

AN ORDINANCE *Cleta Anderson* *Clair Muller*

AN ORDINANCE TO AMEND CHAPTER 22, ARTICLE III, DIVISION 3, SECTION 22-110 OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA, SO AS TO CONFORM WITH THE REQUIREMENTS OF GEORGIA LAW REGARDING FIREARMS; TO AMEND CHAPTER 110, ARTICLE III, DIVISION 1, SECTION 110-66, SO AS TO CONFORM WITH THE REQUIREMENTS OF GEORGIA LAW REGARDING FIREARMS; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES

WHEREAS, the City of Atlanta has an interest in maintaining the public health, safety and welfare; and

WHEREAS, the City of Atlanta is authorized to, through its legislative powers, to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law; and

WHEREAS, Chapter 22, Article III, Division 3, Section 22-110 of the Code of Ordinances of the City of Atlanta currently provides that no person may carry or transport firearms in Hartsfield-Jackson Atlanta International Airport except when such firearms are properly encased for shipment; and

WHEREAS, Chapter 110, Article II, Division 1, Section 110-66 of the Code of Ordinances of the City of Atlanta currently provides that no person in any City of Atlanta park may possess a firearm of any size or description or any instrument, appliance or substance designed, made or adapted for use primarily as a weapon; and

WHEREAS, the Georgia General Assembly declared in the Official Code of Georgia Annotated section 16-11-173, that “[n]o county or municipal corporation, by zoning or by ordinance, resolution, or other enactment, shall regulate in any manner gun shows; the possession, ownership, transport, carrying, transfer, sale, purchase, licensing, or registration of firearms or components of firearms; firearms dealers; or dealers in firearms components;” and

WHEREAS, in the case of GeorgiaCarry.Org v. The City of Atlanta, et al., 2007CV138552, (a copy of which is attached hereto as Exhibit A), in accordance with O.C.G.A. § 16-11-173, on May 19, 2008, the Superior Court of Fulton County enjoined the City of Atlanta from enforcing Section 110-66 of the Code of Ordinances of the City of Atlanta to the extent that it prohibits the possession of firearms in city parks; and

WHEREAS, on May 14, 2008 Governor Sonny Perdue signed HB 89 which amended Section 16-11-127 of the Official Code of Georgia Annotated, relating to the carrying and possession of firearms to set forth in pertinent part as follows:

(a) Except as provided in Code Section 16-11-127.1, a person shall be guilty of a misdemeanor when he or she carries to or while at a public gathering any explosive compound, firearm, or knife designed for the purpose of offense and defense.

(b) For the purpose of this Code section, 'public gathering' shall include, but shall not be limited to, athletic or sporting events, churches or church functions, political rallies or functions, publicly owned or operated buildings, or establishments at which alcoholic beverages are sold for consumption on the premises and which derive less than 50 percent of their total annual gross food and beverage sales from the sale of prepared meals or food. Nothing in this Code section shall otherwise prohibit the carrying of a firearm in any other public place by a person licensed or permitted to carry such firearm by this part

; and

WHEREAS, the City of Atlanta has an interest in ensuring that it is in compliance with all provisions of state law; and

WHEREAS, the security and safety of passengers, employees and the general public are the most critical and important priorities of Hartsfield-Jackson Atlanta International Airport, (the Airport), especially since September 11, 2001; and

WHEREAS, since September 11, 2001 the Airport has been operating at a heightened threat level, (and at Threat Level Orange since August 10, 2006), on the system established by the Transportation Security Administration for identifying the level of threats on transportation in the United States of America

IT IS HEREBY ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1: That Chapter 22, Article III, Division 3, Section 22-110 of the Code of Ordinances of the City of Atlanta be amended by deleting the existing language in its entirety and substituting therefore as follows:

Sec. 22-110 Dangerous Weapons Prohibited.

