

Baldwin Derelict and Blighted Property Ordinance

ORDINANCE NO. 2019-2019-0712

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL FOR THE CITY OF BALDWIN RELATING TO DERELICT AND BLIGHTED PROPERTY; TO PROVIDE FOR DEFINITIONS; TO PROVIDE FOR PROCEDURES FOR A DECLARATION OF A PUBLIC NUISANCE; TO PROVIDE FOR A COMPLAINT AND APPEAL PROCESS; TO PROVIDE POWERS OF CITY OFFICERS; TO PROVIDE FOR SERVICE OF PROCESS; TO PROVIDE A LIMITATION OF LIABILITY; TO PROVIDE FOR A LEVY OF INCREASE ON AD VALOREM TAXES FOR BLIGHTED PROPERTY; TO PROVIDE FOR IDENTIFICATION OF BLIGHTED PROPERTY; TO PROVIDE FOR REMEDIATION; TO PROVIDE FOR A DECREASE ON AD VALOREM TAXES ON PROPERTY; TO PROVIDE PROCEDURES; TO PROVIDE FOR ENFORCEMENT; TO PROVIDE FOR VIOLATIONS; TO PROVIDE PENALTIES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

SECTION ONE

The compilation of ordinances of the City of Baldwin is amended by adding a new ordinance and creating Chapter 27, which shall include the following language:

Article I

Sec. 27-1. Short Title.

This Article shall be known as the “City of Baldwin Derelict Property Ordinance.”

Sec. 27-2. Definitions.

As used in this article, the term:

- (a) *Applicable codes* means any optional housing or abatement standard provided in O.C.G.A. title 8, chapter 2 as adopted by ordinance or operation of law, or other property-maintenance standards as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property; any fire or life safety code as provided for in O.C.G.A. title 25, chapter 2; and any building codes adopted by local ordinance prior to October 1, 1991, or the minimum standard codes provided in O.C.G.A. title 8, chapter 2 after October 1, 1991, provided that

such building or minimum standard codes for real-property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

- (b) *Closing* means causing a dwelling, building, or structure to be vacated and secured against unauthorized entry.
- (c) *Drug crime* means an act which is a violation of O.C.G.A. title 16, chapter 13, article 2, known as the "Georgia Controlled Substances Act".
- (d) *Dwellings, buildings, or structures* means any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. As used in this article, the term "dwellings, buildings, or structures" shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.
- (e) *Graffiti* means any inscriptions, words, figures, paintings, or other defacements that are written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by means of any aerosol paint container, broad-tipped marker, gum label, paint stick, graffiti stick, etching equipment, brush, or other device capable of scarring or leaving a visible mark on any surface without prior authorization from the owner or occupant of the property.
- (f) *Governing authority* means the City Council of the City of Baldwin, Georgia.
- (g) *Interested party* means:
 - (1) The "owner";
 - (2) Persons in possession of said property and premises;
 - (3) Those parties having an interest in the property as revealed by a certification of title to the property conducted in accordance with the title standards of the State Bar of Georgia;
 - (4) Those parties having filed a notice in accordance with O.C.G.A. § 48-3-9; and
 - (5) Any other party having an interest in the property whose identity and address are reasonably ascertainable from the records of the municipality

or records maintained in the county courthouse or by the clerk of court; provided, however, interested party shall not include the holder of the benefit or burden of any easement or right-of-way whose interest is properly recorded which interest shall remain unaffected.

- (h) *Municipality* means the City of Baldwin, Georgia.
- (i) *Owner* means the holder of the title in fee simple and every mortgagee of record.
- (j) *Public authority* means any member of the governing authority, any director of a public housing authority, or any officer who is in charge of any department or branch of government (municipal, county or state) relating to health, fire, life safety, building regulations, or to other activities concerning dwellings, buildings, or structures, or use of private property within the city.
- (k) *Public officer* means the City Building Official, who is authorized to exercise the powers prescribed by article, and any officer or employee of the city to whom he delegates such authority.
- (l) *Repair* means altering or improving a dwelling, building, or structure so as to bring the structure into compliance with the applicable codes in the jurisdiction where the property is located and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, or structure.
- (m) *Resident* means any person residing in the jurisdiction where the property is located on or after the date on which the alleged nuisance arose.

Sec. 27-3. Duty of owners of real property and structures thereon.

It is the duty of the owner of every dwelling, building, structure, or private property within the jurisdiction to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the City or such laws and ordinances which regulate and prohibit activities on private property and which declare it to be a public nuisance to construct or maintain any dwelling, building, structure, or use private property in violation of such codes, laws or ordinances.

Sec. 27-4. Declaration of public nuisance.

