



Secretary of State

Elections Division

110 State Capitol

Atlanta, Georgia

30334

April 1, 1986

Max Cleland
SECRETARY OF STATE

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TO: MAYOR, CITY OF BALDWIN
FROM: MAX CLELAND, SECRETARY OF STATE
SUBJECT: ENACTMENTS OF THE GENERAL ASSEMBLY.

I am enclosing legislation which passed during the recent session of the General Assembly for your information and record.

Any time this office can be of service to you, please call on me.

Most sincerely,

A handwritten signature in cursive script that reads "Max Cleland".

Max Cleland
Secretary of State

MC:jb

0029-0001-03-86

ENROLLMENT

H. B. No. 2053 Act No. 1395

General Assembly



AN ACT

To reincorporate and provide a new municipal charter for the City of Baldwin, in Habersham and Banks counties; to provide for the boundaries of the city; and for other purposes.

March 27, 19 86

The Committee of the House on Journals has examined the within and finds the same properly enrolled.

Robert J. Balderson
Chairman

Thomas B. Murphy
Speaker of the House

Glenn W. Heard
Clerk of the House

Tommie R. Smith
President of the Senate

Hamilton M. Whotley Jr.
Secretary of the Senate

Received Don B. Bredue
Secretary, Executive Department

This 27th day of March 19 86

Approved
Frank Harris
Governor

This 28th day of March 19 86

IN HOUSE

Read 1st time 2-26-86
Read 2nd time 2-27-86
Read 3rd time 2-28-86

And Passed

Ayes 110

Nays 0

Glenn W. Heard
Clerk of the House

IN SENATE

Read 1st time 3-1-86
Read 2nd time
Read 3rd time

And Passed 3-6-86

Ayes 45

Nays 0

Hamilton M. Whotley Jr.
Secretary of the Senate

Reps. Dover of the 11th and
Jamieson of the 11th
By:

AN ACT

To reincorporate and provide a new municipal charter for the City of Baldwin, formerly the Town of Baldwin, in Habersham and Banks counties; to provide for the boundaries of the city; to provide for the powers of the city; to provide for government of the city by a city council composed of a mayor and council members; to provide for the selection, service, compensation, powers, and duties of the mayor and council members; to provide for the powers and procedures of the city council; to provide for city officers, employees, and agencies; to provide for a municipal court and its jurisdiction, powers, officers, and affairs; to provide for municipal elections; to provide for the imposition, assessment, collection, and enforcement of various forms of municipal taxation; to provide for municipal franchises, contracts, and conveyances; to provide for all other matters related to the city and its government; to repeal a specific Act; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

CHAPTER 1

Incorporation

Section 1-1. The City of Baldwin, formerly the Town of Baldwin, in Habersham and Banks counties is incorporated as a municipal corporation of the State of Georgia and shall have perpetual existence. The City of Baldwin shall have legal existence in both such counties,

but in any case where it is necessary to determine the legal situs on the city within a single county the legal situs of the city shall be within Habersham County.

Section 1-2. The boundaries of the city as of the effective date of this Act shall be as described in Section 7-1 of this Act. The map described by Section 7.1 of this Act shall be the official map of the corporate limits of the city on the effective date of this Act. The city council shall cause said official map to be maintained in the office of the city clerk. The city council shall thereafter cause official revisions of the official map to be made as territory is added to or removed from the city so that there shall be at all times an official map of the city showing its current boundaries which shall be on file in the office of the city clerk. The official map and certified copies thereof may be admitted in evidence in any court.

Section 1-3. The city shall have all powers granted to municipal corporations by the Constitution and general laws of this state. The city shall further have all powers usually possessed by municipal corporations of this state and all powers which it is legally possible, as of the effective date of this Act, to grant to a city by local law. All of such powers shall be construed liberally in favor of the city.

CHAPTER 2

Mayor and Council

Section 2-1. The legislative power of the city shall be vested in a city council which shall consist of a mayor and five council members and the city council shall be the municipal governing authority.

Section 2-2. No person shall be eligible to serve as mayor or as a council member unless the person resides in the city on the date of qualifying for election and continues to reside in the city until the expiration of the term of office to which the person was elected.

Section 2-3. Neither the mayor nor any council member shall hold any other municipal office or municipal employment while in office.

