

House Bill 1136

By: Representatives Rogers of the 10th and Erwin of the 28th

A BILL TO BE ENTITLED
AN ACT

1 To reincorporate and provide a new charter for the City of Baldwin, Georgia; to provide for
2 incorporation, boundaries, and powers of the city; to provide for general powers and
3 limitations on powers; to provide for a governing authority of such city and the powers,
4 duties, authority, election, terms, removal from office, method of filling vacancies,
5 compensation, expenses, and qualifications; to provide for conflict of interest and holding
6 other offices; to provide for inquiries and investigations; to provide for organization and
7 procedures; to provide for emergencies; to provide for ordinances; to provide for eminent
8 domain; to provide for codes; to provide for the office of mayor and certain duties and
9 powers relative to the office of mayor; to provide for a mayor pro tempore; to provide for the
10 office and powers of a city manager; to provide for administrative responsibilities; to provide
11 for boards, commissions, and authorities; to provide for a city attorney, city clerk, finance
12 director, and other personnel; to provide for a land use plan; to provide for the establishment
13 of a municipal court and the judge or judges thereof; to provide for practices and procedures;
14 to provide for taxation, permits, and fees; to provide for franchises, service charges, and
15 assessments; to provide for bonded and other indebtedness; to provide for accounting and
16 budgeting; to provide for contracting and purchasing; to provide for audits; to provide for
17 bonds for officials; to provide for definitions and construction; to provide for other matters
18 relative to the foregoing; to provide for related matters; to repeal a specific Act; to repeal
19 conflicting laws; and for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 ARTICLE I

22 INCORPORATION AND POWERS

23 SECTION 1.10.

24 Incorporation.

25 The City of Baldwin in Habersham and Banks Counties is reincorporated by the enactment
 26 of this charter and is constituted and declared a body politic and corporate under the name
 27 of the City of Baldwin. References in this charter to "the city" or "this city" refer to the City
 28 of Baldwin. The city shall have perpetual existence. The legal situs of the city shall be
 29 Habersham County.

30 SECTION 1.11.

31 Corporate boundaries.

32 (a) The boundaries of this city shall be those existing on the effective date of the adoption
 33 of this charter, including but not limited to, the territory added to this city by an Act approved
 34 May 5, 2006 (Ga. L. 2006, p. 4530), and by prior act of the city, with such alterations as may
 35 be made from time to time by local law or in the manner provided by general state law.

36 (b) The city council may provide for the redrawing of any such map by ordinance to reflect
 37 lawful changes in the corporate boundaries. A redrawn map shall supersede for all purposes
 38 the earlier map or maps which it is designated to replace but such earlier maps shall be
 39 retained in the office of the city clerk.

40 SECTION 1.12.

41 Powers and construction.

42 (a) The city shall have all powers possible for a municipality to have under the present or
 43 future Constitution and laws of this state as fully and completely as though they were
 44 specifically enumerated in this charter. The city shall have all the power of self-government
 45 not otherwise prohibited by this charter or general state law.

46 (b) The powers of the city shall be construed liberally in favor of the city. The specific
 47 mention or failure to mention particular powers shall not be construed as limiting in any way
 48 the powers of this city.

49 (c) The powers of the city shall include, but shall not be limited to, the following:

50 (1) Air and water pollution. To regulate the emission of smoke or other exhaust which
 51 pollutes the air and to prevent the pollution of natural streams which flow within the
 52 corporate limits of the city;

- 53 (2) Animal Regulations. To regulate and license or to prohibit the keeping or running
54 at-large of animals and fowl, and to provide for the impoundment of same if in violation
55 of any ordinance or lawful order. To provide for the disposition by sale, gift, or humane
56 destruction of animals and fowl when not redeemed as provided by ordinance; and to
57 provide punishment for violation of ordinances enacted hereunder;
- 58 (3) Appropriations and Expenditures. To make appropriations for the support of the
59 government of the city; to authorize the expenditure of money for any purposes
60 authorized by this charter and for any purpose for which a municipality is authorized by
61 the laws of the State of Georgia; and to provide for the payment of expenses of the city;
- 62 (4) Building Regulation. To regulate and to license the erection and construction of
63 buildings and all other structures; to adopt building, housing, plumbing, fire safety,
64 electrical, gas, and heating and air conditioning codes and other similar technical codes;
65 and to regulate all housing, and building trades;
- 66 (5) Business Regulation and Taxation. To levy and to provide for the collection of
67 regulatory fees and taxes on privileges, occupations, trades, and professions as authorized
68 by Title 48 of the O.C.G.A. or other such applicable laws as are or may thereafter be
69 enacted. To permit and regulate the same and to provide for the manner and method of
70 payment of such regulatory fees and taxes and to revoke such permits after due process
71 for failure to pay any city taxes or fees;
- 72 (6) Condemnation. To condemn property, inside or outside the corporate limits of the
73 city, for present or future use and for any corporate purpose deemed necessary by the
74 governing authority, utilizing procedures enumerated in Title 22 or Title 32 of the
75 Official Code of Georgia Annotated, or such other applicable laws as are or may hereafter
76 be enacted;
- 77 (7) Contracts. To enter into contracts and agreements with other governmental entities
78 and with private persons, firms, and corporations;
- 79 (8) Emergencies. To establish procedures for determining and proclaiming that an
80 emergency situation exists within or without the city, and to make and carry out all
81 reasonable provisions deemed necessary to deal with or meet such an emergency for the
82 protection, safety, health, or well-being of the citizens of the city;
- 83 (9) Economic Development. To investigate, study, and undertake ways and means of
84 prompting and encouraging the prosperous development and protection of businesses,
85 industries, and commerce within the city and outside the city, including but not limited
86 to, making and preparing plans and policies for the promotion, establishment,
87 development, and expansion of current or new businesses, commerce, and industry within
88 and outside the city and including incentives for the establishment of jobs within the city.

- 89 (10) Environmental Protection. To protect and preserve the natural resources,
90 environment, and vital areas of the city, the region, and the state through the preservation
91 and improvement of air quality, the restoration and maintenance of water resources, the
92 control of erosion and sedimentation, the management of storm water and establishment
93 of a storm water utility, the management of solid and hazardous waste, the management
94 of commercial waste, and other necessary actions for the protection of the environment.
- 95 (11) Fire Regulations. To fix and establish fire limits and from time to time to extend,
96 enlarge, or restrict the same; to prescribe fire safety regulations not inconsistent with
97 general law, relating to both fire prevention and detection and to fire fighting; and to
98 prescribe penalties and punishment for violations thereof;
- 99 (12) Garbage Fees. To levy, fix, assess, and collect a garbage, refuse, trash collection
100 and disposal, and other sanitary service charge, tax, or fee for such services as may be
101 necessary in the operation of the city from all individuals, firms, and corporations
102 residing in or doing business therein and benefiting from such services; to enforce the
103 payment of such charges, taxes, or fees; and to provide for the manner and method of
104 collecting such service charges to provide that said fees may be based upon the
105 availability of the service as opposed to user fees;
- 106 (13) General Health, Safety, and Welfare. To define, regulate, and prohibit any act,
107 practice, conduct, or use of property which is detrimental to health, sanitation,
108 cleanliness, welfare, and safety of the inhabitants of the city, and to provide for the
109 enforcement of such standards;
- 110 (14) Gifts. To accept or refuse gifts, donations, bequests, or grants from a source for any
111 purpose related to powers and duties of the city and the general welfare of its citizens, on
112 such terms and conditions as the donor or grantor may impose;
- 113 (15) Health and Sanitation. To prescribe standards of health and sanitation and to
114 provide for the enforcement of such standards;
- 115 (16) Jail Sentences. To the extent authorized by general law, to provide that persons
116 given jail sentences in the municipal court may work out such sentences in any public
117 works or on the streets, roads, drains, and other public property in the city; to provide for
118 commitment of such persons to any jail; to provide for the use of pretrial diversion and
119 any alternative sentencing allowed by law, or to provide for commitment of such persons
120 to any county detention facility by agreement with the appropriate county officials;
- 121 (17) Motor vehicles. To regulate the operation of motor vehicles and exercise control
122 over all traffic, including parking upon or across the streets, roads, alleys, and walkways
123 of the city;
- 124 (18) Municipal Agencies and Delegation of Power. To create, alter, or abolish
125 departments, boards, offices, commissions, and agencies of the city, including but not

