

FIRST READING 9/22/08

PUBLISHED 9/30/08

PASSED 10/27/08

AN ORDINANCE NO. 0029-166

**AN ORDINANCE TO EXERCISE THE POLICE POWERS BY THE CITY OF BALDWIN, GEORGIA, FOR THE PUBLIC HEALTH, SAFETY, AND WELFARE; TO PROVIDE FOR A TITLE; TO PROHIBIT THEFT BY SHOPLIFTING; TO DEFINE THEFT BY SHOPLIFTING; TO PROVIDE THAT IT IS UNLAWFUL TO COMMIT THE OFFENSE OF CRIMINAL TRESPASS; TO DEFINE THE OFFENSE OF CRIMINAL TRESPASS; TO PROVIDE PENALTIES FOR VIOLATION OF THE ORDINANCE; AND FOR OTHER PURPOSES.**

WHEREAS, pursuant to Art. IX, § II, ¶ III of the Georgia Constitution (1983), as amended, and pursuant to Section 1-3 of the City Charter, as amended, the City of Baldwin, Georgia is authorized to exercise police powers for the public health, safety, and welfare;

WHEREAS, the City Council of the City of Baldwin, Georgia, finds that it is in the interest of the citizens of the City of Baldwin, Georgia, for the City to enact an ordinance exercising the police powers in order to regulate and prohibit certain acts detrimental to the public health, safety, and welfare.

THEREFORE, BE IT ORDAINED by the City Council of Baldwin, Georgia, and it is hereby ordained by authority of the City Charter and the above-referenced authority, as amended:

**Section 1. TITLE.**

This ordinance shall be entitled and known as the "Baldwin Police Powers II Ordinance."

**Section 2. CRIMINAL TRESPASS.**

(a) It shall be unlawful for any person to commit an act of criminal trespass, as further described within subsections (b), (c), (d), and (e) of Section 2 of this ordinance, in the City of Baldwin, Georgia.

(b) A person commits the offense of criminal trespass when he or she intentionally damages any property of another without consent of that other person and the damage thereto is \$500.00 or less or knowingly and maliciously interferes with the possession or use of the property of another person without consent of that person.

(c) A person commits the offense of criminal trespass when he or she knowingly and without authority:

(1) Enters upon the land or premises of another person or into any part of any vehicle, railroad car, aircraft, or watercraft of another person for an unlawful purpose.

(2) Enters upon the land or premises of another person or into any part of any vehicle, railroad car, aircraft, or watercraft of another person after receiving, prior to such entry, notice from the owner, rightful occupant, or, upon proper identification, an authorized representative of the owner or rightful occupant that such entry is forbidden; or

(3) Remains upon the land or premises of another person or within the vehicle, railroad car, aircraft, or watercraft of another person after receiving notice from the owner, rightful occupant, or, upon proper identification, an authorized representative of the owner or rightful occupant to depart.

(d) For the purposes of subsection (c) of Section 2 of this ordinance, permission to enter or invitation to enter given by a minor who is or is not present on or in the property of the minor's parent or guardian is not sufficient to allow lawful entry of another person upon the land,

premises, vehicle, railroad car, aircraft, or watercraft owned or rightfully occupied by such minor's parent or guardian if such parent or guardian has previously given notice that such entry is forbidden or notice to depart.

(e) A person commits the offense of criminal trespass when he or she intentionally defaces, mutilates, or defiles any grave marker, monument, or memorial to one or more deceased persons who served in the military service of this state, the United States of America or any of the states thereof, or the Confederate States of America or any of the states thereof, or a monument, plaque, marker, or memorial which is dedicated to, honors, or recounts the military service of any past or present military personnel of this state, the United States of America or any of the states thereof, or the Confederate States of America or any of the states thereof if such grave market, monument, memorial, plaque, or marker is privately owned or located on land which is privately owned.

**Section 3.     THEFT BY SHOPLIFTING.**

(a) It shall be unlawful for any person to commit an act of theft by shoplifting, as further described within subsection (b) of Section 3 of this ordinance in the City of Baldwin, Georgia.

(b) A person commits the offense of theft by shoplifting when he alone or in concert with another person, with the intent of appropriating merchandise to his own use without paying for the same or to deprive the owner of possession thereof or of the value thereof, in whole or in part, does any of the following:

- (1) Conceals or takes possession of the goods or merchandise of any store or retail establishment;
- (2) Alters the price tag or other price marking on goods or merchandise of any store or retail establishment.