Every dwelling, building, or structure within the City which (i) is constructed or maintained in violation of applicable codes in force within the City; (ii) is unfit for human habitation or commercial, industrial, or business use or occupancy due to inadequate provisions for ventilation, light, air, sanitation, or open spaces; (iii) poses an imminent harm to life or other property due to fire, flood, hurricane, tornado, earthquake, storm or other natural catastrophe; (iv) is vacant and used in the commission of drug crimes; (v) is occupied and used repeatedly for the commission of illegal activities,

including facilitating organized crime or criminal enterprises, after written notice to the owner of such activities conducted therein; (vi) is abandoned; or (vii) otherwise constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, is hereby declared a public nuisance. Every private property within the City on which is being regularly conducted any activity or land use in violation of applicable laws and ordinances, including the zoning ordinance of this City, is hereby declared to be a public nuisance. Property which may be deemed esthetically substandard or deteriorating shall not meet the definition of a public nuisance unless the overall condition or use of the property results in impaired health, safety, transmission of disease, infant mortality, or crime.

Sec. 27-5. Powers of City Building Official or his designee.

- (a) In carrying out his duties pursuant to this article, the City Building Official or his designee to whom his authority is assigned shall, in addition to those powers otherwise conferred upon or delegated to him by the Charter and other ordinances of the City, be empowered to:
 - (1) Investigate and inspect the condition of dwellings, buildings, structures, and private property within the City to determine those structures and property uses in violation of this article. Entries onto private property shall be made in a manner so as to cause the least possible inconvenience; provided, however, the public officer shall not enter into any occupied dwelling or structure without first having obtained the consent of the owner or a person in possession. In those cases where consent to entry is denied after reasonable request, the public officer may apply to the municipal court for an administrative search warrant upon showing probable cause that a violation exists. The Baldwin Municipal Court need not be in session in order for the public officer to receive a search warrant and the public officer may make application for a search warrant directly to the Baldwin Municipal Court Judge after filing an affidavit showing probable cause with the Municipal Court Clerk. The Municipal Court Judge shall be authorized to issue the search warrant under such circumstances.
 - (2) To retain experts including certified real estate appraisers, qualified building contractors, and qualified building inspectors, engineers, surveyors, accountants, and attorneys but only with the prior approval of the City Council.
 - (3) To appoint and fix the duties of such officers and employees of the City as he deems necessary to carry out the purposes of this article; and
 - (4) To delegate any of his functions and powers under this article to such officers, employees and agents as he may designate.

- (b) In addition to the procedures set forth in this article, the City Building Official or his designee(s) may issue citations for violations of state minimum standard codes, optional building, fire, life safety and other codes adopted by ordinance, and conditions declared to constitute a public health or safety hazard or general nuisance, and to seek enforcement of such citations before the municipal court prior to issuing a complaint in rem as provided in this article. Nothing in this article shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement by other summary proceedings.

Sec. 27-6. Complaint in rem in municipal court; procedure; lien; appeal.

- (a) Whenever a request is filed with the public officer by a public authority or by at least five residents (who are unrelated by blood and/or marriage) of the municipality charging that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer may make an investigation or inspection of the specific dwelling, building, structure, or property and make a written report of his findings. Such officer shall be guided in his investigation by documenting conditions, which include but are not limited to:
 - (1) Defects therein increasing the hazards of fire, accidents, or other calamities;
 - (2) Lack of adequate ventilation, light, or sanitary facilities;
 - (3) Dilapidation;
 - (4) Disrepair by failure to conform to applicable codes and ordinances;
 - (5) Structural defects which render the structure unsafe for human habitation or occupancy;
 - (6) Uncleanliness; or
 - (7) The presence of graffiti which is visible from adjoining public or private property.
- (b) If the public officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer shall file a complaint in rem in the municipal court

of the City against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause summons and a copy of the complaint to be served on the interested parties in such dwelling, building, or structure. The public officer shall also file a lis pendens notice upon the applicable county records regarding the complaint in rem in accordance with Section 27-7(a)(4). The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the interested parties; state with particularity the factual basis for the action; and contain a statement of the action sought by the public officer to abate the alleged nuisance. The summons shall notify the interested parties that a hearing will be held before the municipal court at a date and time certain and at a place within the county or municipality where the property is located. Such hearing shall be held not less than 15 days nor more than 120 days after the filing of said complaint in the proper court. The interested parties shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for hearing.