126 limited to, any Housing Authority, and to confer upon such agencies the necessary and
127 appropriate authority for carrying out all the powers conferred upon or delegated to the
128 same;

129 (19) Municipal Debts. To the extent authorized by general law, to appropriate and
130 borrow money for the payment of debts to the city and to issue bonds for the purpose of
131 raising revenue to carry out any project, program, or venture authorized by this charter,
132 the laws of the State of Georgia, or the laws of the United States of America;

133 (20) Municipal Property Ownership. To acquire, dispose of, lease, and hold in trust or
134 otherwise, any real, personal, or mixed property, in fee simple or lesser interest, inside
135 or outside the municipal limits of the city;

136 (21) Municipal Property Protection. To provide for the preservation and protection of
137 property and equipment of the city, and the administration and use of same by the public,
138 and to prescribe penalties and punishment for violations thereof;

139 (22) Municipal Utilities. To acquire, lease, construct, operate, maintain, sell, and dispose
140 of public utilities, including but not limited to, a system of waterworks, sewers and
141 drains, sewage disposal, storm water management, gas works, electric light plants, cable
142 television and other telecommunications, transportation facilities, public airports, and any
143 other public utility. To fix the taxes, charges, rates, fares, fees, assessments, regulations,
144 and penalties. To the extent authorized by general law, to provide for the withdrawal of
145 service for refusal or failure to pay the same;

146 (23) Nuisance. To define a nuisance and provide for its abatement whether on public or
147 private property;

148 (24) Penalties. To provide penalties for violation of any ordinances adopted pursuant to
149 the authority of this charter and the laws of the State of Georgia;

150 (25) Planning and Zoning. To provide comprehensive city planning for development by
151 zoning. To provide subdivision regulation as the city council deems necessary and
152 reasonable to ensure a safe, healthy, and aesthetically pleasing community;

153 (26) Police and Fire Protection. To exercise the power of arrest through duly appointed
154 police officers, and to establish, operate, or contract for a police and a fire-fighting
155 agency;

156 (27) Public Hazards: To provide for the destruction and removal of any building or other
157 structure which is or may become dangerous or detrimental to the public;

158 (28) Public Improvements. To provide for the acquisition, construction, building,
159 operation, and maintenance of public ways, parks, playgrounds, recreational facilities,
160 cemeteries, markets and market houses, public buildings, libraries, public housing,
161 airports, hospitals, terminals, docks, parking facilities, charitable, cultural, educational,
162 recreational, conservation, sport, curative, correctional, detention, penal, and medical

163 institutions, agencies and facilities. To provide any other public improvements, inside
164 or outside the corporate limits of the city and to regulate the use of public improvements.
165 For such foregoing purposes, property may be acquired by condemnation under Title 22
166 or Title 32 of the Official Code of Georgia Annotated, or such other applicable laws as
167 are or may hereafter be enacted;

168 (29) Public Peace. To provide for the prevention and punishment of loitering, disorderly
169 conduct, drunkenness, riots, and public disturbances;

170 (30) Public Transportation. To organize and operate such public transportation systems
171 as are deemed beneficial;

172 (31) Public Utilities and Services. To grant franchises or make contracts for or impose
173 taxes on public utilities and public service companies, and to prescribe the rates, fares,
174 regulations and standards, and conditions of service applicable to the service to be
175 provided by the franchise grantee or contractor, insofar as not to be in conflict with valid
176 regulations of the Public Service Commission or other applicable laws of the State of
177 Georgia;

178 (32) Regulation of Roadside Areas. To prohibit, regulate, or control the erection,
179 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any
180 and all other structures or obstructions upon or adjacent to the rights-of-way of streets and
181 roads or within view thereof, within or abutting the corporate limits of the city, and to
182 prescribe penalties and punishment for violation of such ordinances;

183 (33) Retirement. To have the option to provide and maintain a retirement plan, other
184 employee benefit plans, and programs for elected officials, officers, and employees of the
185 city;

186 (34) Roadways. To lay out, open, extend, widen, establish, or change the grade of; to
187 abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise
188 improve, maintain, repair, clean, prevent erosion of; and to light the roads, alleys, and
189 walkways within the corporate limits of the city. To grant franchises and rights-of-way
190 throughout the streets, roads, bridges, and viaducts for the use of public utilities. To
191 require real estate owners to repair and maintain in a safe condition the sidewalks
192 adjoining their lots or lands, and to impose penalties for failure to do so;

193 (35) Sewer Fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring,
194 constructing, equipping, operating, maintaining, and extending of a sewage disposal plant
195 and sewerage system, and to levy on those to whom sewers and sewerage systems are
196 made available a sewer service fee, charge, or sewer tax for the availability or use of the
197 sewers; to provide for the manner and method of collecting such service charges; and to
198 charge, impose, and collect a sewer connect fee or fees to those connected with the
199 system;

200 (36) Solid Waste Disposal. To provide for the collection and disposal of garbage,
201 rubbish, and refuse, and to regulate the collection and disposal of garbage, rubbish, and
202 refuse by others; to have the option to provide for the separate collection of glass, tin,
203 aluminum, cardboard, paper, and other recyclable materials; and to provide for the sale
204 of such items;

205 (37) Special Areas of Public Regulation. To regulate or prohibit junk dealers and the
206 manufacture and sale of intoxicating liquors. To regulate the transportation, storage, and
207 use of combustible, explosive, and inflammable materials; and the use of lighting and
208 heating equipment. To regulate the treatment of commercial waste or septage, or any
209 other business or situation which may be dangerous to persons or property. To regulate
210 and control the conduct of peddlers and itinerant traders, theatrical performances,
211 exhibitions, and shows of any kind, by taxation or otherwise. To license and tax
212 professional fortunetelling, palmistry, and massage parlors. To the extent authorized by
213 general law to restrict adult bookstores and other adult entertainment to certain areas;

214 (38) Special Assessments. To levy and provide for the collection of special assessments
215 to cover the costs for any public improvements;

216 (39) Special Referenda. To hold special referenda to place policy issues or to conduct
217 "straw polls" before the electors of the city; to hold such special referenda in accordance
218 with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or
219 hereafter amended.

220 (40) Taxes: To levy and provide for the assessment, valuation, revaluation, and
221 collection of taxes on all property subject to taxation. To levy and collect such other
222 taxes as may be allowed now or in the future by law;

223 (41) Taxicabs, Ride Share Network Services, Transportation Referral Services and
224 Transportation Referral Service Providers. To the extent authorized by general law, to
225 regulate and license vehicles operated for hire in the city; to limit the number of such
226 vehicles. To require the operators thereof to be licensed and to require public liability
227 insurance on such vehicles in the amounts to be prescribed by ordinance. To regulate the
228 parking of such vehicles; to regulate and license ride share network services,
229 transportation referral services, and transportation referral service providers to the extent
230 allowed by general law;

231 (42) Urban Redevelopment. To organize and operate an urban redevelopment program;

232 (43) Other Powers. To exercise and enjoy all other powers, functions, rights, privileges,
233 and immunities necessary or desirable to promote or protect the safety, health, peace,
234 security, good order, comfort, convenience, or general welfare of the city and its
235 inhabitants. To exercise all implied powers necessary or desirable to carry into execution
236 all powers granted in this charter as fully and completely as if such powers were fully

237 stated herein. To exercise all powers now or in the future authorized to be exercised by
 238 other municipal governments under other laws of the State of Georgia. No listing of
 239 particular powers in this charter shall be held to be exclusive of others, nor restrictive of
 240 general words and phrases granting powers, but shall be in addition to such powers unless
 241 expressly prohibited to municipalities under the Constitution or applicable laws of the
 242 State of Georgia.