- a) No person shall possess a dangerous weapon in any area of the airport.
This includes, but is not limited to, all airport buildings, airport terminals, airfields, restricted parking lots, aircraft and vehicles using the airport, and any building that opens onto the airfield.
- b) For purposes of this section, dangerous weapon includes, but is not limited to, any explosives, knives, razor, slingshot, spring stick, metal knucks, blackjack, sand club, sandbag, bow and arrow, any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nun cacao shuriken, or fighting chain, any disc of whatever configuration, having at least two

points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, any mechanism designed to emit an electronic, magnetic, or other type of charge that exceeds the equivalency of a five milliamp sixty hertz shock and used for the purpose of temporarily incapacitating a person, which may be known as a stun gun, any mechanism designed to emit an electronic magnetic, or other type of charge or shock through the use of a projectile and used for the purpose of temporarily incapacitating a person, which may be known as a taser.

c) Pursuant to O.C.G.A. § 16-11-127, it is unlawful to carry a firearm to or while at a public gathering. As a publicly owned or operated building, the airport is a public gathering as defined under O.C.G.A. § 16-11-127.

d) The provisions of this section shall not apply to:

1. persons possessing a dangerous weapon or firearm that is properly encased for transshipment by air in accordance with the Transportation Security Administration (TSA) regulations;
2. federal, state, or local law enforcement officers required to carry dangerous weapons or firearms while in the performance of their official law enforcement duties;
3. persons who need the dangerous weapon or firearm while in the performance of their duties for legitimate airport purposes, such as armored security services personnel.

Section 2: That Chapter 110, Article III, Division 1, Section 110-66 of the Code of Ordinances of the City of Atlanta be amended by deleting the existing language in its entirety and substituting therefore as follows:

Sec. 110-66 Weapons.

Pursuant to O.C.G.A. § 16-11-127, it is unlawful to carry a firearm to or while at a public gathering, as defined in O.C.G.A. § 16-11-127.

Section 3: Should it be found that any ordinance or parts of any ordinance are in conflict herewith, then those sections contained herein shall be deemed controlling.

FILED IN OFFICE
MAY 19 2008
DEPUTY CLERK SUPERIOR COURT
FULTON COUNTY, GA

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

GEORGIACARRY.ORG, INC.,)
TAI TOSON, EDWARD WARREN,)
JEFFREY HUONG, JOHN LYNCH,)
MICHAEL NYDEN, AND)
JAMES CHRENCIK,)

Plaintiffs)

v.)

FULTON COUNTY, GEORGIA,)
CITY OF ATLANTA, GEORGIA,)
CITY OF EAST POINT, GEORGIA,)
CITY OF ROSWELL, GEORGIA,)
CITY OF SANDY SPRINGS, GEORGIA,)
and CITY OF UNION CITY, GEORGIA,)

Defendants)

Civil Action File No.
2007CV138552

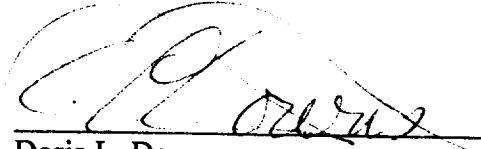
**ORDER GRANTING MOTION FOR SUMMARY JUDGMENT IN FAVOR OF
PLAINTIFFS AND AGAINST THE CITY OF ATLANTA**

On May 9, 2008, the Court conducted a hearing on Plaintiffs' Motion For Summary Judgment against the City of Atlanta in the above-referenced case. Having heard the argument of counsel for Plaintiffs and for the City of Atlanta, and after having considering the briefs filed with the Court in support and in opposition to the Motion, and having considered all matters filed of record, IT IS HEREBY ORDERED AND ADJUDGED that Plaintiffs' Motion For Summary Judgment is GRANTED. The City of Atlanta is hereby ENJOINED from enforcing Atlanta Ordinance § 110-66 to the extent it prohibits the possession of firearms in city parks.

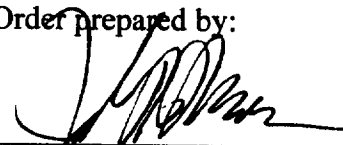


The Court notes that counsel for Atlanta specifically stated for the record that Atlanta had waived any issue regarding standing, and that counsel for Atlanta specifically stated that Atlanta ordinance § 110-66 had been sufficiently proved by admissions in judicio. *DLS

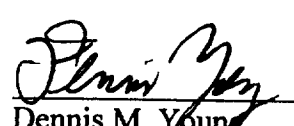
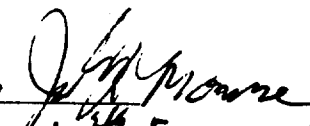
This 19 day of May, 2008.


Doris L. Downs
Chief Judge, Fulton Superior Court

Order prepared by:


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Approved regarding form:

 by 
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DLS * There being no just reason for delay
the Court directs that this order
constitute a final judgment pursuant
to O.C.G.A. § 9-11-54(b).