

HABERSHAM COUNTY BOARD OF COMMISSIONERS
EXECUTIVE SUMMARY

SUBJECT: Amendment to Chapter 42, Article IV – Derelict Vehicles

DATE: March 5, 2025

RECOMMENDATION
 POLICY DISCUSSION
 STATUS REPORT
 OTHER

BUDGET INFORMATION:

ANNUAL- N/A
CAPITAL- N/A

COMMISSION ACTION REQUESTED ON: March 17, 2025 (First Reading)
April 21, 2025 (Second Reading)

PURPOSE: Chapter 42 – Article IV-Derelict Vehicles is a new, proposed ordinance to prohibit junked, derelict vehicles on public or private property.

BACKGROUND / HISTORY: This is a new Article IV within Chapter 42 – Offenses and Miscellaneous Provisions.

1. Inadvertently, the junk vehicle prohibition was removed in the CLDO during a past amendment. After discussing with Code Enforcement, we feel this properly needs to be in the Habersham County Code with other nuisance offenses.
2. As you may know, there are numerous derelict vehicles within unincorporated Habersham County which have become nuisances to neighboring properties.

FACTS AND ISSUES: The proposed amendment to Chapter 42, Article IV – Offenses and Miscellaneous Provisions defines and prohibits derelict vehicles on public and private property.

- a. The proposed ordinance defines and prohibits any derelict vehicle in Habersham County. Derelict vehicles are defined as any unregistered, junked, dismantled, inoperative, or abandoned vehicle.
 - b. The ordinance will prohibit any derelict vehicle on private property for more than 30 days except those within a building or those at a legal automobile repair or salvage facility.
 - c. The ordinance also prohibits the storing of derelict vehicles on public property, such as roads, for longer than three days as required by state law.
 - d. The property owner containing a derelict vehicle shall be cited to remove the vehicle. If not removed within 14 days, the owner shall appear in Magistrate Court. If not removed within ten working days of adjudication, the County will be authorized to remove the derelict vehicle and charged to the property owner. A lien may be placed on the property if not paid.
 - e. The ordinance also prohibits the storing of derelict vehicles on public property, such as roads, for longer than three days as required by state law.
 - f. Once removed from public property, the County must appraise the vehicle within ten days. If valued at \$500 or less, the County may dispose of the vehicle. If valued at more than \$500, the County may hold a public sale.
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- g. The vehicle owner may redeem an impounded vehicle prior to disposal or public sale by paying the removal expenses plus \$10.00 per day storage fee.

OPTIONS:

1. Approval of the proposed amendment
 2. Denial of proposed amendment
 3. Commission defined alternative
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RECOMMENDED SAMPLE MOTION: I motion to approve the amendment to Chapter 42 – Offenses and Miscellaneous Provisions creating Article IV – Derelict Vehicles.

DEPARTMENT:

Prepared by: Mike Beechan

Director _____

ADMINISTRATIVE

COMMENTS: _____

_____ **DATE:** _____

County Manager

FIRST READING: _____

APPROVAL: _____

**HABERSHAM COUNTY
STATE OF GEORGIA**

AN AMENDMENT TO THE HABERSHAM COUNTY, GEORGIA CODE OF ORDINANCES TO AMEND CHAPTER 42 (ENTITLED "OFFENSES AND MISCELLANEOUS PROVISIONS") TO PROVIDE FOR A NEW ARTICLE IV (ENTITLED ("DERELICT VEHICLES")); TO PROVIDE FOR DEFINITIONS; TO PROVIDE FOR PROHIBITION OF STORING, PARKING OR LEAVING UNATTENDED ANY DERELICT VEHICLE; TO PROVIDE FOR DECLARATIONS OF NUISANCE, TO PROVIDE FOR EXCEPTIONS; TO PROVIDE FOR NOTICE OF REMOVAL; TO PROVIDE FOR THE RESPONSIBILITY FOR REMOVAL; TO PROVIDE FOR NOTICE PROCEDURE AND ABATEMENT; TO PROVIDE FOR CONTENT OF NOTICE FOR VEHICLES LOCATED UPON PUBLIC PROPERTY; TO PROVIDE FOR REMOVAL OF MOTOR VEHICLE FROM PUBLIC PROPERTY; TO PROVIDE FOR NOTICE OF REMOVAL; TO PROVIDE FOR DISPOSITION OF VEHICLES; TO PROVIDE FOR NOTICE OF PUBLIC SALE; TO PROVIDE FOR PUBLIC SALE; TO PROVIDE FOR REDEMPTION OF IMPOUNDED VEHICLES; TO PROVIDE FOR RIGHTS OF LIENHOLDERS; TO PROVIDE FOR ENFORCEMENT AND PENALTIES FOR DERELICT VEHICLES ON PRIVATE PROPERTY; TO PROVIDE FOR CONFLICT WITH OTHERS LAWS; TO PROVIDE FOR SEPARABILITY; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of Habersham County, Georgia, is authorized under Article IX, Section II, Paragraph III of the Constitution of the State of Georgia to adopt reasonable ordinances to protect the public health, safety and welfare of the citizens of Habersham County, Georgia; and