243 **SECTION 1.13.**

244 Exercise of powers.

245 All powers, functions, rights, privileges, and immunities of the city, its officers, agencies, or
 246 employees shall be carried into execution as provided by this charter. If this charter makes
 247 no provision, such shall be carried into execution as provided by ordinance or as provided
 248 by pertinent laws of the State of Georgia.

249 **ARTICLE II**

250 **GOVERNMENT STRUCTURE, ELECTIONS,**

251 **AND REMOVAL**

252 **SECTION 2.10.**

253 City council creation; composition; number; election.

254 (a) The legislative authority of the government of this city, except as otherwise specifically
 255 provided in this charter, shall be vested in a city council to be composed of a mayor and five
 256 councilmembers.

257 (b) The mayor and councilmembers shall serve for terms of four years and until their
 258 respective successors are elected and qualified. No person shall be eligible to serve as mayor
 259 or councilmember unless he or she shall have been a resident of this city for 12 months
 260 immediately preceding the election of mayor or councilmembers. The mayor and such
 261 councilmembers shall continue to reside within the city during said period of service and
 262 shall be registered and qualified to vote in municipal elections of this city.

263 **SECTION 2.11.**

264 Elections.

265 (a) At any election, all persons who are qualified under the Constitution and laws of the
 266 State of Georgia to vote for members of the General Assembly of Georgia and who are bona
 267 fide residents of said city shall be eligible to qualify as voters in the election.

268 (b) All elections shall be held and conducted in accordance with Chapter 2 of Title 21 of the
 269 O. C. G. A., the "Georgia Election Code." Except as otherwise provided by this charter, the
 270 city council shall, by ordinance, prescribe such rules and regulations it deems appropriate to
 271 fulfill any options and duties under the "Georgia Election Code." The city may choose to
 272 contract with the Habersham County Board of Elections to coordinate, organize, advertise,
 273 conduct, and operate any election for the City of Baldwin.

274 (c) The mayor and councilmembers who are in office on the effective date of this Act shall
 275 serve until the expiration of the term of office to which they were elected and until their
 276 successors are elected and qualified.

277 (d) For the purpose of electing members of the city council, the City of Baldwin shall consist
 278 of one election district with five numbered posts. Each person seeking election shall
 279 designate the post for which they seek election.

280 (e) On the Tuesday after the first Monday in November, 2021, and on such day
 281 quadrennially thereafter, there shall be elected a mayor and the councilmembers for Post 2
 282 and Post 4. Then, on the Tuesday after the first Monday in November, 2023, and on such
 283 day quadrennially thereafter, there shall be elected the councilmembers for Post 1, Post 3,
 284 and Post 5. The terms of the offices shall begin at the time of taking the oath of office as
 285 provided in Section 2.21 of this charter.

286 **SECTION 2.12.**

287 Vacancies in office.

288 (a)(1) The office of mayor or councilmember shall become vacant upon the incumbent's
 289 death, resignation, forfeiture of office, or removal from office in any manner authorized
 290 by this charter or the general laws of the State of Georgia.

291 (2) Upon the suspension from office of mayor or councilmember in any manner
 292 authorized by the general laws of the State of Georgia, the city council or those remaining
 293 shall appoint a successor for the duration of the suspension. If the suspension becomes
 294 permanent, then the office shall become vacant and shall be filled as provided in
 295 subsection (b) of this section.

296 (b) In the event that the office of mayor or councilmember shall become vacant, the city
 297 council or those remaining shall order a special election to fill the balance of the unexpired
 298 term of such official, provided, however, that if such vacancy occurs within twelve months
 299 of the expiration of the term of that office, the city council or those members remaining shall
 300 appoint a successor for the remainder of the term. In all other respects, the special election
 301 shall be held and conducted in accordance with Chapter 2 of Title 21 of the O. C. G. A., the
 302 "Georgia Election Code," as now or hereafter amended.

303 **SECTION 2.13.**

304 Nonpartisan elections.

305 Political parties shall not conduct primaries for city offices and all names of candidates for
306 city offices shall be listed without party labels.

307 **SECTION 2.14.**

308 Election by plurality.

309 The candidate receiving a plurality of the votes cast for any city office shall be elected.

310 **SECTION 2.15.**

311 Compensation and expenses.

312 The mayor shall receive compensation of \$150.00 per month plus \$125.00 per meeting
313 attended and each councilmember shall receive compensation of \$100.00 per meeting
314 attended in carrying out their duties and while representing the city in their official capacity,
315 whether as a single designated representative or attended by two or more councilmembers,
316 for the City of Baldwin at multi-agency, city, county, state, or regional meetings and training,
317 The mayor and councilmembers shall be entitled to reimbursement for actual and necessary
318 expenses incurred by them. The city council shall be authorized to change their
319 compensation and expenses for their services as provided by ordinance and in accordance
320 with Chapter 35 of Title 36 of the O. C. G. A.

321 **SECTION 2.16.**

322 Prohibitions.

323 (a) No elected official, appointed officer, or employee of the city or any agency or political
324 entity to which this charter applies shall knowingly:

325 (1) Engage in any business or transaction or have a financial or other personal interest,
326 direct or indirect, which is incompatible with the proper discharge of his or her official
327 duties or which would tend to impair the independence of his or her judgment or action
328 in the performance of his or her official duties;

329 (2) Engage in or accept private employment or render services for private interests when
330 such employment or service is incompatible with the proper discharge of his or her
331 official duties or would tend to impair the independence of his or her judgment or action
332 in the performance of his or her official duties;

- 333 (3) Disclose confidential information concerning the property, government, or affairs of
334 the governmental body by which he or she is engaged without proper legal authorization
335 or use such information to advance the financial or other private interest of himself,
336 herself, or others;
- 337 (4) Accept any valuable gift, whether in the form of service, loan, object, or promise,
338 from any person, firm, or corporation which to his or her knowledge is interested, directly
339 or indirectly, in any manner whatsoever in business dealings with the governmental body
340 by which he or she is engaged; provided, however, that an elected official who is a
341 candidate for public office may accept campaign contributions and services in connection
342 with any such campaign;
- 343 (5) Represent other private interests in any action or proceeding against this city or any
344 portion of its government; or
- 345 (6) Vote or otherwise participate in the negotiation or in the making of any contract with
346 any business or entity in which he or she has a financial interest.
- 347 (b) Any elected official, appointed officer, or employee of the city or any agency or political
348 entity to which this charter applies who has any private financial interest, directly or
349 indirectly, in any contract or matter pending before or within any department of the city shall
350 disclose such private interest to the city council. The mayor or any councilmember who has
351 a private interest in any matter pending before the city council shall disclose such private
352 interest and such disclosure shall be entered on the records of the city council, and he or she
353 shall disqualify himself or herself from participating in any decision or vote relating thereto.
354 Any elected official, appointed officer, or employee of any agency or political entity to which
355 this charter applies who shall have any private financial interest, directly or indirectly, in any
356 contract or matter pending before or within such entity shall disclose such private interest to
357 the governing body of such agency or entity.
- 358 (c) No elected official, appointed officer, or employee of the city or any agency or entity to
359 which this charter applies shall use property owned by such governmental entity for personal
360 benefit, convenience, or profit, except in accordance with policies promulgated by the city
361 council or the governing body of such agency or entity.
- 362 (d) Any violation of this section which occurs with the knowledge, express or implied, of
363 a party to a contract or sale shall render said contract or sale voidable at the option of the city
364 council.
- 365 (e) Except as authorized by law, no member of the city council shall hold any other elective
366 city office or other city employment during the term for which he or she was elected. The
367 provisions of this subsection shall not apply to any person holding employment on the
368 effective date of this Act.

SECTION 2.17.

Removal of officers.