Section 2-4. Neither the mayor nor any council member shall take any part in the consideration of any matter in which such officer has any personal interest; and, if the mayor or a council member has any personal interest in any matter under consideration by the city council, such officer shall disclose such personal interest to the council.

Section 2-5. The city council may investigate the conduct of any affairs of city government and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails to obey any lawful order issued in the exercise of these powers shall be punished as provided by ordinance.

Section 2-6. (a) The city council shall hold a regular monthly meeting on the first Monday in each month at 7:00 P.M. or such other hour as may be established by ordinance.

(b) A special meeting of the city council may be called by the mayor or by any two members of the city council. Actual notice of a special meeting shall be given

in person or by telephone to each member of the council at least 48 hours in advance of the meeting. Such notice may be waived, and attendance at the special meeting shall constitute a waiver of the notice. Only the business stated in the call may be transacted at a special meeting. The mayor or council members calling a special meeting shall take all reasonably possible steps to inform the public of the meeting, which steps shall include at a minimum the posting of a notice of the time, place, and purpose of the meeting on the door of city hall for a period of at least 24 hours immediately prior to the meeting and advertising the time of the called meeting at least twice on the radio station closest to the city at least 24 hours prior to the meeting. (If a meeting is called with less than 24 hours notice, the mayor and council members calling such meeting shall advertise the time of the meeting at least twice on the radio station closest to the city prior to the meeting.)

(c) The city council shall be authorized to fix the compensation of the mayor and council members in accordance with the provisions of Code Section 36-35-4 of the O.C.G.A. The compensation received by such officials pursuant to the former charter of the Town of Baldwin provided by the Act approved August 3, 1923 (Ga. L. 1923, p. 448), as amended, shall be continued until such compensation is changed pursuant to said Code Section 36-35-4.

Section 2-7. The city council shall cause to be kept a journal of its proceedings which shall be a public record, and no official action of the council shall be valid unless an entry thereof is made on the journal.

Section 2-8. Three members of the council and the mayor, or mayor pro tempore acting for the mayor, shall

constitute a quorum. The affirmative vote of three members of the council shall be required for the adoption of any measure before the council.

Section 2-9. Every proposed ordinance of the council shall be in writing and in the form required for its final adoption before it is voted on. An ordinance may be introduced at any meeting, but no ordinance other than an emergency ordinance provided for in Section 2-10 of this Act shall be adopted at the meeting at which it is first introduced. All acts of the city council which are to have the force and effect of law shall be done by ordinance.

Section 2-10. To meet a public emergency affecting life, health, property, or public peace an ordinance may be adopted at the meeting at which it is first introduced. Any such ordinance shall be plainly designated as an emergency ordinance and shall clearly and specifically describe the emergency requiring its passage. The affirmative vote of at least four members of the council shall be required to adopt an emergency ordinance. No emergency ordinance shall remain in effect as such for more than 30 days, but an emergency ordinance may be made a regular permanent ordinance of the city by the affirmative vote of at least three members of the council at a subsequent meeting within said 30 day period.

Section 2-11. The city council may adopt any standard code of technical regulations or any other material by reference in an adopting ordinance, provided that any matter so incorporated into an ordinance by reference shall be authenticated by the city clerk in the same manner as the ordinance itself and shall be made available to the public in the same manner as the ordinance itself.

Section 2-12. (a) The city clerk shall authenticate by the clerk's signature and record in full, in a properly indexed book kept for the purpose, all ordinances adopted by the council.

(b) The city council shall provide for the preparation of a general codification of this charter and all ordinances of the city having the force and effect of law. The general codification shall be adopted by the city council by ordinance and shall be published, together with all amendments thereto and such codes of technical regulations and other rules and regulations as the city council may specify. This compilation shall be known and cited officially as "The Code of the City of Baldwin, Georgia." Copies of the code shall be made available for purchase by the public at a reasonable price as fixed by the city council.

(c) The city council shall cause each ordinance and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances and charter amendments shall be made available for purchase by the public at reasonable prices to be fixed by the city council. Following publication of the first code under this charter and at all times thereafter, the ordinances and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for incorporation therein. The city council shall make such further arrangements as deemed desirable with respect to reproduction and distribution of any current changes in or additions to codes of technical regulations and other rules and regulations included in the code.