- (c) If, after such notice and hearing, the court determines that the dwelling, building, or structure in question is unfit for human habitation or is unfit for its current commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the court shall state, in writing, findings of fact in support of such determination and shall issue and cause to be served upon the interested parties that have answered the complaint or appeared at the hearing an order:
- (1) If the repair, alteration, or improvement of the said dwelling, building, or structure can be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure so as to bring it into full compliance with the applicable codes relevant to the cited violation; and, if applicable, to secure by closing the structure so that it cannot be used in connection with the commission of drug crimes; or
 - (2) If the repair, alteration, or improvement of the said dwelling, building, or structure in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to demolish and remove such dwelling, building, or structure and all debris from the property.

For purposes of this section, the court shall make its determination of reasonable cost in relation to the present value of the dwelling, building, or structure without

consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered; and, provided further, that if the unsatisfactory condition is limited solely to the presence of graffiti, the dwelling, building or structure shall not be ordered demolished or closed, but its owner may be ordered to repair the same by cleaning or removal of the graffiti. Income and financial status of the owner shall not be a factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided in O.C.G.A. title 43, chapter 39A, qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the jurisdiction.

- (d) If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the public officer shall cause such dwelling, building, or structure to be repaired, altered, or improved, or to be vacated and closed, or demolished within 270 days of the expiration of time specified in the order for abatement by the owner. Any time during which such action is prohibited by a court order issued pursuant to subsection (c) of this section or any equitable relief granted by a court of competent jurisdiction shall not be counted toward the 270 days in which such abatement action shall commence. The public officer shall cause to be posted on the main entrance of the building, dwelling, or structure a placard with the following words:

"This building is unfit for human habitation or commercial, industrial, or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes or constitutes an endangerment to public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."

- (e) If the public officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any moneys received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any such sale of salvaged materials may be made without the necessity of public advertisement and bid. The public officer and governing authority are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials.
- (f) The amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the tax commissioner, and all other costs necessarily associated with the abatement action, including restoration to grade of

the real property after demolition, shall be a lien against the real property upon which such cost was incurred.

- (g) The lien provided for in subsection (f) shall attach to the real property upon the filing of a certified copy of the order requiring repair, closure, or demolition in the office of the clerk of superior court in Habersham or Banks County, as applicable depending upon where the property is located, and shall relate back to the date of the filing of the lis pendens notice required under subsection (b). The clerk of superior court shall record and index such certified copy of the order in the deed records of the county and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid. After filing a certified copy of the order with the clerk of superior court, the public officer shall, within 90 days of the completion of repairs, demolition or closure, forward a copy of the order and a final statement of costs to the county tax commissioner.
- (h) It shall be the duty of the county tax commissioner to collect the amount of the lien in conjunction with the collection of ad valorem taxes on the property and to collect the amount of the lien as if it were a real property ad valorem tax, using all methods available for collecting real property ad valorem taxes, including specifically O.C.G.A. § 48-4-5; provided, however, that the limitation of O.C.G.A. § 48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply; provided, further, that redemption of property from the lien may be made in accordance with the provisions of O.C.G.A. §§ 48-4-80 and 48-4-81. The tax commissioner may initiate enforcement of liens imposed under this section at any time following receipt of the final determination of costs from the public officer. The unpaid lien amount shall bear interest and penalties from and after the date of final determination of costs in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes.
- (i) The tax commissioner shall remit the amount collected to the governing authority of the municipality whose ordinance is being enforced. The tax commissioner may retain an amount equal to the cost of administering collection of the lien. Any such amount collected and retained for administration shall be deposited in the general fund of the county to pay the cost of administering the lien.
- (j) The governing authority may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the municipality agreeing to a timetable for rehabilitation of the real property or the dwelling, building, or structure on the property and demonstrating the financial means to accomplish such rehabilitation.
- (k) Review of a court order requiring the repair, alteration, improvement, or demolition of a dwelling, building, or structure shall be by direct appeal to the superior court under O.C.G.A. § 5-3-29.

Sec. 27-7. Service of complaints or orders upon owners and parties in interest.

- (a) Summons and copies of the complaint shall be served in the following manner:
- (1) In all cases, a copy of the complaint and summons shall be conspicuously posted on the subject dwelling, building, structure, or property within three business days of filing of the complaint and at least 14 days prior to the date of the hearing.
 - (2) At least 14 days prior to the date of the hearing, the public officer shall mail copies of the complaint and summons by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identities and addresses are readily ascertainable. Copies of the complaint and summons shall also be mailed by first-class mail to the property address to the attention of the occupants, if any;
 - (3) For interested parties whose mailing address is unknown, a notice stating the date, time, and place of the hearing shall be published in the newspaper in which the sheriff's advertisements appear in such county once a week for two consecutive weeks prior to the hearing; and
 - (4) A notice of lis pendens shall be filed in the office of the clerk of superior court in which the dwelling, building, structure, or property is located at the time of filing the complaint in municipal court.
- (b) The public officer shall cause an affidavit of service to be filed of record in the municipal court prior to the hearing showing compliance with the service requirements of this section. Such affidavit shall constitute a prima facie showing of minimum procedural due process and shall constitute sufficient proof that service was perfected.
- (c) Orders and other filings made subsequent to service of the initial complaint shall be served by U.S. Mail on every interested party who answers the complaint or appears at the hearing. Any interested party who fails to answer or appear at the hearing shall be deemed to have waived all further notice in the proceedings.