WHEREAS, the duly elected governing authority of Habersham County, Georgia is the Board of Commissioners; and

WHEREAS, the governing authority desires to exercise the authority granted to the County pursuant to O.C.G.A. Section 36-60-4 for the removal and disposal of derelict vehicles by amending Chapter 42 of the Habersham County Code of Ordinances to add an Article IV entitled Derelict Vehicles as set forth hereinafter.

NOW, THEREFORE, THE HABERSHAM COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF THE SAME as follows:

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The Code of Ordinances of Habersham County, Georgia is hereby amended by addition of the following Article IV entitled Derelict Vehicles to Chapter 42 of the Habersham County Code of Ordinances as follows:

**ARTICLE IV
DERELICT VEHICLES**

Division 1. – General Provisions

Sec. 42-60. - Definitions

For the purposes of this article, the following terms shall have the meanings ascribed to them:

- (a) *County* shall mean Habersham County, Georgia.
- (b) *Derelict vehicle* is any vehicle defined in subsection (d) below which vehicle either does not have lawfully affixed on it an unexpired license plate or tax stamp, or which vehicle is wrecked, junked, dismantled, partially dismantled, inoperative, abandoned, or discarded.
- (c) *Person* shall mean any person, firm, partnership, association, corporation, company, or organization of any kind.
- (d) *Private property* shall mean any real property within the County which is privately owned and which is not public property as defined below.
- (e) *Public property* shall mean any street or highway which shall include the entire width of the right-of-way publicly owned (or in which any public body has an easement for roadway purposes) and shall also mean any other publicly owned property or facility.
- (f) *Vehicle* is any means of conveyance, whether self-propelled or not, that is designed to travel on the ground or on water or in the air, including, but not limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers, recreational vehicles, boats, airplanes, train cars and any means of conveyance which are designed to be pulled by motorized vehicles upon the roadway such as boat

trailers, wagons, balers, motorcycle trailers, auto transport trailers, and any other trailer designed to haul specific items attached to motor vehicles on the roadway.

Division 2. – Derelict Vehicles on Private Property

Sec. 42-61. – Prohibition of leaving derelict vehicles on private property.

- (a) It shall be unlawful for any person to park, store, leave, or permit the parking, storing or leaving of any derelict vehicle upon any private property within the County for a period in excess of 30 days. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held by an automotive maintenance, repair, or salvage facility, or similar business enterprise, lawfully operated within the County and properly operated within an appropriate business zone, pursuant to the land use laws of the County, or to any motor vehicle in operable condition specifically adapted or designed for operation on raceways or drag strips.
- (b) If a basis for the citation of a violation of this section is that the vehicle is inoperative, then the officer serving said citation on the owner or occupant of private property on which a vehicle is located shall request the person served to demonstrate the operability of the vehicle to the officer. In the event that the person who is served shall demonstrate that the vehicle can be started and operated lawfully upon the roadway to the officer, then the officer shall make a note of same. However, in the event that the person served shall refuse or is unable to demonstrate the operability of the vehicle to the officer, then the officer shall make a note of same and shall introduce said note into evidence at any hearing or trial on the matter, and such evidence shall constitute a rebuttable presumption that the vehicle is inoperative.
- (c) Citations issued hereunder shall be subject to the jurisdiction of the Magistrate Court of Habersham County as any other County code violation including fines and penalties.
- (d) Nothing in this section shall authorize the maintenance of a public or private nuisance as defined in Division 3 hereof and this section does not preclude the regulation of derelict vehicles within the County and shall be supplemental and in addition to the other divisions of Chapter 42 of the Habersham Code of Ordinances or of the State of Georgia, or other legal entity or agency having jurisdiction.

Division 3. – Derelict Vehicles – Nuisance Abatement

Sec. 42-62. - Storing, parking or leaving unattended any derelict vehicle prohibited; declared nuisance; exceptions.