Section 2-13. The mayor shall be the chief executive officer of the city. The mayor shall see that all laws, ordinances, resolutions, and rules of the state and the town are faithfully executed and that the officers of the city faithfully discharge their duties. The mayor shall have a general jurisdiction of the affairs of the town, subject to the direction of the city council. The mayor shall preside at meetings of the city council. The mayor shall have the right to vote only in the case of a tie vote among the council members voting.

Section 2-14. (a) The mayor shall have the right to veto any ordinance or resolution adopted by the city council within three days following its adoption by the council. Any veto shall be in writing, shall be filed with the city clerk, and shall plainly set forth the reasons for the veto. Any vetoed measure may thereafter be adopted within 35 days after the veto by the affirmative vote of four members of the council; and a measure so adopted over the mayor's veto shall not be further subject to veto. The mayor may approve any ordinance or resolution within three days following its adoption by the city council; and any measure so approved shall become effective when so approved. If the mayor neither approves nor vetoes an ordinance or resolution within three days following its adoption by the council, the measure shall become effective at the close of the third day following its approval by the council.

(b) The mayor may disapprove or reduce any item or items of appropriation in any ordinance. The approved part or parts of any ordinance making appropriations shall become law, and the part or parts disapproved shall not become law unless subsequently passed by the votes of four council members over the mayor's veto. The reduced part or parts

shall be presented to the city council as though disapproved and shall become law unless overridden by the votes of four council members as in the case of a veto.

Section 2-15. The city council shall elect by majority vote from among its members a mayor pro tempore who shall in the absence or disability of the mayor preside at all meetings of the city council and assume the duties and powers of the mayor. The city council shall elect a new presiding officer from among its members for any period in which the mayor pro tempore is disabled, absent, or acting as mayor. Any such absence or disability of the mayor or mayor pro tempore shall be declared by majority vote of all council members.

CHAPTER 3

City Departments and Officers

Section 3-1. (a) The city council, by ordinance, shall establish, abolish, or alter nonelective offices, positions of employment, and departments and agencies of the city as necessary for the proper administration of the affairs and government of this city.

(b) The officers and employees of the city shall be appointed solely on the basis of their administrative and professional qualifications.

Section 3-2. The city council shall create by ordinance such boards, commissions, and authorities as it deems necessary and shall by ordinance establish the composition, period of existence, duties, and powers thereof.

Section 3-3. The city council shall appoint a city attorney and shall provide for the payment of such attorney or attorneys for services rendered to the city. The city attorney shall be responsible for representing and defending the city in all litigation in which the city is a party; may be the prosecuting officer in the municipal court; shall attend the meetings of the council as directed; shall advise the city council, mayor, and other officers and employees of the city concerning legal aspects of the city's affairs; and shall perform such other duties reasonably related to the office of city attorney as may be required by the city council.

Section 3-4. The city council shall appoint a city clerk who shall not be a council member. The city clerk shall be custodian of the official city seal, maintain city council records required by this Act, and perform such other duties as may be required by the city council.

CHAPTER 4

Municipal Court

Section 4-1. There shall be a court to be known as the Municipal Court of the City of Baldwin.

Section 4-2. (a) The municipal court shall be presided over by a judge. No person shall be qualified or eligible to serve as a judge of the municipal court unless such person shall have attained the age of 21 years and shall have graduated from high school or completed educational requirements equivalent to such high school graduation. All judges shall be appointed by the city council.

(b) Compensation of the judges shall be fixed by ordinance.

(c) Judges may be removed for cause by a vote of four members of the city council.

(d) Before entering on the duties of office, each person taking office as a judge shall take an oath given by the mayor that the person will honestly and faithfully discharge the duties of office as a judge to the best of the person's ability without fear, favor, or partiality. The oath shall be entered upon the minutes of the city council journal.

Section 4-3. The municipal court shall be convened as provided by ordinance.

Section 4-4. (a) The municipal court shall try and punish violations of all city ordinances.

(b) The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$200.00 or ten days in jail.

(c) The municipal court may fix punishment for offenses within its jurisdiction not exceeding a fine of \$500.00 or imprisonment for 30 days or both.

(d) The municipal court shall be entitled to reimbursement of the cost of meals, transportation, and caretaking of prisoners bound over to state and superior courts for violations of state law.