Sec. 27-8. Limitation of liability for code enforcement; no special duty created.

It is the intent of this article to protect the public health, life safety and general welfare of properties and occupiers of buildings and structures within the City in general, but not to create any special duty or relationship with any individual person or to any specified property within or without the boundaries of the City. Approval of a permit and inspection of a property shall in no manner guarantee or warrant to the owner or occupants thereof that said property has been constructed, maintained, or operated in conformance with applicable codes, laws and regulations. The City reserves the right to assert all available immunities and defenses in any action seeking to impose monetary

damages upon the City, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created. To the extent any federal or state law, regulation, or ordinance requires compliance as a condition precedent to the issuance of a permit, plan or design approval, inspection or other activity by the City, its officers, employees and agents, issuance of such permit, approval, or inspection shall not be deemed to constitute a waiver or estoppel of the condition precedent, and it shall remain the obligation and responsibility of the owner, his design professional(s), and contractor(s) to satisfy such legal requirements.

Sec. 27-9. General cleanliness of premises.

A. The owner and occupant of property within the City shall each be independently responsible for keeping the premises, including all buildings thereon and the full yard thereof, clean and free from all garbage, refuse, filth, dirt, ashes, trash, rubbish and other offensive materials.

B. Except as otherwise expressly permitted, it shall be prohibited to park or continuously store abandoned, wrecked, junked or inoperable vehicles, power-driven construction equipment, used lumber or metal, or any other miscellaneous scrap material in quantity that is visible from a public street or adjacent or abutting property. Said prohibition shall not be construed as to prohibit the temporary repair or maintenance of automobiles owned by the property owners, nor the storage of such vehicles, equipment or other materials within an enclosed building. Vehicles in violation of this section shall be subject to removal as a public nuisance.

C. Additional Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial solid waste means all types of solid waste generated by stores, offices, restaurants, warehouses and other non-manufacturing activities, excluding residential and industrial wastes.

Composting means the controlled biological decomposition of organic matter into a stable, odor-free humus.

Deleterious unhealthful growth means any invasive species of plant, whether indigenous or nonindigenous which, due to its natural growth, spreads easily onto adjacent properties and cannot be easily controlled.

Improved lot means any lot or parcel of land upon which a residential or commercial structure is located.

Municipal solid waste means any solid waste derived from households, including garbage, trash and sanitary waste in septic tanks and includes solid waste from single-family and multi-family residences, hotels, motels, bunkhouses, campgrounds, picnic grounds, and day use recreation areas. The term "municipal solid waste" includes commercial solid waste, but does not include solid waste from mining, agricultural or silvacultural operations or industrial processes or operations.

Municipal solid waste disposal facility means any facility or location where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with commercial or industrial solid waste, including, but not limited to, municipal solid waste landfills.

Municipal solid waste landfill means a disposal facility where any amount of municipal solid waste, whether or not mixed with commercial waste, industrial waste, non-hazardous sludges or small quantity generator hazardous waste, is disposed of by means of placing an approved cover thereon.

Unergrowth means low-growing plants, saplings, shrubs or vegetation of any kind which grow beneath trees in a wooded or partially-wooded area of any parcel or tract of land.

Untrimmed grass means grass that exceeds 12 inches in height on any property with improvements located thereon; or exceeding 18 inches in height on any unimproved vacant lot or parcel of land; or exceeding 18 inches in height for any other property which does not fall into either of the two categories specifically addressed in this definition.

Weeds means jimson, burdock, ragweed, thistle cocklebur, dandelion or other unsightly growths of a like kind.

Wooded areas means those tracts or parcels of land or portions of improved lots which consist of a dense growth of trees which exceed three inches in diameter.

Yard trimmings means leaves, brush, grass clippings, discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative matter resulting from landscaping development and maintenance, other than mining, agricultural and silvacultural operations.