(3) Transfers the goods or merchandise of any store or retail establishment from one container to another;

(4) Interchanges the label or price tag from one item of merchandise with a label or price tag for another item of merchandise; or

(5) Wrongfully causes the amount paid to be less than the merchant's stated price for the merchandise.

(c) (1) A person convicted of the offense of theft by shoplifting, as provided in subsection (b) of this ordinance section, when the property which was the subject of the theft is \$300.00 or less in value shall be punished according to the penalties allowed by the City Charter; provided, however, that:

(A) Upon conviction of a second offense for shoplifting, where the first offense is either a felony or a misdemeanor, as defined by this ordinance section, in addition to or in lieu of any imprisonment which might be imposed, the defendant shall be fined not less than \$250.00 and the fine shall not be suspended or probated;

(B) Upon conviction of a third offense for shoplifting, where the first two offenses are either felonies or misdemeanors, or a combination of a felony and a misdemeanor, as defined by this ordinance section, in addition to or in lieu of any fine which might be imposed, the defendant shall be punished by imprisonment for not less than 30 days and, in addition to such confinement, may be required to undergo psychological evaluation and treatment to be paid for by the defendant; and such sentence of imprisonment or confinement shall not be suspended, probated, deferred, or withheld; and

(2) A person that can be convicted of the offense of theft by shoplifting, as provided in subsection (b) of this ordinance section, when the property which was the subject of

the theft exceeds \$300.00 in value commits a felony and the case shall be transferred to a court of appropriate jurisdiction.

(3) A person that can be convicted of the offense of theft by shoplifting, as provided in subsection (b) of this ordinance section, when the property which was the subject of the theft is taken from three separate stores or retail establishments within one county during a period of seven days or less and when the property which was the subject of each theft exceeds \$100.00 in value, commits a felony and the case shall be transferred to a court of appropriate jurisdiction.

(d) In all cases involving theft by shoplifting, the term "value" means the actual retail price of the property at the time and place of the offense. The unaltered price tag or other marking on property, or duly identified photographs thereof, shall be prima-facie evidence of value and ownership of the property.

(e) Subsection (c) of this ordinance section shall in no way affect the authority of a sentencing judge to provide for a sentence to be served on weekends or during the nonworking hours of the defendant.

#### **Section 4. PENALTIES.**

Except as specifically provided hereinabove, any person who shall plead guilty to a violation of the provisions of this ordinance, without an appearance before the Municipal Court of the City of Baldwin, Georgia, or any other court of proper jurisdiction, shall pay a fine for the particular offense as set and provided by the current fine schedule which has been approved by the Municipal Court of the City of Baldwin, Georgia, or other court of appropriate jurisdiction. Except as provided hereinabove, any person having been found guilty of a violation of the provisions of this ordinance by the Municipal Court of the City of Baldwin, Georgia, or any

other court of proper jurisdiction shall be assessed a fine, penalty, or punishment up to the maximum fine, penalty, or punishment or any combination thereof, as provided by the Charter of the City of Baldwin, Georgia, as amended, or as provided by state law, and as determined to be appropriate in the discretion of the Judge of the Municipal Court of the City of Baldwin, Georgia, or other court of proper jurisdiction.

**Section 5. REPEAL OF CONFLICTING ORDINANCES TO THE EXTENT OF THE CONFLICT.**

All prior ordinances, or all parts of prior ordinances, in conflict with the terms of this ordinance are hereby repealed to the extent of the conflict; but it is hereby provided, that any ordinance, or any provision of any ordinance, or law which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, is hereby adopted as a part hereof, and shall be legally construed to be in favor of upholding this ordinance on behalf of the City of Baldwin, Georgia.

**Section 6. SEVERABILITY.**


If any paragraph, subparagraph, sentence, clause, phrase, or any portion of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this ordinance not so held to be invalid, or the application of this ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the City Council of the City of Baldwin, Georgia, to provide for separate and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

**Section 7. EFFECTIVE DATE.**

The effective date of this ordinance shall be upon its passage by the City Council.

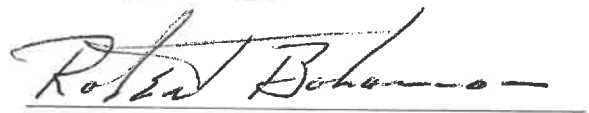
SO ORDAINED this 27<sup>th</sup> day of October, 2008.