369

370

371 (a) The mayor, a councilmember, or other appointed officers provided for in this charter
372 shall be removed from office for any one or more of the following:

373 (1) Incompetence, misfeasance, or malfeasance in office;

374 (2) Conviction of a crime that is a felony or a crime involving moral turpitude;

375 (3) Failure at any time to possess any qualifications of office as provided by this charter
376 or by law;

377 (4) Knowingly violating Section 2.16 of any other express prohibition of this charter;

378 (5) Abandonment of office or neglect to perform the duties thereof; or

379 (6) Failure for any cause to perform the duties of office as required by this charter or by
380 state law.

381 (b) Removal of any elected or appointed officer pursuant to subsection (a) of this section
382 shall be accomplished by one of the following methods:

383 (1) By the vote of the entire remaining councilmembers after an investigative hearing.

384 In the event an elected officer is sought to be removed by the action of the city council,

385 such officer shall be entitled to a written notice specifying the ground or grounds for

386 removal and to a public hearing which shall be held not less than ten days after the

387 service of such written notice. Any elected officer sought to be removed from office as

388 provided in this section shall have the right of appeal from the decision of the city council

389 to the Superior Court of Habersham County. Such appeal shall be governed by the same

390 rules as govern appeals to the superior court from the probate court; or

391 (2) By an order of the Superior Court of Habersham County following a hearing on a

392 complaint seeking such removal brought by a resident of the City of Baldwin.

SECTION 2.18.

Exercise of powers.

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394

395 All powers, functions, rights, privileges, and immunities of the city, its officers, agencies, or

396 employees shall be carried into execution as provided by the Constitution of the State of

397 Georgia, by general law, or by this charter. If general law and this charter make no

398 provision, such shall be carried into execution as provided by ordinance.

399

SECTION 2.19.

400

Inquiries and investigations.

401 The city council may make inquiries and investigations into the affairs of the city and the
 402 conduct of any department, office, or agency thereof, and for this purpose may subpoena
 403 witnesses, administer oaths, take testimony, and require the production of evidence. Any
 404 person who fails or refuses to obey a lawful order issued in the exercise of these powers by
 405 the city council shall be punished as provided by ordinance.

406

SECTION 2.20.

407

General power and authority of the city council.

408 Except as otherwise provided by this charter, the city council shall be vested with all the
 409 powers of government of this city as provided in Article I of this charter.

410

SECTION 2.21.

411

Organization meeting.

412 The city council shall meet for organization on the second Monday in January of each year
 413 or as soon thereafter as practical. The meeting shall be called to order by either the mayor,
 414 mayor pro tempore, or the most senior councilmember that is not being sworn in and the oath
 415 of office shall be administered by the city clerk to the newly elected members as follows:
 416 "I do solemnly swear (or affirm) that I will faithfully perform the duties of a city
 417 councilmember/mayor of Baldwin, Georgia, and that I will support and defend the charter
 418 thereof as well as the Constitutions and laws of the State of Georgia and of the United
 419 States of America."

420

SECTION 2.22.

421

Regular and special meetings.

422 (a) The city council shall hold regular meetings at such times and places as prescribed by
 423 resolution.

424 (b) Special meetings of the city council may be held on call of the mayor or two other
 425 members of the city council. Notice of such special meetings shall be served on all other
 426 members personally, or by telephone personally, at least 24 hours in advance of the meeting.
 427 Such notice to councilmembers shall not be required if all city council members are present
 428 when the special meeting is called. Such notice of any special meeting may be waived by

429 a councilmember in writing before or after such a meeting, and attendance at the meeting
430 shall also constitute a waiver of notice on any business transacted in such councilmember's
431 presence. Except where waiver by all members is effected by their presence or in writing,
432 only the business stated in the call may be transacted at the special meeting.

433 (c) All meetings of the city council shall be public to the extent required by general law and
434 notice to the public of all meetings shall be made as required by general law.

435 **SECTION 2.23.**

436 Rules of procedure.

437 (a) The city council shall adopt its rules of procedure and order of business consistent with
438 the provisions of this charter and shall provide for keeping minutes of its proceedings
439 according to general state law, and which shall be a public record.

440 (b) All committees and committee chairpersons and officers of the city council shall be
441 appointed by the city council. The city council, by a majority vote, shall have the power to
442 remove members of any committee and the power to appoint new members to any
443 committee, at any time, within the city council's discretion.

444 **SECTION 2.24.**

445 Quorum; voting.

446 (a) Except as otherwise provided in subsection (b) of this section, the mayor and three
447 councilmembers or the mayor pro tempore and three councilmembers shall constitute a
448 quorum and shall be authorized to transact business of the city council. Voting on the
449 adoption of ordinances shall be taken by voice vote and the ayes and nays shall be recorded
450 in the minutes, but any member of the city council shall have the right to request a roll-call
451 vote. Except as otherwise provided in this charter, the affirmative vote of three
452 councilmembers shall be required for the adoption of any ordinance or resolution.

453 (b) In the event vacancies in office result in less than a quorum of councilmembers holding
454 office, then the remaining councilmembers in office shall constitute a quorum and shall be
455 authorized to transact business for the city council. A vote of a majority of the remaining
456 councilmembers shall be required for the adoption of any ordinance or resolution.

457

SECTION 2.25.

458

Ordinance form; procedure; notice and reading.

459 (a) Except as herein provided, every official action of the council which is to become law
 460 shall be by ordinance. Every proposed ordinance shall be introduced in writing and must be
 461 finalized at the time of passage at the second meeting for final adoption. The enacting clause
 462 shall be: "The Council of the City of Baldwin hereby ordains...." And every ordinance shall
 463 so begin.

464 (b) An ordinance may be introduced by any councilmember. For an ordinance to be
 465 adopted, it must be introduced at one meeting, regular or special, and passed at a second
 466 meeting, regular or special. A literal reading of the ordinance in the public meetings of the
 467 council is not required for passage of the ordinance. In the discretion of the council, the
 468 mayor, city manager, city attorney, or other agent of the city may provide a summary of the
 469 ordinance in the meetings of the council. Proposed ordinances shall be public records and
 470 shall be available for public inspection.

471 (c) Upon passage, all ordinances shall be signed by the mayor, or mayor pro tempore if
 472 presiding, and the city clerk.

473 (d) Failure to comply with the technical requirements of this section shall not invalidate an
 474 ordinance if the intention of the governing authority that the ordinance be effective is
 475 evident.

476

SECTION 2.26.

477

Acts having force of law.

478 Notwithstanding any other provisions of this charter, acts of the city council which have the
 479 force and effect of law may be done by ordinance or resolution of the city council, except
 480 that any act of the city council to amend the charter or the code of ordinances or any other
 481 act required by general state law to be done by ordinance shall be done by ordinance.

482

SECTION 2.27.

483

Emergencies.

484 To meet a public emergency affecting life, health, property, or public peace, the city council
 485 may convene on call of the mayor or two city councilmembers and promptly adopt an
 486 emergency ordinance, but such ordinance may not levy taxes; grant, renew, or extend a
 487 franchise; regulate the rate charged by any public utility for its services; or authorize the
 488 borrowing of money except for loans to be repaid within 30 days. Any emergency ordinance

489 shall be introduced in the form prescribed for ordinances generally, except that it shall
490 contain, after the enacting clause, a declaration stating that an emergency exists and
491 describing it in clear and specific terms. It shall become effective upon adoption or at such
492 later time as it may specify. Every emergency ordinance shall automatically stand repealed
493 30 days following the date upon which it is adopted, but this shall not prevent reenactment
494 of the ordinance in the manner specified in this section if the emergency still exists. An
495 emergency ordinance may also be repealed by adoption of a repealing ordinance in the same
496 manner specified in this section for adoption of emergency ordinances.

497 **SECTION 2.28.**

498 Codes of technical regulations.

499 (a) The city council may adopt any standard code of technical regulations by reference
500 thereto in an adopting ordinance. The procedure and requirements governing such adopting
501 ordinance shall be as prescribed for ordinances generally.

502 (b) Copies of any adopted code of technical regulations shall be made available by the city
503 clerk for distribution or for purchase at a reasonable price.

504 **SECTION 2.29.**

505 Signing; authenticating; recording; compilation; printing.

506 (a) The city clerk shall authenticate by his or her signature and record in full in a properly
507 indexed book or record kept for the purpose all ordinances and resolutions adopted by the
508 city council.