(e) The municipal court shall have authority to establish bail and recognizances to insure the presence of those charged with violations before said court and shall have discretionary authority to accept cash or personal or real property as surety for the appearance of persons

charged with violations. Whenever any person shall give bail for the person's appearance and shall fail to appear at the time fixed for trial, the person's bond shall be forfeited by the judge presiding at such time, and an execution issued thereon by serving the defendant and the defendant's sureties with a rule nisi at least two days before a hearing on the rule nisi. In the event that cash or property is accepted in lieu of bond for security for the appearance of a defendant at trial and if such defendant fails to appear at the time and place fixed for trial, the cash so deposited shall be on order of the judge declared forfeited to the city or the property so deposited shall have a lien against it for the value forfeited, which lien shall be enforceable in the same manner and to the same extent as a lien for city property taxes.

(f) The municipal court shall have the authority to bind prisoners over to the appropriate court when it appears by probable cause that a state law has been violated.

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

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

Section 4-5. The right of certiorari from the decision and judgment of the municipal court shall exist in all criminal cases, and such certiorari shall be obtained

under the sanction of a judge of the Superior Court of Habersham County under the laws of the State of Georgia regulating the granting and issuance of writs of certiorari.

Section 4-6. With the approval of the city council, the judge shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court. The rules and regulations made or adopted shall be filed with the city clerk and shall be available for public inspection.

CHAPTER 5

Elections

Section 5-1. All elections for mayor and council members of the City of Baldwin shall be held and conducted in accordance with the provisions of Chapter 3 of Title 21 of the O.C.G.A., known as the "Georgia Municipal Election Code," except that:

(1) Pursuant to the authority of Code Section 21-3-95 of the O.C.G.A., elections for mayor and council members shall be nonpartisan and there shall be no municipal primary elections; and

(2) Pursuant to the authority of Code Section 21-3-407 of the O.C.G.A., elections for mayor and council members shall be by plurality vote.

Section 5-2. (a) Elections for the City of Baldwin shall be held annually on the second Wednesday in December.

(b) The term of office of the mayor and council members shall be for two years and until successors are elected and qualified. Officers elected at the annual city

election shall take office at the first regular meeting of the city council in January following the election. Successors shall be elected at the annual election next preceding the expiration of terms of office.

(c) The mayor and council members in office on the effective date of this Act shall continue to serve for the terms for which they were elected and until successors are elected and qualified.

Section 5-3. In the event of a vacancy in the office of mayor or a council member for any reason, the city council shall order a special election to fill the vacancy, except that if the vacancy occurs within 90 days of the expiration of the term of office, the city council shall appoint a successor to fill the vacancy for the unexpired term. Any person elected to fill a vacancy shall serve for the remainder of the unexpired term of office.

Section 5-4. (a) The provisions of this section shall be in addition to any other provisions of law for removal or suspension of members of the city council.

(b) The mayor or any council member who is indicted for a felony in the courts of this state or the United States shall be suspended without pay pending final determination of the case. If the mayor or a council member is convicted of a felony in the courts of this state or the United States, such officer shall by operation of law be removed from office on the date the conviction becomes final. If a case is finally determined without a conviction, the suspended officer shall be reinstated and shall receive all salary to which the officer would otherwise have been entitled during such suspension. For the purposes of this subsection, the acceptance of a plea of nolo contendere shall constitute a conviction.

(c) The mayor may be removed from office for any of the causes listed in this subsection by unanimous vote of all members of the council. Any other council member may be removed from office for any of the causes listed in this subsection by unanimous vote of all other members of the council and concurrence of the mayor. Prior to removal under this subsection, the officer to be removed shall have a right to written notice of the grounds for removal and a hearing before the city council. Any officer so removed may bring a de novo action in superior court for review of the existence of grounds for removal. Grounds for removal under this subsection shall include:

- (1) Misfeasance or malfeasance in office;
- (2) Failure to reside in the city;
- (3) Abandonment of office or willful neglect to perform the duties of the office; or
- (4) Permanent medical disability to perform the duties of the office.

CHAPTER 6

Powers

Section 6-1. The city council may impose an ad valorem tax on all tangible real and personal property within the corporate limits of the city that is subject to ad valorem taxation by the state.

Section 6-2. The city council may impose such occupational and business taxes as are not prohibited by general state law.