D. Yard maintenance and grass height.

(a) From and after the effective date of the ordinance from which this article is derived, it shall be unlawful for the owner of any lot, parcel, or area of land within the City, or the agent of such owner, or tenant of an owner, or other occupant of the premises, to permit on such lot, parcel or area of land, to have, place or allow to be placed any of the following on such premises, including the front, side or rear yard, sidewalk or right-of-way:

- (1) Any accumulation of offensive matter or odor, including, but not limited to, overgrown or dead or decayed trees, dead organic matter, rubbish, garbage, animal intestinal waste and urine, and toxic or otherwise hazardous liquids and substances and material.
 - (2) Dead plant material piled such that it emits objectionable and foul odors or presents a haven for rodents, snakes, rats, mice or other vermin.
 - (3) Any condition that would create or provide a harborage for mice, rats, snakes, rodents or other vermin.
 - (4) Dead trees, shrubs or other plant materials which if they should fall, would present a safety hazard to adjacent public or private property.
 - (5) Any vegetation which, because of its characteristics of growth, spreads onto adjacent property and cannot be controlled.
 - (6) Grass, weeds or undergrowth that exceed 12 inches or more in height on any tract, lot or parcel of land upon which a residential or commercial structure is built.
 - (7) Grass, weeds or undergrowth that exceed 18 inches in height on any unimproved vacant tract, lot or parcel of land.
 - (8) Grass, weeds or undergrowth that exceed 18 inches in height on any tract, lot or parcel of land other than those described in this section.
 - (9) A swimming pool, pond, stream, or other body of water which is abandoned, unattended, unfiltered, stagnant, or not otherwise maintained, resulting in the water becoming polluted.
- (b) All clotheslines and other outdoor clothes-drying equipment shall be placed and maintained in only the rear yard of a residence or other residential property. In no instance shall clothes, sheets, towels or other household materials be hung from any object other than a clothesline or other outdoor drying equipment. The placement or hanging of clothes, sheets, towels or other household materials on fences, cars, hand railings, decks, porches, playgrounds or other similar objects shall be considered a violation of this article.
- (c) Except as set forth in section E., it is unlawful to clean or maintain private property located in the City by blowing, raking or otherwise

moving objects, debris, yard waste or other items onto adjoining property, the right-of-way or the street.

(d) Both the occupant and the owner of the premises shall be liable for compliance with the provisions of this article, and shall be responsible for violations thereof. Lease of property of an owner which purports to transfer responsibility for this provision shall be ineffective in shielding the owner for responsibility under this provision, and such owner shall remain liable along with the occupant of the leased premises.

Notwithstanding the foregoing, for the purposes of this section, wooded areas shall be exempt from the requirements of subsections (a)(6) through (8) of this section.

E. Placement and disposal of yard trimmings; weeds, untrimmed grass, deleterious growths prohibited.

- (a) It shall be unlawful to place or mix yard trimmings with municipal solid waste within the City.
- (b) Yard trimmings shall not be disposed at any solid waste disposal facility within the City.
- (c) No owner or tenant of any lot, parcel or area of land within the City limits shall permit on such tract, lot, parcel or area of land, or upon any sidewalk abutting the same, any weeds, untrimmed grass, deleterious or unhealthy growths or other debris of any kind which may impair the visibility of persons using the public streets or which may constitute an impediment on or overhanging the sidewalks along any of the streets of the City.
- (d) Yard trimmings and tree trimmings shall be sorted and disposed of in accordance with the Baldwin tree trimmings disposal ordinance.

F. Penalties.

- (a) Violation of any of the provisions of this article shall be punishable as a misdemeanor in the municipal court and each day of noncompliance shall constitute a separate violation.
- (b) A violation of this article is an infraction, and shall be treated as a misdemeanor. The minimum fine for each offense shall be no less than \$100.00 and no more than \$500.00 and/or jail time not to exceed 30 days for each subsequent offense.

Sec. 27-10. Disorderly house.

- (a) Any person who keeps and maintains, either by himself or others, a common, ill-governed and disorderly house, to the encouragement of gaming, drinking, illicit drug activity, or other misbehavior, to the common disturbance of the neighborhood or orderly citizens, shall be guilty of an offense against the City; provided, however, before any person is charged under this subsection, written notice shall be given the owner of the property and the person in possession thereof by the chief of police stating the general, customary and common habits of the house, giving fair notice of this subsection and the conduct proscribed thereby.
- (b) Any person who shall allow any boisterous, noisy, drunken or riotous persons to assemble or remain in their house, apartment or upon their property, after receiving oral notice from a police officer that boisterous, noisy, drunken or carousing activities have caused complaint and annoyance to the common disturbance of the neighborhood or orderly citizens, shall be guilty of an offense against the City; provided, however, no person shall be charged under this subsection unless the owner or person in possession of the premises has been afforded an opportunity to disburse the assembly or offending person from the premises. This subsection shall not preclude a police officer from arresting any individual for criminal trespass where such individual knowingly and without authority remains on private property after being notified by the owner or lawful occupant to depart.

