

13-0-1339

(Do Not Write Above This Line) 1/30/1339

AN ORDINANCE BY
 COUNCILMEMBERS
 KEISHA LANCE BOTTOMS,
 C.T. MARTIN, AND H.
 LAMAR WILLIS

AN ORDINANCE TO REPEAL
 CHAPTER 30, ARTICLE
 XXIII, (VENDING ON
 PUBLIC PROPERTY), IN ITS
 ENTIRETY; TO REPEAL THE
 PRIOR VERSION OF
 CHAPTER 30, ARTICLE
 XXIII IN ITS ENTIRETY; TO
 CREATE A NEW
 ORDINANCE TO GOVERN
 VENDING IN THE PUBLIC
 RIGHT OF WAY (PUBLIC
 PROPERTY VENDING); AND
 FOR OTHER PURPOSES

Substitute

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 10/21/13
 Referred To: Public Safety
 Date Referred
 Referred To:
 Date Referred
 Referred To:
 Referred To:

First Reading
 Committee Date
 Chair
 Referred To

PSLA Committee

10/29/13 Date
 Action

Fav, Adv, Hold (see rev. side)
 Other
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Refer To

Committee

Date

Chair

Action
 Fav, Adv, Hold (see rev. side)
 Other

ADOPTED BY
 Members

NOV 04 2013

COUNCIL

Refer To

Committee

Date

Chair

Action
 Fav, Adv, Hold (see rev. side)
 Other

Members

Refer To

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Date

Chair

Action
 Fav, Adv, Hold (see rev. side)
 Other

Members

FINAL COUNCIL ACTION
 2nd 1st & 2nd 3rd
 Readings
 Consent V Vote AHC Vote

CERTIFIED
 NOV 04 2013
 ATLANTA CITY COUNCIL PRESIDENT

CERTIFIED
 NOV 04 2013
 Mayor's Office

MAYOR'S ACTION

APPROVED

NOV 04 2013
 Mayor's Office
 MAYOR

3/2/14



13-O-1339

AN ORDINANCE BY

COUNCILMEMBERS KEISHA LANCE BOTTOMS, C.T. MARTIN, H. LAMAR WILLIS, AND IVORY LEE YOUNG

ON SUBSTITUTE BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

AS AMENDED BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

AN ORDINANCE TO REPEAL CHAPTER 30, ARTICLE XXIII, (VENDING ON PUBLIC PROPERTY), IN ITS ENTIRETY; TO REPEAL THE PRIOR VERSION OF CHAPTER 30, ARTICLE XXIII IN ITS ENTIRETY; TO CREATE A NEW ORDINANCE TO GOVERN VENDING IN THE PUBLIC RIGHT OF WAY (PUBLIC PROPERTY VENDING); 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, it is the desire of the City of Atlanta to fully revise how public property vending has been allowed in the city;

WHEREAS, the City’s new public property vending regulations are based on national best practices, (including an examination of vending regulations in Portland, Oregon, Denver, Colorado, Chicago, Illinois, New York, New York, Charlotte, North Carolina, and Kansas City, Missouri); and

WHEREAS, the objectives of the new public property vending regulations are to serve and protect the health, safety and welfare of the general public; to establish a uniform set of rules and regulations related to vending the public right of way which are fair and equitable; to develop a vending system which will enhance the overall appearance and environment along public streets, pedestrian ways and other public properties; to provide economic development opportunities for small entrepreneurs in the city; and to

promote stable Vendors who will enrich the city's ambiance and who will be assets to public security; and

WHEREAS, the new public property vending system includes restrictions on the allowable items which may be sold and proof of licensing agreements for the sale of branded merchandise; and

WHEREAS, vending shall be limited to the existing 19 Kiosks installed in the city's right of way and uniform carts with defined dimensions and which must be maintained at certain quality standards; and

WHEREAS, the new public property vending system shall minimize regulatory costs while ensuring consistent and fair compliance with state laws though vesting the authority to issue permits with the City of Atlanta's Department of Finance's Office of Revenue, and by awarding new vending locations based on a "lottery type" system; and