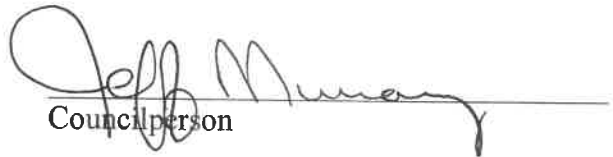
**BALDWIN CITY COUNCIL**


By:   
Mayor

  
Councilperson


  
Councilperson

  
Councilperson

  
Councilperson

  
Councilperson

Attest:

  
Brandy Kyle, City Clerk

1825/W109753

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September 9, 2008

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(1890-1981)

VIA FACSIMILE – 706.776.8125  
AND U.S. MAIL

Chief Darren Osborn  
Baldwin Police Department  
P. O. Box 247  
Baldwin, GA 30511-0247

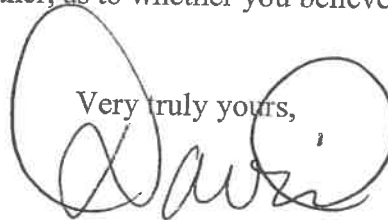
Re: Police Powers II Ordinance

Dear Chief Osborn:

Pursuant to your request, I have drafted a proposed police powers ordinance to make criminal trespass and theft by shoplifting an ordinance violation within the City of Baldwin, Georgia. As you will see, when you review the ordinance, I followed the provisions of statutory law, being O. C. G. A. § 16-7-21 for criminal trespass, and O. C. G. A. § 16-8-14 for theft by shoplifting. Please note that in some instances, theft by shoplifting is a felony, and therefore I have provided under the ordinance that when the theft by shoplifting has a possible penalty of a felony, that the case would be transferred to a court of appropriate jurisdiction.

I believe that this proposed ordinance will meet your needs. However, if you see any way to improve the ordinance, or desire any changes, please do not hesitate to call. If you will confirm to me that the proposed ordinance is acceptable to you, then I will run the ordinance in final form, and request that the City Council begin the process to pass the ordinance. I would appreciate hearing from you, one way or the other, as to whether you believe the proposed ordinance will meet your needs.

Very truly yours,



R. David Syfan

RDS/lhc/1825/W109781

Enclosure

cc: Mayor and Council (w/encl.)



FIRST READING: 9-24-12

PUBLISHED: N/A

PASSED: 10-8-12

AN ORDINANCE NO. 0029-223

**AN ORDINANCE TO AMEND THE BALDWIN POLICE POWERS ORDINANCE; TO PROVIDE MODIFICATIONS REGARDING THE REGULATION OF THE DISCHARGE OF WEAPONS WITHIN THE INCORPORATED AREA OF THE CITY, AND TO ALLOW HUNTING UNDER CERTAIN CONDITIONS; TO REPEAL CONFLICTING ORDINANCES TO THE EXTENT OF THE CONFLICT; TO PROVIDE FOR SEVERABILITY OF PARAGRAPHS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

WHEREAS, pursuant to Art. IX, § II, ¶ III of the Georgia Constitution (1983), as amended, and pursuant to Section 1-3. of the City Charter, as amended, the City of Baldwin, Georgia is authorized to exercise police powers for the public health, safety and welfare;

WHEREAS, by ordinance duly passed on November 13, 1995, and amended in 1999 and 2008, the City Council of the City of Baldwin, Georgia, enacted the Baldwin Police Powers Ordinance, and as subsequently amended, to exercise the police powers of the City in order to regulate and prohibit certain acts detrimental to the public health, safety, and welfare;

WHEREAS, the City Council of the City of Baldwin, Georgia finds that it is in the interest of the citizens of the City of Baldwin, Georgia, for the City to amend said ordinance, in order to further exercise the police powers in order to regulate and prohibit certain acts, but to allow hunting within the City under certain conditions.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Baldwin, Georgia, and it is hereby ordained by the authority of the City Charter and the above-referenced authority as amended, and as follows:

**SECTION 1.            DISCHARGE OF WEAPONS.**

Section 4 of Article IV of the Baldwin Police Powers Ordinance is hereby stricken in its entirety, and the following is substituted in lieu thereof:

**Section 4.            Discharge of Weapons.**

(a) It shall be unlawful for any person to fire a gun, rifle, pistol, revolver, shotgun, cannon, air rifle, firearm of any type, or shoot a slingshot, bow and arrow, or crossbow within the incorporated area of the City of Baldwin within fifteen hundred (1,500) feet of any residence,

place of worship, business, or public meeting place, except as provided herein. This section shall not apply to any law enforcement officer while in the discharge of official duties, and shall not apply to a person who discharges a weapon within his or her property in defense of himself or herself or any persons upon the property, or both, and shall not apply to any person who is hunting in accordance with the provisions of subsection (b) as stated hereinafter.