Section 6-3. The city council may impose a system of regulatory occupational and business licensing in any

manner not prohibited by general state law; and the city council may require the payment of regulatory license fees for licenses so issued.

Section 6-4. The city council may provide for the granting of franchises for the use of the city's streets and rights of way; but no such franchise shall be granted for a period in excess of 35 years and no such franchise shall be granted unless the city receives just and adequate compensation therefor.

Section 6-5. The city council may provide for the imposition of service fees for any services provided by the city.

Section 6-6. The city council may provide in any reasonable manner for the assessment of the costs of construction and improvement of streets, roads, sidewalks, curbs, gutters, sewers, and utility mains and appurtenances against the owners of abutting property.

Section 6-7. The city council may impose any other form of taxation allowed by general state law.

Section 6-8. The city council by ordinance may provide generally for the administration of municipal taxes, fees, and licenses and for the collection of unpaid taxes, fees, and assessments by any reasonable means not precluded by general state law.

Section 6-9. No contract with the city shall be binding on the city unless the contract is in writing, is signed after review by the city attorney, and is approved by

the city council, with such council approval entered on the council journal.

Section 6-10. (a) The city council may sell or convey any real or personal property owned or held by the city for governmental or other purposes as provided by general state law.

(b) The city council may quitclaim any rights it may have in property not needed for public purposes upon a determination by the council that the property is not needed for public purposes and has no readily ascertainable money value.

CHAPTER 7

Miscellaneous

Section 7-1. The corporate limits of the city of Baldwin as of the effective date of this Act shall be as provided in the act granting a new charter for the Town of Baldwin, approved August 3, 1923 (Ga. L. 1923, p. 448); plus all annexations carried out pursuant to the authority of Code Section 36-36-2 of the O.C.G.A., as more fully shown according to the records filed with the office of the Secretary of State of Georgia, through January 1, 1986, and as more particularly shown by a city map prepared by Rindt-McDuff Associates, Inc., dated March 1985, and on file in the office of the clerk of the City of Baldwin.

Section 7-2. All existing ordinances, resolutions, rules, and regulations of the city which are not directly in conflict with this shall continue in effect. The ongoing government of the city as of the effective date of

this Act shall continue unchanged except to the extent this Act expressly requires otherwise. All existing legal rights and obligations of the city shall continue under this Act.

Section 7-3. An Act incorporating and providing a new charter for the Town of Baldwin, approved August 3, 1923 (Ga. L. 1923, p. 448), as amended by an Act approved February 5, 1953 (Ga. L. 1953, Jan.-Feb. Sess., p. 2158), an Act approved March 21, 1968 (Ga. L. 1968, p. 2400), and an Act approved March 27, 1972 (Ga. L. 1972, p. 2794), is repealed in its entirety.

Section 7-4. All laws and parts of laws in conflict with this Act are repealed.

STATE OF GEORGIA
HABERSHAM COUNTY

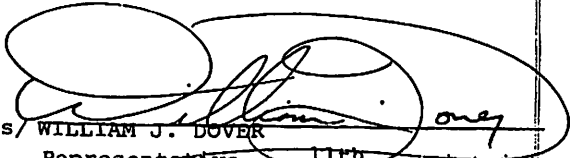
Notice is hereby given that I shall introduce a bill in the 1985 Session of the General Assembly to create and incorporate the City of Baldwin, in Habersham County, Georgia; describe the corporate limits; provide for municipal government; provide for municipal officials, their election or appointment, term of office, salaries and duties; empower said municipality to levy and collect taxes and other revenue and expend same; and for other purposes.

This 3rd day of February, 1986.

Bill Dover,
Representative,
Habersham County
1c-2-8

GEORGIA, FULTON COUNTY

Personally appeared before me, the undersigned authority, duly authorized to administer oaths, William J. Dover, who, on oath, deposes and says that he is Representative from the 11th District, and that the attached copy of Notice of Intention to Introduce Local Legislation was published in the Tri-County Advertiser which is the official organ of Habersham County, on the following date: February 6, 1986.


S/ WILLIAM J. DOVER
Representative, 11th District

Sworn to and subscribed before me,
this 26th day of February,
19 86.


Notary Public s/ Connie F. Smith
Notary Public, Clayton County, Georgia
My Commission Expires Nov. 2, 1987

(SEAL)

H. B. No. 2053