No person shall park, store, leave, or permit the parking storing or leaving of any derelict motor vehicle upon any public property within the County for a period of time in excess of three days. Nor shall any person park, store, leave or permit the parking, storing or leaving of any derelict vehicle upon any private property within the County for a period of time in excess of 30 days. The presence of a derelict motor vehicle on public property or any parts of such a vehicle on private or public property is hereby declared a public nuisance which may be abated as such in accordance

with the provisions of this division. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held by an automotive maintenance, repair, or salvage facility, or similar business enterprise, lawfully licensed by the County and properly operated in an appropriate business zone, pursuant to the land use laws of the County, or to any motor vehicle in operable condition specifically adopted or designed for operation on raceways or drag strips.

Sec. 42-63. Notice to remove.

- (a) Whenever it comes to the attention of the County that any nuisance defined in Section 42-62 exists in the County upon private property, a notice in writing shall be served on the occupant of the land where the nuisance exists, and when there is no occupant, then notice shall be served on the owner of the land or his/her agent. Notice shall be served upon owner or occupant pursuant to Section 42-65.
- (b) Whenever it comes to the attention of the County that any nuisance defined in Section 42-62 exists in the County upon public property, notice as defined in Section 42-65 shall be served upon the registered owner of the vehicle, if such vehicle is required to be registered such as an automobile, and, if not, notice shall be served upon the owner, if such owner is known to the marshal of the County or to any other law enforcement officer whose duty involves the removal of said vehicle from the public property. In the event the owner of the vehicle cannot be determined for whatever reason, posting of the notice of violation in the right-of-way adjacent to the premises on which the derelict vehicle is located shall be deemed as notice to the vehicle owner.
- (c) If a basis for the notice to remove is that the vehicle is inoperative, then the officer serving said notice on the owner or occupant of private property on which a vehicle is located shall request the person served to demonstrate the operability of the vehicle to the officer. In the event that the person who is served shall demonstrate that the vehicle can be started and operated lawfully upon the roadway to the officer, then the officer shall make a note of same. However, in the event that the person served shall refuse or is unable to demonstrate the operability of the vehicle to the officer, then the officer shall make a note of same and shall introduce said note into evidence at any hearing or trial on the matter, and such evidence shall constitute a rebuttable presumption that the vehicle is inoperative.

Sec. 42-64. Responsibility for removal.

- (a) Upon proper notice and opportunity to be heard, the occupant or the owner, if unoccupied, of the private property on which the derelict vehicle is located shall be responsible for the vehicle's removal. In the event of removal and disposition by the County, the owner of the derelict vehicle shall be liable for the expenses incurred as provided in Section 42-66(b).
- (b) In the case of a derelict motor vehicle located upon public property, the owner (if he is identified and given notice to remove as set out in Section 42-63) shall be responsible for the vehicle's removal. In the event of removal and disposition by the County, the owner of the derelict vehicle shall be liable for the expenses incurred.

Sec. 42-65. Notice procedure.

- (a) The County shall give notice for removal to the owner or occupant of private property where a derelict vehicle is located at least 14 days before the deadline for compliance with this division. It shall constitute sufficient notice when a copy of the notice is posted in a conspicuous place in accordance with Section 42-63(b) and duplicate copies are sent by registered mail to the occupant or owner, if unoccupied, of the private property at his/her last known address.
- (b) In the case of a derelict motor vehicle located on public property, it shall constitute sufficient notice when a copy of the notice requesting removal is affixed to the vehicle, and a duplicate copy is sent by registered mail to the owner of the vehicle at his/her last known address (if said owner is known to the officer whose duty it is to see that the vehicle is removed). Notice must be posted and mailed if owner is known three days prior to removal of vehicle by the County.

Sec. 42-66. Notice and abatement.

- (a) *Content of notice for vehicles located upon private property.* The notice described in Section 42-65(a) shall contain a demand for removal within 14 days, and notice shall advise that upon failure to comply with the notice to remove, said nuisance will be declared a violation of the Code of the County and shall be punished as provided in the Code.
- (b) *Abatement by the County.* If the nuisance, as adjudged by the Magistrate Court, is not abated as ordered within ten working days from the date of such adjudication, then the County is authorized to remove any derelict vehicle from the property in question. The cost to the County of this abatement shall be charged to parties adjudged responsible for such nuisance abatement. If the owner of the real property affected has been adjudged responsible for abatement, and the charges remain unpaid for a period of 30 days after payment is due, the county manager or his designee shall cause an execution to be issued against the owner of the property for those charges. The execution shall be a lien on the property and, when recorded in the general execution docket of the County, shall be a lien on all property of the defendant in execution from the date of such recording.

Sec. 42-67. Content of notice for vehicles located upon public property.