509 (b) The city council shall provide for the preparation of a general compilation of all of the
510 ordinances and resolutions of the city having the force and effect of law. The general
511 compilation shall be adopted by the city council and shall be published as soon as is
512 practicable, together with all amendments thereto and such codes of technical regulations and
513 other rules and regulations as the city council may specify. This compilation shall be known
514 and cited officially as "The Official Code of the City of Baldwin, Georgia." Copies of the
515 code shall be furnished to all officers, departments, and agencies of the city and made
516 available for purchase by the public at a reasonable price as fixed by the city council.

517 (c) The city council shall cause each ordinance and each amendment to this charter to be
518 published as soon as is practicable following its adoption, and the published ordinances and
519 charter amendments shall be made available for purchase by the public at reasonable prices
520 to be fixed by the city council. Following publication of the first code under this charter and
521 at all times thereafter, the ordinances and charter amendments shall be printed in

522 substantially the same style as the compilation currently in effect and shall be suitable in
 523 form for incorporation therein. The city council shall make such further arrangements as
 524 deemed desirable with respect to reproduction and distribution of any current changes in or
 525 additions to codes of technical regulations and other rules and regulations included in the
 526 code.

527 **SECTION 2.30.**

528 Mayor; delegation of powers.

529 The mayor shall be the chief executive of this city. The mayor shall possess all of the
 530 executive powers granted to the city under the Constitution and laws of the State of Georgia,
 531 and all the executive powers contained in this charter, except as otherwise specifically
 532 provided in this charter. The mayor shall have the authority to delegate any one or more
 533 executive powers to a person or persons employed by the city and qualified in management
 534 and administration. The mayor may recommend an officer whose title shall be city manager
 535 and who shall be the head of the administrative branch of the city government on a daily
 536 basis. The city manager shall be appointed by the city council. As chief executive, the mayor
 537 will supervise the city manager, and the city manager, if selected, shall administratively
 538 handle the operations of the city on a daily basis.

539 **SECTION 2.31.**

540 Powers and duties of mayor.

541 As the chief executive of this city, the mayor shall:

- 542 (1) Supervise the city manager and all departments to see that all laws, resolutions, and
 543 ordinances of the city are faithfully executed;
- 544 (2) Review and approve the appointment or removal of any officers, department heads,
 545 and employees of the city except as otherwise provided for in this charter.
- 546 (3) Exercise supervision over all executive and administrative work of the city and
 547 provide for the coordination of administrative activities.
- 548 (4) Exercise supervision over the city manager's and finance director's preparation and
 549 submission to the city council a recommended annual operating budget and
 550 recommended capital budget;
- 551 (5) Ensure that the city manager and finance director shall submit to the city council at
 552 least quarterly a statement covering the financial conditions of the city and from time to
 553 time such other information as the city council may request;
- 554 (6) Prepare and set each meeting's agenda:

- 555 (7) Preside over all meetings of the city council;
- 556 (8) Call special meetings of the city council as provided for in Section 2.22;
- 557 (9) Participate in the discussion of all matters brought before the city council and vote
558 on such matters only in the case of a tie vote;
- 559 (10) Recommend to the city council such measures relative to the affairs of the city,
560 improvement of the government, and promotion of the welfare of its inhabitants as
561 deemed expedient;
- 562 (11) Approve or disapprove ordinances as provided in Section 2.32;
- 563 (12) Require any department or agency of the city to submit written reports as deemed
564 expedient;
- 565 (13) Sign as a matter of course all written contracts, ordinances, and other instruments
566 executed by the city which by law are required to be in writing;
- 567 (14) Ensure that the duties of city manager are performed should that office not be filled
568 or be vacant for any reason;
- 569 (15) Perform such other duties as may be required by general state law, this charter, or
570 ordinance; and
- 571 (16) Perform such other duties that provide oversight for all departments to remain in
572 compliance with all city, state, and federal mandates and regulations.

573

SECTION 2.32.

574

Submission of ordinances and resolutions to the mayor; veto power.

575 (a) Every ordinance and resolution adopted by the city council shall be presented by the city
576 clerk to the mayor within three days after its adoption.

577 (b) The mayor shall within ten days of receipt of an ordinance or resolution return it to the
578 city clerk with or without approval, or with disapproval. If the ordinance or resolution has
579 been approved by the mayor, it shall become law upon its return to the city clerk; if the
580 ordinance or resolution is neither approved nor disapproved, it shall become law on the
581 fifteenth day after its adoption. If the ordinance or resolution is disapproved, also known as
582 vetoed, the mayor shall submit to the city council through the city clerk a written statement
583 of the reasons for the veto. The city clerk shall record upon the ordinance or resolution the
584 date of its delivery to and receipt from the mayor.

585 (c) Ordinances and resolutions vetoed by the mayor shall be presented by the city clerk to
586 the city council at its next meeting and should the city council then adopt the ordinance by
587 the affirmative vote of four council members, it shall become law.

588 (d) The mayor may disapprove or reduce any item or items of appropriation in any ordinance
589 or resolution. The approved part or parts of any ordinance or resolution making

590 appropriations shall become law, and the part or parts disapproved shall not become law
591 unless subsequently passed by the city council over the mayor's veto as provided in this
592 section. The reduced part or parts shall be presented to the city council as though
593 disapproved and shall not become law unless overridden by the council as provided in
594 subsection (c) of this section.

595 **SECTION 2.33.**

596 Mayor pro tempore.

597 The city council at the first regular meeting after July 1 of each year shall elect from its
598 membership a mayor pro tempore for a term of one year. In the event that no mayor pro
599 tempore is elected at such first regular meeting, the city council shall elect from its
600 membership, within ten days following such meeting, the mayor pro tempore. Until such
601 time as a mayor pro tempore is elected by the city council, the mayor pro tempore in office
602 shall continue for another year. The mayor pro tempore shall perform the duties of the
603 mayor during the mayor's absence or inability to act and shall fill out any unexpired term in
604 the office of mayor, in which case a new mayor pro tempore shall be elected by majority vote
605 of the city council.

606 **SECTION 2.34.**

607 City manager and acting city manager

608 (a) The mayor may recommend a city manager and who shall be the head of the
609 administrative branch of the city government on a daily basis. The city manager shall be
610 appointed by the city council on the basis of qualifications for the position as such with
611 special reference to actual experience in and knowledge of the duties of the office as
612 hereinafter prescribed. The city manager shall have received a bachelor's degree as a
613 minimum educational requirement or, in lieu thereof, a minimum of five years' experience
614 in a city in an executive supervisory capacity. The city manager shall serve at the pleasure
615 of the city council. The city manager shall receive such salary as the city council may fix.
616 Should the city council not fill the office of city manager for any reason or should the office
617 be vacant for any reason, then the mayor shall appoint an acting city manager to perform the
618 duties of city manager until a city manager can be appointed.

619 (b) By letter filed with the city clerk, the mayor shall designate a qualified administrative
620 officer to execute the powers and perform the duties of the city manager during the city
621 manager's temporary absence or disability.

622

SECTION 2.35.

623

Powers and duties of city manager.

624 (a) The city manager shall be accountable to the mayor for the proper administration of all
625 affairs of the city. As chief administrator, the city manager shall have the power to
626 recommend appointment and removal of any officers, department heads, and employees in
627 the administrative service of the city except the city engineer, city attorney, city auditor, and
628 the municipal court judge; provided, however, that such officers shall be administratively
629 accountable to the city manager, except the city engineer, city attorney, city auditor, and the
630 municipal court judge who shall be appointed or removed by the mayor and subject to the
631 confirmation by the city council. The mayor at his or her discretion can modify any
632 personnel decision made by the city manager. It shall be the duty of the city manager to
633 supervise the administration of the affairs of the city; to see that the ordinances, resolutions,
634 and regulations of the city council, and the laws of the state are faithfully executed and
635 enforced; to make such recommendations to the city council concerning the affairs of the city
636 as he or she shall deem expedient; to keep the city council advised of the financial condition
637 and future financial needs of the city; to attend all meetings of the city council; and to
638 prepare and to submit to the city council such reports as may be deemed expedient or as may
639 be required by the city council. The city manager shall perform such other functions as
640 assigned by the mayor; provided, however, that remuneration shall not exceed the amount
641 of salary fixed in Section 2.34.