(b) Hunting upon unimproved property located within the incorporated area of the City of Baldwin shall be allowed upon a showing that the public safety will not be endangered by meeting the following conditions for hunting to be allowed.

(1) The property where the hunting is to occur must be a minimum of 25 undivided, unimproved, and contiguous acres and must be in a natural vegetative state. No real property that has been subdivided or graded, or both, for current or future development will qualify for hunting.

(2) The real property shall not be used as a target or gun range for any rifle, handgun, or other weapon.

(3) The muzzle velocity of all firearm ammunition used for hunting must exceed 1,000 feet per second ["FPS"], but cannot exceed 3,000 FPS. Bow and arrow, and crossbows may be used for hunting also.

(4) The zoning district classification for the property where hunting is to occur must either be an agricultural district or a highway-business district.

(5) Rifles may be used for hunting, but the following types of rifles are not allowed: No magnum rifles, assault or military type weapons, and no automatic weapons may be used for hunting.

(6) All hunters must obey the requirements and hunting seasons of the State of Georgia including the use of orange vests for safety, and must have obtained a hunter education certification that is recognized by the State of Georgia.

(7) Hunters are not allowed to hunt within 100 yards of the property lines of the tract of real property where the hunting is occurring, and must keep a 100 yard buffer between the hunters and all property lines and all roads.

(8) The maximum number of people hunting on the tract of property at any one time must not exceed one person for every five acres of the real property.

(9) Twenty-four (24) hours prior to the beginning of any hunting, the hunters must demonstrate that the planned hunting event will meet the conditions of this subsection, and provide written notice of meeting these conditions to the Baldwin Police Department and shall provide the following information:

- (a) The location of the property where the hunt will occur;
- (b) The hunters who are going to participate by their names and addresses;
- (c) The duration of the planned hunt;
- (d) That the property meets the conditions that are required under this subsection; and
- (e) That the hunters include the owner of the property, or include a written statement by the owner of the property giving permission for the hunt.

The Baldwin Police Chief or other designated agent of the Baldwin Police Department shall verify the information provided by the written notice of the hunt and provide an acknowledgment of receipt of the notification that the hunting party must maintain for the duration of the hunt.

**SECTION 2.**            **REPEAL OF CONFLICTING ORDINANCES TO THE EXTENT OF THE CONFLICT.**

All parts of previously ordained ordinances in conflict with the terms of this Ordinance are hereby repealed to the extent of the conflict; but it is hereby provided that any ordinance or law which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, is hereby adopted as a part hereof and shall be legally construed to be in favor of upholding this ordinance on behalf of the City of Baldwin, Georgia.

**SECTION 3.**            **SEVERABILITY.**

If any paragraph, subparagraph, sentence, clause, phrase or any portion of this ordinance should be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this ordinance as applied to any particular situation or set of circumstances should be declared invalid or unconstitutional, such invalidity shall not be construed to effect the provisions of this ordinance not so held to be invalid, or the application of this ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the City Council of the City of Baldwin to provide for separate and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

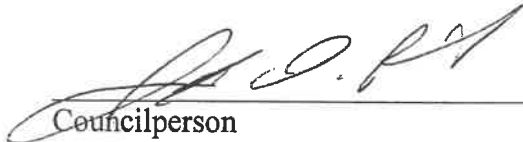
**SECTION 4.**            **EFFECTIVE DATE.**


The effective date of this ordinance will be upon its passage by the City Council of the City of Baldwin, Georgia.

SO ORDAINED this 8 day of October, 2012.


**BALDWIN CITY COUNCIL**

By:   
Mayor

  
Councilperson

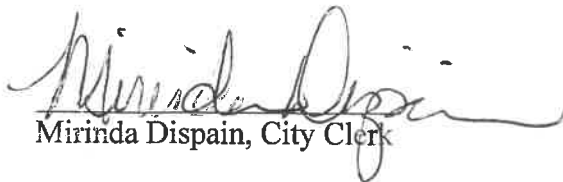
  
Councilperson

  
Councilperson

  
Councilperson

  
Councilperson

Attest:

  
Mirinda Dispain, City Clerk