

#24

2914

13-0 -1280

First Reading

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair *[Signature]*  
Referred To \_\_\_\_\_

FINAL COUNCIL ACTION  
 2<sup>nd</sup>  1<sup>st</sup> & 2<sup>nd</sup>  3<sup>rd</sup>  
Readings  
 Consent  V Vote  RC Vote

AN ORDINANCE BY CLETA WINSLOW *Cleta Winslow*

THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

AN ORDINANCE TO CLARIFY THAT THE VERSION OF CHAPTER 30, ARTICLE XXIII, (VENDING ON PUBLIC PROPERTY), EXISTING PRIOR TO THE APPROVAL OF 08-0-1220, AND WAS LAWFULLY REPEALED THEREBY REMAINS REPEALED; TO WAIVE CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

PSLA Committee  
Date 10/1/13  
Chair *[Signature]*  
Action Fav, Adv, Hold (see rev. side)  
Other *Send-Abstain*  
Members *[Signature]*

Committee  
Date  
Chair  
Action Fav, Adv, Hold (see rev. side)  
Other  
Members

CERTIFIED  
OCT 07 2013  
ATLANTA CITY COUNCIL PRESIDENT  
*[Signature]*

CERTIFIED  
OCT 07 2013  
*Ronda Daughin Johnson*  
MUNICIPAL CLERK

- CONSENT REFER
  - REGULAR REPORT REFER
  - ADVERTISE & REFER
  - 1<sup>ST</sup> ADOPT 2<sup>ND</sup> READ & REFER
  - PERSONAL PAPER REFER
- Date Referred: *9/15/13*  
Referred To: *Public Safety*  
Date Referred:  
Referred To:  
Date Referred:  
Referred To:

Refer To  
Committee  
Date  
Chair  
Action Fav, Adv, Hold (see rev. side)  
Other  
Members  
ADOPTED BY  
OCT 07 2013  
COUNCIL  
Refer To

Refer To  
Committee  
Date  
Chair  
Action Fav, Adv, Hold (see rev. side)  
Other  
Members  
Refer To

MAYOR'S ACTION  
APPROVED  
OCT 09 2013  
*[Signature]*  
MAYOR



AN ORDINANCE BY CLETA WINSLOW

**THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

**AN ORDINANCE TO CLARIFY THAT THE VERSION OF CHAPTER 30, ARTICLE XXIII, (VENDING ON PUBLIC PROPERTY), EXISTING PRIOR TO THE APPROVAL OF 08-O-1220, AND WAS LAWFULLY REPEALED THEREBY REMAINS REPEALED; TO WAIVE CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta Charter provides that the City of Atlanta may lease, regulate the use of, and control public ways located in the City of Atlanta. Atlanta City Charter, 2-102(c)(14); and

**WHEREAS**, “[t]he streets [and public ways] belong to the public and are primarily for the use of the public in the ordinary way. Their use for the purposes of gain is special and extraordinary, and, generally at least, may be prohibited or conditioned as the legislature deems proper.” *Packard v. Banton*, 264 U.S. 140, 144 (1924); *Schlesinger v. City of Atlanta*, 129 S.E. 861, 867 (1925) (individuals do not have the inherent right to conduct their private businesses in the streets and public property of a city, and a city may prohibit such business activities); and

**WHEREAS**, on September 2, 2008, the Atlanta City Council adopted 08-O-1220, which was approved by the Mayor on September 8, 2008; and

**WHEREAS**, 08-O-1220 repealed the version of Article XXIII of the City of Atlanta Code of Ordinances in effect at the time of 08-O-1220’s approval; and

**WHEREAS**, additionally, 08-O-1220 amended Chapter 30, Article XXIII of the City of Atlanta Code of Ordinances, (Vending on Public Property), to create a new Public Property Vending Program; and

**WHEREAS**, on July 28, 2011, a lawsuit was filed in the Superior Court of Fulton County challenging the constitutionality of the new Public Property Vending Program, *Larry Miller and Stanley Hambrick v. City of Atlanta*, 2011CV203707; and

**WHEREAS**, on December 21, 2012, the Superior Court issued an Order declaring the new Public Property Vending amendments to 08-O-1220 to be void and without effect; and

**WHEREAS**, the version of Chapter 30, Article XXIII, as it existed prior to the approval of 08-O-1220 remains lawfully repealed by the Atlanta City Council, and such repeal was approved by the Mayor; and

**WHEREAS**, it is the desire of the City of Atlanta to develop a new permanent public property vending program; and



**WHEREAS**, in an attempt to develop a new permanent public property vending program, the City of Atlanta is reviewing various examples of public property vending programs across the United States and assessing the unique needs of the City of Atlanta as they relate to public property vending; and

**WHEREAS**, it is the desire of the Atlanta City Council to ensure that the development and eventual enactment of the new Public Property Vending program not be impeded by any further assertion or belief that the version of Chapter 30, Article XXIII, existing prior to the approval of 08-O-1220 and which was lawfully repealed thereby, is still in effect.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS, as follows:**

**Section 1:** That the version of Chapter 30, Article XXIII, existing prior to the approval of 08-O-1220, and which was lawfully repealed thereby, remains repealed and without any effect.

**Section 2:** This Ordinance shall become effective immediately upon its approval.

**Section 3:** That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict.

A true copy,

*Rhonda Dauphin Johnson*  
Municipal Clerk

ADOPTED by the Atlanta City Council  
APPROVED by Mayor Kasim Reed

OCT 07, 2013  
OCT 09, 2013

RCS# 3058  
10/07/13  
5:10 PM

Atlanta City Council

13-O-1280

CLARIFY VERSION OF CH. 30:VENDING ON  
PUBLIC PROPERTY  
ADOPT

YEAS: 8  
NAYS: 5  
ABSTENTIONS: 0  
NOT VOTING: 1  
EXCUSED: 1  
ABSENT 1

E Smith	B Archibong	N Moore	N Bond
N Hall	Y Wan	N Martin	Y Watson
Y Young	Y Shook	Y Bottoms	Y Willis
Y Winslow	N Adrean	Y Sheperd	NV Mitchell

RCS# 3057  
10/07/13  
5:05 PM

Atlanta City Council

13-O-1280

CLARIFY VERSION OF CH. 30:VENDING ON  
PUBLIC PROPERTY  
RECONSIDER

YEAS: 11  
NAYS: 2  
ABSTENTIONS: 0  
NOT VOTING: 1  
EXCUSED: 1  
ABSENT 1

E Smith	B Archibong	N Moore	Y Bond
N Hall	Y Wan	Y Martin	Y Watson
Y Young	Y Shook	Y Bottoms	Y Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

RCS# 3047  
10/07/13  
4:19 PM

Atlanta City Council

13-O-1280

CLARIFY VERSION OF CH. 30:VENDING ON  
PUBLIC PROPERTY  
ADOPT

YEAS: 4  
NAYS: 6  
ABSTENTIONS: 0  
NOT VOTING: 4  
EXCUSED: 1  
ABSENT 1

E Smith	B Archibong	N Moore	N Bond
N Hall	Y Wan	N Martin	NV Watson
N Young	Y Shook	NV Bottoms	NV Willis
Y Winslow	N Adrean	Y Sheperd	NV Mitchell

13-O-1280