642 (b) The city manager shall be designated and given authority to delegate duties as the
643 purchasing agent and the personnel officer of the City of Baldwin. The city manager shall
644 have responsibility for preparing and implementing the budget following budgetary review
645 and adoption by the city council in a regular meeting. All department heads employed by
646 the city shall be administratively accountable to the city manager. All appointed officers or
647 other agents employed by the legislative body shall be administratively communicative with
648 the city manager.

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ARTICLE III
ADMINISTRATIVE AFFAIRS
SECTION 3.10.
Administrative and service departments.

653 (a) Except as otherwise provided in this charter, the city council, by ordinance or resolution
654 as appropriate, shall prescribe the functions or duties of and establish, abolish, or alter all
655 nonelective offices, positions of employment, departments, and agencies of the city as
656 necessary for the proper administration of the affairs and government of this city.

657 (b) Except as otherwise provided by this charter, general state law, or federal law, the
658 directors of departments and other appointed officers of the city shall be appointed solely on
659 the basis of their respective administrative and professional qualifications.

660 (c) All appointive officers and directors of departments shall receive such compensation as
661 prescribed by ordinance or resolution, as appropriate.

662 (d) There shall be a director of each department or agency who shall be its principal officer.
663 Each director shall, subject to the direction and supervision of the city manager and mayor,
664 be responsible for the administration and direction of the affairs and operation of his or her
665 department or agency.

666 (e) All appointive officers and directors under the supervision of the city manager shall be
667 nominated by the city manager and mayor with confirmation of appointment by the city
668 council. All appointive officers and directors shall be employees at-will and subject to
669 removal or suspension at any time by the city manager with approval by the mayor or
670 otherwise provided by law or ordinance.

671
672

SECTION 3.11.
Boards, commissions, and authorities.

673 (a) The city council shall create by ordinance or resolution as appropriate such boards,
674 commissions, and authorities to fulfill any investigative, quasi-judicial, or quasi-legislative
675 functions as the city council deems necessary and shall by ordinance or resolution as
676 appropriate establish the composition, period of existence, duties, and powers thereof.

677 (b) All members of boards, commissions, and authorities of the city shall be appointed by
678 the city council for such terms of office and in such manner as shall be provided by
679 ordinance or resolution as appropriate, except where other appointing authority, term of
680 office, or manner of appointment is prescribed by this charter or general state law.

681 (c) The city council, by ordinance or resolution as appropriate, may provide the
682 compensation and reimbursement for actual and necessary expenses of the members of any
683 board, commission, or authority.

684 (d) Except as specifically authorized by general law or authorized by the city council, no
685 member of any board, commission, or authority shall hold any elective office in the city.

686 (e) Any vacancy on a board, commission, or authority of the city shall be filled for the
687 unexpired term in the manner prescribed herein for original appointment, except as otherwise
688 provided by this charter, by general law, or by resolution.

689 (f) No member of a board, commission, or authority shall assume office until he or she has
690 executed and filed with the city clerk an oath obligating himself or herself to perform
691 faithfully and impartially the duties of his or her office, such oath to be prescribed by
692 ordinance or resolution as appropriate and administered by the mayor.

693 (g) Any member of the board, commission, or authority may be removed from office for any
694 reason by a majority vote of the city council.

695 (h) Except as otherwise provided by this charter or by general state law, each board,
696 commission, or authority of the city shall elect from its members a chairperson,
697 vice-chairperson, and secretary. Each board, commission, or authority of the city
698 government may establish such bylaws, rules, and regulations, not inconsistent with this
699 charter, ordinances of the city, or general state law, as it deems appropriate and necessary for
700 the fulfillment of its duties or the conduct of its affairs and which are approved by the city
701 council, copies of which shall be filed with the city clerk.

702 **SECTION 3.12.**

703 City attorney.

704 (a) The mayor, subject to the approval of the city council, shall appoint a city attorney who
705 shall be a member of the State Bar of Georgia and shall have actively practiced law for a
706 minimum of five years. The city attorney shall serve at the pleasure of the city council.

707 (b) It shall be the duty of the city attorney to serve as legal advisor to the mayor, city
708 council, city manager, and other city officials with respect to the affairs of the city. The city
709 attorney shall draft proposed ordinances when requested to do so and shall inspect and
710 determine the legality and form of all agreements, contracts, franchises, and other
711 instruments with which the city may be concerned. The city attorney shall attend meetings
712 of the city council upon request of the city council, and shall perform such other duties as
713 may be required by virtue of the position of city attorney. The compensation of the city
714 attorney shall be set by the city council.

715 **SECTION 3.13.**

716 City clerk.

717 (a) The city manager shall appoint an officer who shall perform the duties of the city clerk,
718 subject to the approval of the mayor and city council. The city clerk shall keep a journal of
719 the proceedings of the city council, maintain a safe place for all records and documents
720 pertaining to the affairs of the city, and perform such other duties as may be required by law
721 or as mayor and city council may approve in a regular meeting.

722 (b) Generally, the city clerk is administratively accountable to the city council and is the city
723 council's representative at city hall, but in some instances the city clerk is administratively
724 accountable to the city manager. Councilmembers may ask the city clerk to complete
725 administrative duties such as gathering information, reports, minutes, and performing clerical
726 duties so that the city council will have needed information and materials to make
727 well-informed decisions for the city.

728 (c) The city clerk's day-to-day work shall involve directing and supervising the work of
729 personnel involved in performing utility billing, property tax collection, and accounts
730 receivable.

731 (d) The city clerk shall collect all taxes, fees, and other moneys owed to the city, subject to
732 applicable provisions of this charter, ordinances, or state law.

733 (e) The city clerk shall enforce all laws and city ordinances related to the collection of
734 delinquent taxes and the sale or foreclosure for nonpayment of taxes and other indebtedness
735 to the city.

736 (f) The city clerk is designated as the ex officio tax collector for the city so as to enable such
737 officer to do all things required by the city charter and state law as to the collection of city
738 taxes, including but not limited to, conducting levies and sales under tax executions and
739 collecting all costs, penalties, interest, and permissible charges associated with any actions
740 taken in such capacity.

741 (g) The city clerk shall be designated as the city's record custodian and shall ensure that all
742 records are properly maintained in accordance to the established records retention policy as
743 adopted by the city council.

744 **SECTION 3.14.**

745 Finance director.

746 (a) The city manager shall appoint a city finance director, subject to the approval of the
747 mayor and city council.

748 (b) The finance director is responsible for managing, planning, directing, and maintaining
 749 the city's financial operations. The day-to-day work of the finance director shall involve
 750 accounting, contract reviews of a financial nature, payroll, special taxation oversight, the
 751 review of expenditure reports, and purchasing functions for the City of Baldwin. The major
 752 duties and responsibilities of this position shall include, but shall not be limited to, providing
 753 technical leadership in accounting compliance, budgeting, overseeing and directing annual
 754 audits, investment opportunities and debt administration, as well as insuring proper record
 755 retention policies are strictly followed related to all financial matters. The finance director
 756 may also serve as the city treasurer, and shall provide quarterly financial reports to the city
 757 council and monthly reports to the city manager and department heads. On a day-to-day
 758 basis, the finance director shall be subject to the direction, supervision, and oversight of the
 759 city manager. The finance director shall be responsible for carrying out the general duties
 760 of a fiscal officer of the city and shall perform such other duties as may be provided by the
 761 governing body or the city manager. The finance director shall have the responsibility of
 762 grant and special tax administration and oversight.