Sec. 27-11. Violations; enforcement penalties.

Any person who willfully refuses to comply with the provisions of this article shall be cited to appear before the municipal court and, upon conviction, shall be fined not less than \$100.00 but may be subject to the maximum fine and punishment allowed by the City Charter, or State law, and as determined by a court of competent jurisdiction; each day of continued violation, after citation, shall constitute a separate offense.

SECTION TWO

Chapter 27 of the compilation of ordinances of the City of Baldwin shall also include Article II, which shall include the following language:

Article II

Sec. 27-12. Short Title.

This Article shall be known as the “Baldwin Blighted Property Ordinance.”

Sec. 27-13. Purpose.

The existence of real property which is maintained in a blighted condition increases the burden of the state and local government by increasing the need for government services, including but not limited to social services, public safety services, and code enforcement services. Rehabilitation of blighted property decreases this need for such government services.

In furtherance of its objective to eradicate conditions of slum and blight within the city, this City Council, in exercise of the powers granted to municipal corporations at Chapter 61, Urban Redevelopment, of Title 36 of the Official Code of Georgia Annotated, has designated those areas of the City where conditions of slum and blight are found or are likely to spread.

In recognition of the need for enhanced governmental services and in order to encourage private property owners to maintain their real property and the buildings, structures and improvements thereon in good condition and repair, and as an incentive to encourage community redevelopment, a community redevelopment tax incentive program is hereby established as authorized by Article IX, Section II, Paragraph VII(d) of the 1983 Constitution of the State of Georgia.

Sec. 27-14. Definitions.

- (a) ‘Blighted property’, ‘blighted’, or ‘blight’ means any urbanized or developed property which:
 - (1) Presents two or more of the following conditions:
 - (A) Uninhabitable, unsafe, or abandoned structure;
 - (B) Inadequate provisions for ventilation, light, air, or sanitation;
 - (C) An imminent harm to life or other property caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe respecting which the governor has declared a state of emergency under the state law or has certified the need for disaster assistance under federal law; provided, however, this division shall not apply to property unless the relevant public agency has given notice in writing to the property owner regarding specific harm caused by

the property and the owner has failed to take reasonable measures to remedy the harm;

- (D) A site identified by the federal Environmental Protection Agency as a superfund site pursuant to 42 U.S.C. Section 9601, et seq., or having environmental contamination to an extent that requires remedial investigation or a feasibility study;
 - (E) Repeated illegal activity on the individual property of which the property owner knew or should have known; or
 - (F) The maintenance of the property is below state, county, or municipal codes for at least one year after written notice of the code violation to its owner; and
- (2) Is conducive to ill health, transmission of disease, infant mortality, or crime in the immediate proximity of the property.

Property shall not be deemed blighted solely because of esthetic conditions.

- (b) ‘Building inspector’ means a certified inspector possessing the requisite qualifications to determine minimal code compliance.
- (c) ‘Community redevelopment’ means any activity, project, or service necessary or incidental to achieving the redevelopment or revitalization of a redevelopment area or portion thereof designated for redevelopment through an urban redevelopment plan or thorough local ordinances relating to the repair, closing, and demolition of buildings and structures unfit for human habitation.
- (d) ‘Governing authority’ means the City Council of the City of Baldwin, a Georgia municipal corporation.
- (e) ‘Millage’ or ‘millage rate’ means the levy, in mills, which is established by the governing authority for purposes of financing, in whole or in part, the levying jurisdiction’s general fund expenses for the fiscal year.
- (f) ‘Person’ means such individual(s), partnership, corporations, business entities and associations which return real property for ad valorem taxation or who are chargeable by law for the taxes on the property.
- (g) ‘Public officer’ means the City Building Official or such officer or employee of the City as designated by the Mayor to perform the duties and responsibilities hereafter set forth in this article.

Sec. 27-15. Ad Valorem Tax Increase on Blighted Property

- (a) There is hereby levied on all real property within the City which has been officially identified as maintained in a blighted condition an increased ad valorem tax by applying a factor of seven (7.0) to the millage rate applied to the property, so that such property shall be taxed at a higher millage rate generally applied in the municipality, or otherwise provided by general law; provided, however, real property on which there is situated a dwelling house which is being occupied as the primary residence of one or more persons shall not be subject to official identification as maintained in a blighted condition and shall not be subject to increased taxation.
- (b) Such increased ad valorem tax shall be applied and reflected in the first tax bill rendered following official designation of a real property as blighted.
- (c) Revenues arising from the increased rate of ad valorem taxation shall, upon receipt, be segregated by the City finance officer and/or the City building official and used only for community redevelopment purposes, as identified in an approved urban redevelopment program, including defraying the cost of the City's program to close, repair, or demolish unfit building and structures.

