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BOOK PAGE RECORDED  
COMMUNICATIONS JR

PUBLISHED 9-23-1997

PUBLISHED 9-30-1997

PUBLISHED 10-7-1997

FIRST READING 10-13-1997

PASSED 11-10-1997

AN ORDINANCE NO. 0029-1002-11-97

AN ORDINANCE TO AMEND THE CITY CHARTER OF THE CITY OF BALDWIN, GEORGIA, PURSUANT TO O.C.G.A. §§ 36-35-3 AND 36-35-6, TO INCREASE THE FINES AND PENALTIES THAT MAY BE ASSESSED FOR A VIOLATION OF CITY ORDINANCES, EXCEPT AS OTHERWISE PROVIDED BY GENERAL LAW PROMULGATED BY THE GEORGIA GENERAL ASSEMBLY; TO PROVIDE THAT THE PUNISHMENT FOR A VIOLATION OF ANY ORDINANCE OF THE CITY WHERE SUCH PUNISHMENT HAS NOT BEEN SET BY GENERAL LAW PROMULGATED BY THE GEORGIA GENERAL ASSEMBLY SHALL NOT EXCEED A FINE OF \$1,000.00, OR CONFINEMENT IN EXCESS OF SIX MONTHS, OR BOTH; TO PROVIDE THAT THE JUDGE OF THE MUNICIPAL COURT OF THE CITY OF BALDWIN, GEORGIA, IN THE JUDGE'S DISCRETION, MAY FIX PUNISHMENT FOR VIOLATIONS OF ORDINANCES WHERE THE PUNISHMENT HAS NOT BEEN MADE THEREFORE BY GENERAL LAW PROMULGATED BY THE GEORGIA GENERAL ASSEMBLY, UP TO THE MAXIMUM ALLOWED BY THE CITY CHARTER, AND INCLUSIVE OF PUNISHMENTS FOR CONTEMPT; TO REPEAL CONFLICTING PROVISIONS OF THE CHARTER; AND FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Baldwin, Georgia, is authorized by O.C.G.A. § 36-35-3 and 36-35-6, to enact an Ordinance which amends the City Charter and establishes the punishment for violation of ordinances of the City of Baldwin where no punishment has been made therefore by general law promulgated by the Georgia General Assembly; and

WHEREAS, in order to require proper compliance with the ordinances of the City of Baldwin by persons subject to said ordinances, the City Council finds that it is appropriate to amend the City Charter to provide a maximum possible punishment

for violation of ordinances of the City where no punishment has been made therefore by general law promulgated by the Georgia General Assembly.

WHEREAS, the City Council further finds, that in order to assist the Judge of the Municipal Court of the City of Baldwin, Georgia, to maintain order within the courtroom, of the Municipal Court of the City of Baldwin, Georgia, that the Municipal Court shall have the authority to punish those in its presence for contempt, up to the possible maximums allowed by this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Baldwin, Georgia, and it is hereby ordained by the authority of same, as follows:

Section 1. AMENDMENT OF SECTION 2-12. OF THE CITY CHARTER.

Section 2-12. of the City Charter of the City of Baldwin, Georgia, is hereby amended, by adding the following subparagraph (d) which shall read as follows:

(d) The violation of any ordinance of the City of Baldwin, Georgia, where the punishment for said violation has not been set by general law promulgated by the Georgia General Assembly, shall not exceed a maximum fine of \$1,000.00 or confinement in excess of six months, or both. However, the City of Baldwin, Georgia, through ordinances promulgated by the City Council of the City of Baldwin, Georgia, are hereby authorized to provide, and may provide, that each day that a person is in violation of a City ordinance, that each such day as the person continues in violation of the ordinance, shall be deemed a separate violation of the ordinance, and subject the person to

the maximum penalties allowed pursuant to this subsection of the City Charter for each separate violation (where the punishment is not set by general law promulgated by the Georgia General Assembly). As used within this subsection of the City Charter, the term, "person", shall include all legal entities, including but not limited to, natural persons, corporations, legal partnerships, limited liability entities and all other entities legally recognized under Georgia law.

**Section 2. AMENDMENT OF SECTION 4-4. OF THE CITY CHARTER.**

Section 4-4. of the City Charter of the City of Baldwin, Georgia, is hereby amended, by striking in its entirety subsections (b) and (c), and substituting in lieu thereof the following subsections (b) and (c) which shall read as follows:

(b) The Municipal Court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$1,000.00 or six months in jail, or both.

(c) The Judge of the Municipal Court of the City of Baldwin, Georgia, in the Judge's discretion, may fix punishment for violations of all City ordinances or for offenses within its jurisdiction, where the punishment is not set by general law promulgated by the Georgia General Assembly, as provided by Section 2-12. (d) of the City Charter and with the punishment not exceeding a fine of \$1,000.00 or imprisonment in excess of six months, or both, for each separate violation of the ordinance or the offense.

Section 3. EFFECTIVE DATE.

This Ordinance is hereby adopted upon passage, to become effective upon filing with the Georgia Secretary of State and in the office of the Clerk of the Habersham County Superior Court pursuant to O.C.G.A. § 36-35-5.

Section 4. REPEAL OF CONFLICTING PROVISIONS.

The provisions of the Charter of the City of Baldwin, Georgia, and the provisions of all ordinances of the City of Baldwin, Georgia, that are in conflict with the maximum punishments allowed by this Ordinance, are repealed to the extent of the conflict. It is the intent of the City Council for the City of Baldwin, Georgia, that any person that violates any ordinance enacted prior to the effective date of this Charter Amendment, shall be subject to the punishment allowed by this Charter Amendment, up to the maximums allowed by this Charter Amendment, so long as said violations occur after the effective date of this Charter Amendment.

This 10 day of November, 1997.

BALDWIN CITY COUNCIL

By: Mark C. Reed  
Mayor  
Robert Baham  
Councilperson  
John Thomas  
Councilperson  
William Thomas  
Councilperson

Jeff Bohannon  
Councilperson

\_\_\_\_\_  
Councilperson

Attest:

Champion Shumond  
City Clerk

IN THE SUPERIOR COURT OF HABERSHAM COUNTY

STATE OF GEORGIA

IN RE: CHARTER AMENDMENT TO §  
THE CITY CHARTER OF  
THE CITY OF BALDWIN, § DOCKET NO. \_\_\_\_\_  
GEORGIA §

FILING NOTICE OF CHARTER AMENDMENT

Comes now, the Mayor and City Council of the City of Baldwin, Georgia, by and through the City Attorney for the City of Baldwin, Georgia, R. David Syfan, and files a copy with the Habersham Superior Court Clerk, of the proposed amendment to the City Charter, relating to the maximum punishment that may be assessed for violations of City ordinances.

This 9<sup>th</sup> day of September, 1997.

HULSEY, OLIVER & MAHAR, LLP

By: 

R. David Syfan  
Georgia Bar No. 695565

ATTORNEY FOR THE CITY OF  
BALDWIN, GEORGIA

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