763 **SECTION 3.15.**

764 Personnel policies.

765 The city council may adopt rules and regulations consistent with this charter concerning:

- 766 (1) The method of employee selection and probationary periods of employment;
 767 (2) The administration of a position classification and pay plan;
 768 (3) Hours of work; vacation, sick and other leaves of absence; overtime pay; retirement;
 769 and the manner in which layoffs shall be effected;
 770 (4) Institute civil service regulations for employees and as to which personnel decisions
 771 of the city manager, mayor, and city council would be subject to;
 772 (5) Such other personnel policies as may be necessary to provide for adequate and
 773 systematic handling of the personnel affairs of the City of Baldwin; and
 774 (6) Notwithstanding the foregoing, all employees and personnel of the city are at-will
 775 employees, unless the city council enters into a written employment contract or creates
 776 by ordinance a personnel system providing for removal of employees only for cause.

777 **SECTION 3.16.**

778 Comprehensive land use plan.

779 A comprehensive land use plan shall be adopted by the city council and official updates to
 780 this plan shall be made as provided by general state law.

781 ARTICLE IV
 782 JUDICIAL BRANCH
 783 **SECTION 4.10.**
 784 Creation; name.

785 There shall be a court to be known as the Baldwin Municipal Court.

786 **SECTION 4.11.**
 787 Chief judge; associate judges.

788 (a) The municipal court shall be presided over by a chief municipal judge and such
 789 part-time, full-time, or stand-by associate judges as shall be provided by resolution.

790 (b) No person shall be qualified or eligible to serve as a judge on the municipal court unless
 791 he or she shall have attained the age of 25 years, have practice law for at least ten years, and
 792 is a member of the State Bar of Georgia. No other officers of the City of Baldwin may serve
 793 as the chief municipal judge. All judges shall be appointed by the city council. Upon the
 794 effective date of this charter, the current presiding chief municipal judge shall continue in
 795 that position provided that he or she meets the minimum qualifications established herein.

796 (c) Compensation of the judges shall be fixed by resolution of the city council.

797 (d) Judges may be removed as provided by general law.

798 (e) Before entering on the duties of his or her office, each judge not presently serving at the
 799 time of enactment of the charter shall take an oath given by the mayor that he or she will
 800 honestly and faithfully discharge the duties of his or her office to the best of his or her ability
 801 without fear, favor, or partiality. The oath shall be similar in form as set out in Section 2.21
 802 and shall be entered upon the minutes of the city council.

803 **SECTION 4.12.**
 804 Clerk of municipal court.

805 The mayor and city manager shall appoint, in consultation with the chief municipal judge of
 806 the Baldwin Municipal Court, a municipal employee to serve as the clerk of the municipal
 807 court. The clerk of the municipal court shall attend all hearings and be responsible for all
 808 records of said municipal court.

809 **SECTION 4.13.**

810 Convening.

811 The municipal court shall be convened at regular intervals as designated by procedure set by
812 the city council.

813 **SECTION 4.14.**

814 Jurisdiction; power.

815 (a) The municipal court shall try and punish violations of all city ordinances and such
816 violations of state law allowed to be tried in municipal court under the general laws of the
817 State of Georgia.

818 (b) The municipal court shall have authority to punish those in its presence for contempt,
819 provided that such punishment shall not exceed \$1,000.00 or 180 days in jail or both, or as
820 allowed by state law.

821 (c) The municipal court may fix punishment for offenses within its jurisdiction not
822 exceeding a fine of \$1,000.00 or imprisonment for 180 days or both or may sentence any
823 offender upon conviction to community service for the city on the streets, sidewalks, squares,
824 or other public places for a period not exceeding 180 days, or as allowed by state law. A fine
825 levied by the municipal court shall not be subject to suspension, stay, or probation except
826 that, if the fine will impose an economic hardship on the defendant, the judge of the
827 municipal court, in his or her sole discretion, may order the defendant to pay such fine in
828 installments or under an order of probation, and such order may be enforced through a
829 contempt proceeding.

830 (d) The municipal court shall have authority to establish a schedule of fees to defray the cost
831 of court operations and law enforcement and shall be entitled to reimbursement of the cost
832 of jail fees, administrative or processing fees, technology fees, and court costs for violations
833 of municipal and state law. An assessment for such fees shall be in addition to any fines or
834 statutory fees assessed. An assessment for court costs shall not exceed \$35.00 and an
835 assessment for technology fees shall not exceed \$15.00.

836 (e) The municipal court shall have authority to establish bail and recognizance to ensure the
837 presence of those charged with violations before said court and shall have discretionary
838 authority to accept cash or personal or real property as surety for the appearance of persons
839 charged with violations. When a person gives bail for his or her appearance and fails to
840 appear at the time fixed for trial, his or her bond shall be forfeited by the judge presiding at
841 such time. In the event that cash or property is accepted in lieu of bond for security for the
842 appearance of a defendant at trial and if such defendant fails to appear at the time and place

843 fixed for trial, the cash so deposited shall be on order of the judge declared forfeited to the
844 city, or the property so deposited shall have a lien against it for the value forfeited, which lien
845 shall be enforceable in the same manner and to the same extent as a lien for city property
846 taxes.

847 (f) The municipal court shall have the authority to bind prisoners over to the appropriate
848 court when it appears by probable cause that state law has been violated or a jury trial is
849 requested.

850 (g) The municipal court shall have the same authority as superior courts to compel the
851 production of evidence in the possession of any party; to enforce obedience to its orders,
852 judgments, and sentences; and to administer such oaths as necessary.

853 (h) The municipal court may compel the presence of all parties necessary to a proper
854 disposal of each case by the issuance of summonses, subpoenas, and warrants which may be
855 served as executed by an officer as authorized by this charter or by general state law.

856 (i) The municipal court is specifically vested with all of the jurisdiction and powers
857 throughout the entire area of this city granted by general state laws to municipal courts, and
858 particularly by such laws as authorize the abatement of nuisances and prosecution of traffic
859 violations.

860 **SECTION 4.15.**

861 Certiorari.

862 The right of certiorari from the decision and judgment of the municipal court shall exist in
863 all cases, and such certiorari shall be obtained under the sanction of a judge of the Superior
864 Court of Habersham County under the laws of the State of Georgia regulating the granting
865 and issuance of writs of certiorari.

866 **SECTION 4.16.**

867 Rules for court.

868 With the approval of the city council, the judge shall have the full power and authority to
869 make reasonable rules and regulations necessary to secure the proper administration of the
870 municipal court and to require the prosecution by a prosecuting officer or by a solicitor
871 appointed by the city council; provided, however, that the city council may adopt in part or
872 in whole the rules and regulations for procedure in the superior court under the general laws
873 of the State of Georgia. The rules and regulations made or adopted shall be filed with the
874 city clerk, shall be available for public inspection, and, upon request, a copy shall be
875 furnished to all defendants in municipal court proceedings.

876 **SECTION 4.17.**

877 Probation.

878 The Baldwin Municipal Court may establish rules and regulations to allow those convicted
 879 of ordinances or violations of state law to serve their sentence pursuant to such terms of
 880 probation as may be set by the municipal judge. The municipal court may establish or
 881 contract for probation services as determined are necessary for the proper operation of the
 882 court by the municipal judge and as approved by the city council.

883 **ARTICLE V**884 **FINANCE**885 **SECTION 5.10.**

886 Property tax.

887 The city council may assess, levy, and collect ad valorem taxes on all real and personal
 888 property within the corporate limits of the city that is subject to such taxation by the state and
 889 county. These taxes are for the purpose of raising revenues to defray the costs of operating
 890 the city government, providing governmental services, for the repayment of principal and
 891 interest on general obligations, and for any other public purpose as determined by the city
 892 council in its discretion.

893 **SECTION 5.11.**

894 Millage rate; due dates; payment methods.

895 The city council, by ordinance, shall establish a millage rate for the city ad valorem property
 896 taxes, a due date, and in what length of time these taxes must be paid. The city council, by
 897 ordinance, may provide for the payment of these taxes by installments or in one lump sum
 898 and may authorize the voluntary payment of taxes prior to the time when due.