Sec. 27-16. Identification of Blighted Property.

- (a) In order for a parcel of real property to be officially designated as maintained in a blighted condition and subject to increased taxation, the following steps must be completed:
 - (1) An inspection must be performed on the parcel of property. In order for an inspection to be performed,
 - (A) A request may be made by the public officer or by at least five residents of the City (who are unrelated by blood or marriage) for inspection of a parcel of property, said inspection to be based on the criteria as delineated in ordinance, or
 - (B) The public officer may cause a survey of existing housing conditions to be performed, or may refer to any such survey conducted or finalized within the previous five years, to locate or identify any parcels which may be in a blighted condition and for which a full inspection should be conducted to determine if that parcel of property meets the criteria set out in this article for designation as being maintained in a blighted condition.
 - (2) A written inspection report of the findings for any parcel of property inspected pursuant to subsection (1) above shall be prepared and submitted to the public officer. Where feasible, photographs of the conditions found

to exist on the property on the date of inspection shall be made and supplement the inspection report. Where compliance with minimum construction, housing, occupancy, fire and life safety codes in effect within the City are in question, the inspection shall be conducted by a certified inspector possessing the requisite qualifications to determine minimal code compliance.

- (3) Following completion of the inspection report, the public officer shall make a determination, in writing, that a property is maintained in a blighted condition, as defined by this article, and is subject to increased taxation.
 - (4) The public officer shall cause a written notice of his determination that the real property at issue is being maintained in a blighted condition to be served upon the person(s) shown on the most recent tax digest of Habersham or Banks County as responsible for payment of ad valorem taxes assessed thereon; provided, however, where through the existence of reasonable diligence it becomes known to the public officer that real property has been sold or conveyed since publication of the most recent tax digest, written notice shall be given to the person(s) known or reasonably believed to then own the property or be chargeable with the payment of ad valorem taxes thereon, at the best address available. Service in the manner set forth at O.C.G.A. § 41-2-12 shall constitute sufficient notice to the property's owner or person chargeable with the payment of ad valorem taxes for purpose of this section, except that posting of the notice on the property will not be required.
- (b) The written notice given to the person(s) chargeable with the payment of ad valorem taxes shall notify such person of the public officer's determination the real property is being maintained in a blighted condition and shall advise such person of the hours and location at which the person may inspect and copy the public officer's determination and any supporting documentation. Persons notified that real property of which the person(s) is chargeable with the payment of ad valorem taxes shall have 30 days from the receipt of notice in which to request a hearing before the City's municipal court. Written request for hearing shall be filed with the public officer and shall be date stamped upon receipt. Upon receipt of a request for hearing, the public officer shall notify the municipal court and the building inspector or person who performed the inspection and prepared the inspection report.
- (c) Within 30 days of the receipt of a request for hearing, the municipal court clerk shall set a date, time and location for the hearing and shall give at least ten business days notice to the person(s) requesting the hearing, the public officer and the building inspector or person who performed the inspection and prepared the inspection report. Notice of scheduled hearings shall be published as a legal advertisement in the Northeast Georgia or Banks County News, or other

designated legal organ in Habersham or Banks County, at least five days prior to the hearing. Hearings may be continued by the municipal court judge upon request of any party, for good cause.

- (d) At the hearing, the public officer shall have the burden of demonstrating by a preponderance of the evidence that the subject property is maintained in a blighted condition, as defined by this article. The municipal court judge shall cause a record of the evidence submitted at the hearing to be maintained. Upon hearing from the public officer and/or their witnesses and the person(s) requesting the hearing and/or their witnesses, the judge of municipal court shall make a determination either affirming or reversing the determination of the public officer. The determination shall be in writing and copies thereof shall be served on the parties by certified mail or statutory overnight delivery. The determination by the court shall be deemed final. A copy of such determination shall also be served upon the Tax Commissioner of Habersham or Banks County by way of U.S. Mail, and the applicable tax officer (who may be the City's finance officer) shall include the increased tax on the next regular tax bill rendered on behalf of the City.
- (e) Persons aggrieved by the determination of the court affirming the determination of the public officer may petition the Superior Court of Habersham or Banks County for a writ of certiorari within 30 days of issuance of the court's written determination.

Sec. 27-17. Remediation or Redevelopment.

