 14, 2022 Minutes

Motion by Cecile Garcia, seconded by Garrott Nalle, to approve the December 14, 2022 Permit & License Appeal Board minutes.

Vote: 5-0 Motion carried.

5. Regular Session

5.1 Junked Vehicle Determinations

Courtney Brackeen, Code Inspector, testified that there were 24 items on the agenda; 2 items were removed from the agenda; 22 items remain in violation. Staff investigation shows in all cases that the vehicles in question are junked vehicles as defined in section 34.06.001 of the Code of Ordinances of the City of Lubbock; that the vehicles in question are not excepted from the provisions of Article 34.06 by section 34.06.006 of the Code of Ordinances of the City of Lubbock; and that the vehicles constitute public nuisances as set forth in section 34.06.009 of the Code of Ordinances and must be abated.

Code Administration has the care, custody, and control of the files which were provided for board review and staff requested a ten-day order to remove the vehicles and/or parts involving the following cases.

Items Removed from the Agenda:

ITEM 5.1.1: CASE # JV-2023-000061
ITEM 5.1.15: CASE # JV-2023-000578

Items Remaining in Violation:

ITEM 5.1.2: CASE # JV-2023-000246
ITEM 5.1.3: CASE # JV-2023-000400
ITEM 5.1.4: CASE # JV-2023-000445
ITEM 5.1.5: CASE # JV-2023-000455
ITEM 5.1.6: CASE # JV-2023-000482
ITEM 5.1.7: CASE # JV-2023-000489
ITEM 5.1.8: CASE # JV-2023-000513
ITEM 5.1.9: CASE # JV-2023-000522
ITEM 5.1.10: CASE # JV-2023-000535
ITEM 5.1.11: CASE # JV-2023-000545
ITEM 5.1.12: CASE # JV-2023-000548
ITEM 5.1.13: CASE # JV-2023-000552
ITEM 5.1.14: CASE # JV-2023-000559
ITEM 5.1.16: CASE # JV-2023-000579
ITEM 5.1.17: CASE # JV-2023-000586
ITEM 5.1.18: CASE # JV-2023-000590
ITEM 5.1.19: CASE # JV-2023-000594
ITEM 5.1.20: CASE # JV-2023-000599
ITEM 5.1.21: CASE # JV-2023-000636
ITEM 5.1.22: CASE # JV-2023-000638
ITEM 5.1.23: CASE # JV-2023-000640
ITEM 5.1.24: CASE # JV-2023-000706

Motion by Garrott Nalle, seconded by Cecile Garcia, to approve that a ten-day removal or tow order be issued for the items remaining in violation.

Vote: 5-0 Motion carried.

4.2 Discussion regarding future Permit & License Appeal Board meeting dates and times.

There was consensus among the board to schedule meetings on the 3rd Wednesday of each month at 11:30 a.m. for the remainder of 2023.

3:14 p.m. Permit & License Appeal Board Adjourned.

There being no further business to come before the Permit & License Appeal Board, Mr. Jones adjourned the meeting.

The August 10, 2023 Permit & License Appeal Board minutes were approved on September 20, 2023.

Brooks Jones, Chair

Courtney Paz, City Secretary

ARTICLE 34.06
JUNKED VEHICLES¹

§ 34.06.001. Definitions.

As used in this article:

Antique auto. A passenger car or truck that is at least 25 years old.

Junked vehicle. Any motor vehicle as defined in chapter 683 of the Transportation Code, subchapter E, section 683.071, Vernon's Texas Civil Statutes, as amended:

- (1) A vehicle that is self-propelled and:
 - (A) Is self-propelled; and
 - (B) Is:
 - (i) Wrecked, dismantled or partially dismantled, or discarded; or
 - (ii) Inoperable and has remained inoperable for more than:
 - a. 72 consecutive hours, if the vehicle is on public property; or
 - b. 30 consecutive days, if the vehicle is on private property.
- (2) For purposes of this article, "junked vehicle" includes a motor vehicle, aircraft, or watercraft. This article applies only to:
 - (A) A motor vehicle that displays an expired license plate or does not display a license plate;
 - (B) An aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation Administration aircraft registration regulations in 14 C.F.R. part 47; or
 - (C) A watercraft that:
 - (i) Does not have lawfully on board an unexpired certificate of number; and
 - (ii) Is not a watercraft described by section 31.055, Parks and Wildlife Code.