899 **SECTION 5.12.**

900 Occupation and business taxes.

901 The city council, by ordinance, shall have the power to levy such occupation or business
 902 taxes as authorized by general state law. Such taxes may be levied on both individuals and
 903 corporations that transact business in this city or that practice or offer to practice any
 904 profession or calling therein to the extent such persons have a constitutionally sufficient
 905 nexus to this city to be so taxed. The city council may classify businesses, occupations,

906 professions, or callings for the purpose of such taxation in any way which may be lawful and
907 compel the payment of such taxes as provided in Section 5.18.

908 **SECTION 5.13.**

909 Licenses; permits, fees.

910 The city council, by ordinance, shall have the power to require any individuals or
911 corporations who transact business in this city or who practice or offer to practice any
912 profession or calling therein to obtain a license or permit for such activity from the city and
913 pay a reasonable fee for such license or permit where such activities are not now regulated
914 by general state law in such a way as to preclude city regulation. Such fees, if unpaid, shall
915 be collected as provided in Section 5.18. The city council, by ordinance, may establish
916 reasonable requirements for obtaining or keeping such licenses as the public health, safety,
917 and welfare necessitates.

918 **SECTION 5.14.**

919 Franchises.

920 The city council shall have the power to grant franchises for the use of the city's street and
921 alleys for the purposes of railroads, street railways, telephone companies, electric companies,
922 and other similar organizations. The city council shall determine the duration, provisions,
923 terms, whether the same shall be exclusive or nonexclusive, and the consideration for such
924 franchises. The city council shall have the right to set franchise fees as to state franchises as
925 allowed by the general laws of the State of Georgia.

926 **SECTION 5.15.**

927 Services charges.

928 The city council, by ordinance, shall have the power to establish districts for the assessment
929 and collection of fees, charges, and tolls for services, including law enforcement, fire,
930 emergency, water, zoning, sewer, sanitary, health services, and any other services rendered
931 within and without the corporate limits of the city, or as to providing the availability of said
932 services, or both. If unpaid, such charges shall be collected as provided in Section 5.18.

933 **SECTION 5.16.**

934 Special assessments.

935 The city council, by ordinance, shall have the power to assess and collect the cost of
936 constructing, reconstructing, widening, or improving any public way, street, sidewalk,
937 curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property
938 owners under such terms and conditions as are reasonable. If unpaid, such charges shall be
939 collected as provided in Section 5.18.

940 **SECTION 5.17.**

941 Construction; other taxes.

942 The city council shall be empowered to levy any other tax allowed now or hereafter by state
943 law and the special mention of any right, power, or authority in this article shall not be
944 construed as limiting in any way the general powers of this city to govern its local affairs.

945 **SECTION 5.18.**

946 Collection of delinquent taxes and fees.

947 The city council, by ordinance, may provide generally for the collection of delinquent taxes,
948 fees, charges, or other revenue due the city by whatever means authorized by general state
949 law. This shall include providing for the dates when the taxes or fees are due, late penalties
950 or interest, issuance and execution of fi.fas., creation and priority of liens, making delinquent
951 taxes and fees personal debts of the persons required to pay the taxes or fees imposed,
952 revoking city licenses for failure to pay any city taxes or fees, allowing exceptions for
953 hardship, and providing for the assignment or transfer of tax executions.

954 **SECTION 5.19.**

955 General obligation bonds.

956 The city council shall have the power to issue bonds for the purpose of raising revenue to
957 carry out any project, program, or venture authorized under this charter or the general laws
958 of the state. Such bonding authority shall be exercised in accordance with the laws
959 governing bond issuances by municipalities in effect at the time said issue is undertaken.

960 **SECTION 5.20.**

961 Revenue bonds.

962 Revenue bonds may be issued by the city council as state law now or hereafter provides.
963 Such bonds are to be paid out of any revenue produced by the project, program, or venture
964 for which they were issued.

965 **SECTION 5.21.**

966 Short-term loans.

967 Any short-term loan obtained by the city must be repaid by December 31 of the year in
968 which the loan was obtained unless otherwise provided by present or future state law.

969 **SECTION 5.22.**

970 Fiscal year.

971 The city council shall set the fiscal year by resolution. This fiscal year shall constitute the
972 budget year and the year for financial accounting and reporting of each and every office,
973 department, agency, and activity of the city government, unless otherwise provided by
974 general state or federal law.

975 **SECTION 5.23.**

976 Action by city council on budget.

977 (a) The city council shall adopt and may thereafter amend an annual budget by resolution,
978 except that the budget as finally adopted and amended must provide for all expenditures
979 required by state law or by other provisions of this charter and for all debt service
980 requirements for the ensuing fiscal year and the total appropriations from any fund shall not
981 exceed the estimated fund balance, reserves, and revenues.

982 (b) The amount set out in the adopted budget for each organizational unit shall constitute the
983 annual appropriation for such, and no expenditure shall be made or encumbrance created in
984 excess of the otherwise unencumbered balance of the appropriations or allotment thereof to
985 which it is chargeable unless by a majority vote of the city council.

986 **SECTION 5.24.**

987 Tax levies.

988 After adoption of the budget, in a timely fashion, the city council shall levy, by ordinance,
 989 such taxes as are necessary. The taxes and tax rates set by such ordinance shall be such that
 990 reasonable estimates of revenues from such levy shall at least be sufficient, together with
 991 other anticipated revenues, fund balances, and applicable reserves, to equal the total amount
 992 appropriated for each of the several funds set forth in the total amount of the operating
 993 budget for defraying the expenses of the general government of this city.

994 **SECTION 5.25.**

995 Changes in appropriations.

996 The city council, by majority vote, may make changes by resolution in the appropriations
 997 contained in the current operating budget at any regular meeting or special or emergency
 998 meeting called for such purpose.

999 **SECTION 5.26.**

1000 Independent audit.

1001 There shall be an annual independent audit of all city accounts, funds, and financial
 1002 transactions by a certified public accountant selected by the city council as required by
 1003 general state law. The audit shall be conducted according to generally accepted auditing
 1004 standards. Any audit of any funds by the state or federal governments may be accepted by
 1005 satisfying the requirements of this charter. Copies of all audit reports shall be available at
 1006 printing cost to the public.

1007 **SECTION 5.27.**

1008 Contracting procedures.

1009 No contract with the city shall be binding on the city unless it is:

- 1010 (1) In writing;
- 1011 (2) Drawn by or submitted to and reviewed by the city attorney; and
- 1012 (3) Made or authorized by and approved by the city council and such approval is entered
 1013 in the city council minutes.

SECTION 5.28.

1014

1015

Centralized purchasing.

1016 The city council may prescribe procedures for a system of centralized purchasing for the city.

SECTION 5.29.

1017

1018

Sale of city property.

1019 The city council may sell and convey any real or personal property owned or held by the city

1020 for governmental or other purposes as provided by general state law.

ARTICLE VI

1021

GENERAL PROVISIONS

1022

SECTION 6.10.

1023

1024

Official bonds.

1025 The officers and employees of this city, both elective and appointive, shall execute such

1026 official bonds in such amounts and upon such terms and conditions as the city council shall,

1027 from time to time, require by ordinance or as may be provided by state law.

SECTION 6.11.

1028

1029

Prior ordinances.

1030 All ordinances, bylaws, rules, and regulations now in force in the city not inconsistent with

1031 this charter are declared valid and of full effect and force until amended or repealed by the

1032 city council.

SECTION 6.12.

1033

1034

Pending matters.

1035 Except as specifically provided otherwise by this charter, all rights, claims, actions, orders,

1036 contracts, and legal or administrative proceedings shall continue, and any such ongoing work

1037 or cases shall be dealt with by such city agencies, personnel, or offices as may be provided

1038 by the city council.

1039 **SECTION 6.13.**

1040 Specific repealer.

1041 An Act incorporating the City of Baldwin in Habersham and Banks Counties, approved

1042 March 28, 1986 (Ga. L. 1986, p. 5578), as amended, is hereby repealed.

1043 **SECTION 6.15.**

1044 Repealer.

1045 All laws and parts of laws in conflict with this Act are repealed.