- (a) A property owner or person(s) who is chargeable with the payment of ad valorem taxes on real property which has been officially designated pursuant to this article as property maintained in a blighted condition may petition the public officer to lift the designation, upon proof of compliance with the following:
 - (1) Completion of work required under a plan of remedial action or redevelopment approved by the City's building official which addresses the conditions of blight found to exist on or within the property, including compliance with all applicable minimum codes; or
 - (2) Completion of work required under a court order entered in a proceeding brought pursuant to the State mandatory minimum building codes.
- (b) Before action on a petition to lift the designation, the public officer shall cause the property to be thoroughly inspected by a building inspector who, by written inspection report, shall certify that all requisite work has been performed to applicable code in a workmanlike manner, in accordance with the specifications of the plan of remedial action or redevelopment, or applicable court order. Upon finding required work to be satisfactorily performed, the public officer shall issue a written determination that the real property is no longer maintained in a blighted

condition. Copies of this determination shall be served upon the person(s) chargeable with the payment of ad valorem taxes, and upon the Tax Commissioner of Habersham or Banks County.

- (c) All plans for remedial action or redevelopment shall be in writing, signed by the person(s) chargeable with the payment of ad valorem taxes on the real property and the City's building official, and contain the following:
- (1) The plan shall be consistent with the City's comprehensive plan and all laws and ordinances governing the subject property, and shall conform to any urban redevelopment plan adopted for the area within which the property lies;
 - (2) The plan shall set forth in reasonable detail the requirements for repair, closure, demolition, or restoration of existing structures, in accordance with minimal statewide codes; where structures are demolished, the plan shall include provisions for debris removal, stabilization and landscaping of the property;
 - (3) On parcels of five acres or greater, the plan shall address the relationship to local objectives respecting land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements;
 - (4) The plan shall contain verifiable funding sources which will be used to complete its requirements and show the feasibility thereof;
 - (5) The plan shall contain a timetable for completion of required work; and
 - (6) Any outstanding ad valorem taxes (state, school, county and City, including the increased tax pursuant to this article) and governmental liens due and payable on the property must be satisfied in full.

Sec. 27-18. Decrease of Tax Rate.

- (a) Real property which has had its designation as maintained in a blighted condition removed by the public officer, as provided in Section 27-17 of this Article, shall be eligible for a decrease in the rate of city ad valorem taxation by applying a factor of 0.5 to the city millage rate applied to the property, so that such property shall be taxed at a lower millage rate than the millage rate generally applied in the municipality or otherwise provided by general law; such decreased rate of taxation shall be applied beginning with the next tax bill rendered following removal of official designation of a real property as blighted. The decreased rate of taxation may be given in successive years, depending on the amount of cost expended by the person(s) chargeable with payment of ad valorem taxes on the property to satisfy its remediation or redevelopment, with every \$25,000.00 or

portion thereof equaling one year of tax reduction; provided, however, that no property shall be entitled to reduction in City ad valorem taxes for more than four successive years.

- (b) In order to claim entitlement for a decreased rate of taxation, the person(s) chargeable with payment of ad valorem taxes on the property shall submit a notarized affidavit to the public officer, supported by receipts or other evidence of payment, of the amount expended.

Sec. 27-19. Notice to Tax Commissioner.

It shall be the duty of the public officer to notify the City finance officer in writing as to designation or removal of designation of a specific property as maintained in a blighted condition. Such notice shall identify the specific property by street address and tax map, block and parcel number, as assigned by the Habersham or Banks County Tax Assessor's Office. The public officer shall cooperate with the City finance officer to assure accurate tax billing of those properties subject to increased or reduced ad valorem taxation under this article.

SECTION THREE

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

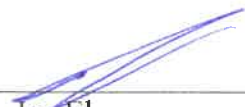
SECTION FOUR

If any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance.

SECTION FIVE

This ordinance shall become effective immediately upon its adoption by the City Council.

SO ORDAINED, this 8th day of July, 2019



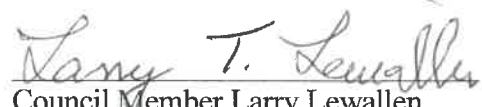
Mayor Joe Elam



Council Member Jeff Parrish



Council Member Theron Ayers



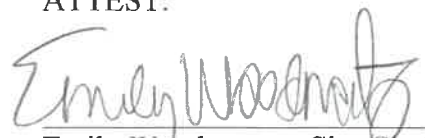
Council Member Larry Lewallen



Council Member Alice Venter

Council Member

ATTEST:



Emily Woodmaster, City Clerk

RDS/lc/1825/W224701