The notice, described in Section 42-65(b), shall contain a demand for removal within three days, and the notice shall advise that upon failure to comply with the notice to remove, the County shall undertake such removal with the cost being levied against the owner of such vehicle and that said nuisance will be declared a violation of the Code of the County and shall be punished as provided for in the Code.

Sec. 42-68. Removal of motor vehicle from public property.

If the violation cited in the notice has not been remedied within the notice period for compliance, the County shall have the right to take possession of the derelict motor vehicle and remove it from the public property where it is located. It shall be unlawful for any persons to interfere with, hinder, or refuse to allow such person or persons acting for the County to remove said vehicle under the provisions of this article.

Sec. 42-69. Notice of removal.

Within 48 hours of the removal of the vehicle, the County shall give notice to the registered owner of the vehicle, if known, that said vehicle, (or vehicles) has been impounded and stored for violation of this article. The notice shall give the location of the vehicle (or vehicles) and the amount of costs incurred by the County for removal and that said vehicle is subject to sale pursuant to this division.

Sec. 42-70. Disposition of vehicles.

Upon removing a vehicle under the provisions of Section 42-68, the County shall after ten days appraise said vehicle. If the vehicle is appraised at \$500.00 or less, the County shall execute an affidavit so attesting and describe the vehicle, including the license plates, if any, and stating the location and appraised value of the vehicle. The County, after complying with the above, may summarily dispose of the vehicles and execute a certificate of sale. If the vehicle is appraised at over \$500.00, the County shall give notice of public sale not less than seven days before the date of proposed sale.

Sec. 42-71. Notice of public sale.

The notice of sale shall state:

- (a) The sale is of the derelict motor vehicle in the possession of the County;
- (b) A description of the vehicle, including make, model, license number and any other information that would accurately identify the vehicle;
- (c) The terms of the sale; and
- (d) The date, time and place of the sale.

Sec. 42-72. Public sale.

Any derelict motor vehicle sold at public sale by the County shall be sold to the highest and best bidder. At the time of payment of the purchase price, the County shall execute a certificate of sale in duplicate, the original of which shall be given to the purchaser, and a copy thereof to be maintained in the files of the County pertaining to the public sale of personal property items. Should the sale for any reason be declared invalid by a court of competent jurisdiction, the County's liability shall be limited to the return of the purchase price.

Sec. 42-73. Redemption of impounded vehicles.

The owner of any vehicle seized under the provisions of this article may redeem such vehicle at any time after its removal but prior to the sale or destruction thereof upon proof of ownership and payment to the County of such sum as it may determine and fix for the actual expense of removal, and any preliminary sale advertising expenses, plus \$10.00 per day for storage for each vehicle redeemed.

Sec. 42-74. Rights of lienholders.

During the impoundment of any derelict motor vehicle removed from public property pursuant to this division and prior to the sale of any such vehicle, should any person assert that he is a lienholder on said vehicle or should any lienholder be identified by research into the ownership of said vehicle by any agent of the County, then said lienholder shall receive any notice required by this division to be delivered to any owner of any said vehicle. Any such lienholder may obtain possession of the vehicle from the County by paying off costs as described in Section 42-73 above at any time prior to the sale of said vehicle as set out in this division.

Sec. 42-75. Division not exclusive.

This division shall not be the exclusive regulation of derelict vehicles within the County and shall be supplemental and in addition to other divisions, articles, statutes or provisions of law heretofore or hereinafter enacted by the County, the state, or other legal entity or agency having jurisdiction.

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This ordinance shall be codified in a manner consistent with the laws of the State of Georgia.

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- A. It is hereby declared to be the intention of the Habersham Board of Commissioners that all sections, paragraphs, sentences, clauses and phrases of this ordinance are upon their enactment, believed by the Board of Commissioners to be fully valid, enforceable and constitutional.
- B. It is hereby declared to be the intention of the Habersham Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this ordinance is severable from every other section, paragraph, sentence, clause or phrase of this ordinance. It is further declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this ordinance.
- C. In the event that any section, paragraph, sentence, clause or phrase of this ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Board of Commissioners that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses, or phrases of the ordinance and that, to the greatest extent allowed by

law, all remaining sections, paragraphs, sentences, clauses, or phrases of the ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

- D. This ordinance shall take effect immediately upon its adoption by the Board of Commissioners.

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Except as otherwise provided herein, all ordinance or parts of ordinances in conflict with this ordinance are hereby repealed.

DULY ORDAINED AND ADOPTED this _____ day of April, 2025.

**HABERSHAM COUNTY BOARD
OF COMMISSIONERS**

Jimmy Tench, Chairman

Attest:

Brandalin Carnes, County Clerk