Motor vehicle collector. 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. 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.
(Ordinance 2023-O0070 adopted 6/27/2023)

1. Editor's Note—See Corresponding Note Located In Appendix A Of This Code.

:1

§ 34.06.002

§ 34.06.002. Administration.

§ 34.06.006

The administration and enforcement of this article shall be the responsibility of the director of code enforcement, his assistants or designated city employees and such persons shall have the powers stated in subchapter E of chapter 683 of the Texas Transportation Code, as may be amended.
(Ordinance 2023-O0070 adopted 6/27/2023)

§ 34.06.003. Authority to enter private property.

The employees of the code enforcement department may enter private property to examine a public nuisance, as described in section 34.06.009, to obtain information to identify said nuisance, and to remove or direct the removal of said nuisance.

(Ordinance 2023-O0070 adopted 6/27/2023)

§ 34.06.004. Exceptions—lawfully parked or stored vehicles.

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.

(Ordinance 2023-O0070 adopted 6/27/2023)

§ 34.06.005. Vehicles obstructing traffic.

Nothing in this article shall affect ordinances or state statutes that permit immediate removal of a vehicle left on public property which constitutes an obstruction to traffic.

(Ordinance 2023-O0070 adopted 6/27/2023)

§ 34.06.006. Junked vehicles declared to be a public nuisance; adoption of procedures for abatement and removal.

- (a) Junked vehicles, as defined in this article, 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 an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the city by producing urban blight which is adverse to the maintenance and continuing development of the city; and such vehicles are, therefore, declared to be a public nuisance.
- (b) This declaration is made pursuant to Texas Transportation Code chapter 683, subchapter E. This division adopts municipal procedures that conform to Texas Transportation Code chapter 683, subchapter E for the abatement and removal from private or public property or a public right-of-way

§ 34.06.006 § 34.06.009
of a junked vehicle or part of a junked vehicle as a public nuisance.
(Ordinance 2023-O0070 adopted 6/27/2023)

§ 34.06.007. Notice.

- (a) Prior to any official action being taken to abate and remove a junked vehicle, from private or public property or a public right-of-way, the director of code enforcement shall send written notice, 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) Such notice shall state:
 - (1) The nature of the public nuisance and the nuisance must be abated and removed not later than the tenth (10th) day after the date on which the notice was personally delivered or mailed;
 - (2) Any request for a hearing must be made before that 10-day period expires; and
 - (3) That the director of code enforcement of the City of Lubbock will seek an order from the permit and license appeal board requiring the removal of such junk vehicle.
- (c) If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, personally delivered.
- (d) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

(Ordinance 2023-O0070 adopted 6/27/2023)

§ 34.06.008. Relocation of public nuisance to another location.

The relocation of a junked vehicle that is a public nuisance to another location within the city limits after a proceeding for the abatement and removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.
(Ordinance 2023-O0070 adopted 6/27/2023)

§ 34.06.009. Hearing.

- (a) A public hearing prior to the removal of a junk vehicle or part thereof under this article as a public nuisance, shall be held before the permit and license appeal board, when such a hearing is requested by the owner or occupant of the public or private premises on which said vehicle is located, or by the owner or occupant of the premises adjacent to the public right-of-way.
 - (1) The hearing shall be held not earlier than the eleventh (11th) day after the date of the service of notice to abate the nuisance.

§ 34.06.009 § 34.06.009

(2) At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

(3) The director of code enforcement, on behalf of the city, shall request that the permit and license appeal board enter an order requiring the owner or other responsible person for such junk vehicle remove said vehicle, and further ordering and authorizing the City of Lubbock to remove said vehicle in the event said vehicle is not removed by the owner or other responsible person within five (5) days from the date of said order.

(b) In the event such junk vehicle has not been removed and the public nuisance abated after due notice as set forth in section 34.06.007 of this article, a public hearing shall be held before the permit and license appeal board prior to the removal of a junk vehicle or part thereof under this article as a public nuisance.

(c) At every public hearing held by the permit and license appeal board, the board shall in each case determine the following:

(1) Whether or not the vehicle in question is a junk vehicle as defined in section 34.06.001 of the Code of Ordinances of the City of Lubbock.

(2) That the vehicle in question is not excepted from the provisions of this article by section 34.06.004 of the Code of Ordinances of the City of Lubbock.

(3) That the vehicle constitutes a public nuisance as set forth in section 34.06.006(a) of the Code of Ordinances of the City of Lubbock and should be abated.

(d) The failure to abate and remove the nuisance or failure to attend the hearing after notice constitutes a waiver by the owner and lienholders of all right, title and interest in the vehicle and their consent to disposal of the junked vehicle in accordance with the provisions of Texas Transportation Code chapter 683, subchapter E.

(e) The person in whose name a junked vehicle is last registered shall be presumed to be the owner and person in control of such vehicle for purposes of prosecution under this article. Proof of ownership may be made by production of a copy or facsimile of the registration of a vehicle with the state department of transportation or the county motor vehicle licensing department or any other licensing authority showing the name of the person to whom the license plates for the vehicle were issued. This proof shall constitute *prima facie* evidence of the fact that the person to whom such certificate of registration was issued was the owner and person in control of the junked motor vehicle determined to be a public nuisance. This presumption may be rebutted by competent evidence.

(f) In every case where the permit and license appeal board finds that the factors set forth in subsection (c) of this section exist, the board shall issue its order authorizing and requiring the director of code enforcement of the city to remove the vehicle in question. If the information is available at the location of the nuisance, an order requiring removal of the nuisance must include:

(1) For a motor vehicle, the vehicle's:

(A) Description;

(B) Vehicle identification number; and

(C) License plate number;

(2) For an aircraft, the aircraft's:

§ 34.06.009 § 34.06.013

- (A) Description; and
- (B) Federal aircraft identification number as described by Federal Aviation Administration aircraft registration regulations in 14 C.F.R. part 47; and
- (3) For a watercraft, the watercraft's:
 - (A) Description; and
 - (B) Identification number as set forth in the watercraft's certificate of number.

(Ordinance 2023-O0070 adopted 6/27/2023)

§ 34.06.010. Rules governing procedures for conduct of hearing.

The permit and license appeal board designated by the city council may adopt such rules governing the procedures for the conduct of hearings undertaken by said board not inconsistent with the terms of this article.

(Ordinance 2023-O0070 adopted 6/27/2023)

§ 34.06.011. Disposition.

- (a) If the permit and licensee appeal board orders removal of the public nuisance, the city or any duly authorized person may abate such nuisance by removal and disposal of the junked vehicle in accordance with the provisions of Texas Transportation Code chapter 683, subchapter E.
- (b) Notice shall be given by the city to the Texas Department of Transportation within five (5) days after the removal of and orders for disposal are issued for such junked vehicle, identifying the vehicle or part thereof.
- (c) Junked vehicles or parts thereof may be disposed of by removal to a scrapyard, demolishers or any suitable site operated by the city for processing as scrap or salvage in accordance with the subchapter E of chapter 683 of the Texas Transportation Code, as may be amended.
- (d) Junked vehicles which have been removed pursuant to this article shall not be reconstructed or made operable.

(Ordinance 2023-O0070 adopted 6/27/2023)

§ 34.06.012. Removal with permission.

If within ten (10) days after receipt of notice from the director of code enforcement and/or his employees, or his duly authorized agent, to abate the nuisance, as herein provided, the owner or occupant of the premises shall give his written permission to the director of code enforcement and/or his employees or his duly authorized agent for removal of the junked motor vehicle from the premises, the giving of such permission shall be considered compliance with the provisions of this article.

(Ordinance 2023-O0070 adopted 6/27/2023)

§ 34.06.013. Offense; penalty for violation; order of abatement upon conviction.

- (a) A person commits an offense if the person maintains, permits, or allows a public nuisance described by section 34.06.006(a) of this code.
- (b) Whenever such a public nuisance is found to exist within the city, the city may, without notice, pursue the filing of an immediate criminal complaint against the person or persons in violation of

§ 34.06.013
this section.

§ 34.06.013

- (c) An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.00.
- (d) Upon conviction, the court shall, in connection with its guilty finding, enter an order directing the guilty party to abate and remove the public nuisance which was the subject of the criminal complaint. Any order so entered shall take effect immediately upon conviction becoming final. If abatement is not accomplished as ordered by the court, the city is authorized to abate the nuisance and assess the reasonable costs of abatement against the guilty party.

(Ordinance 2023-O0070 adopted 6/27/2023)