WHEREAS, because the City's vending ordinance that previously authorized persons to vend in Kiosks was declared unconstitutional by the Superior Court of Fulton County, (see Larry Miller and Stanley Hambrick v. City of Atlanta, 2011CV203707), it is the desire of the City of Atlanta that persons previously permitted to vend in Kiosk locations during calendar year 2012 be permitted to apply to vend at the Kiosk locations at which they vended during 2012; and

WHEREAS, under the new public property vending system vending locations are selected based on a pre-vetted list of sites within the City's right of way including the Kiosk locations; and

WHEREAS, consistent enforcement of the new public property vending system shall be ensured through enforcement by the Atlanta Police Department's Licenses and Permits Unit; and

WHEREAS, the purpose of the permit, (and renewal), and Kiosk maintenance fees included in the new public property vending system is not to raise revenue, but to cover the cost of the regulatory activity necessary to administer the program; Hadley v. City of Atlanta, 232 Ga. App. 871, 874, 502 S.E. 2d 784 (1998); and

WHEREAS, in 2013, it was determined that the annual cost to the City of processing and enforcing the initial and renewal public property vending permits exceeds the seventy-five dollar (\$75.00) fee proposed herein. See Cost Recovery Form attached hereto as **Exhibit A**; and

WHEREAS, in 2013, it was determined that the annual cost to the City of maintaining the vending Kiosks exceeds the two-thousand five hundred dollar (\$2,500.00) fee proposed herein. See Cost Recovery Form attached hereto as **Exhibit B**.

WHEREAS, Section 2-45 of the City of Atlanta Code of Ordinances provides that the Atlanta City Council may not adopt any ordinance establishing a new fee unless and

until: 1) a notice of the pending legislation has been published in a newspaper of general circulation at least 30 days prior to final council action pertaining thereto; 2) the public is given at least 45 days to submit written comments to the council; 3) at least one public hearing regarding the legislation is held in the City Council committee of purview; and 4) written notice of the legislation is provided to the Atlanta Planning Advisory Board and each neighborhood planning unit within 30 days of introduction of the legislation; and

WHEREAS, it is the request of the vending community that the establishment of a new public property vending system be adopted without delay; and

WHEREAS, it is therefore the desire of the Atlanta City Council to waive the requirements of Section 2-45 to the extent that it is applicable to this legislation.

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

Section 1: That Chapter 30, Article XXIII of the City of Atlanta Code of Ordinances, (Vending on Public Property), as set forth in **Exhibit C**, is hereby expressly repealed in its entirety. Should any portion of the language adopted in Section 3 of this Ordinance be declared unconstitutional or otherwise void, this repeal shall be completely separable from the language adopted in Section 3. In that instance this repeal shall survive and none of the repealed language shall be revived by a voiding of any portion of the language adopted in Section 3.

Section 2: That the version of Chapter 30, Article XXIII of the City of Atlanta Code of Ordinances (Vending on Public Property) in effect prior to the version repealed in Section 1 of this Ordinance, as set forth in **Exhibit D**, is hereby expressly repealed in its entirety. Should any portion of the language adopted in Section 3 of the Ordinance be declared unconstitutional or otherwise void, this repeal shall be completely separable from the language adopted in Section 3. In that instance this repeals shall survive and none of the repealed language shall be revived by a voiding of any portion of the language adopted in Section 3.

Section 3: That Chapter 30, Article XXIII shall read as follows:

DIVISION 1. - GENERALLY

Sec. 30-1400. - 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:

Assistant Vendor means a person who assists a Vendor at the Vendor's assigned vending site.

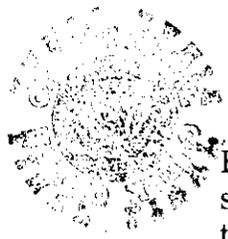


Blind person means a person whose vision, with correcting glasses, is so defective as to prevent the performance of activities for which eyesight is essential. See O.C.G.A. § 49-4-51(b).

Disabled veteran means a resident of the state who may be either a war veteran or veteran of peace-time service as set forth below and such person must obtain a certificate of exemption issued by the state commissioner of veterans' service.

- (1) A war veteran must furnish satisfactory proof that the veteran has a physical handicap which is disabling to the extent of ten percent or more; that the veteran's service in the armed forces of the United States was terminated under conditions other than dishonorable; and that the veteran's service or some part thereof was rendered during a war period, as defined by an act of the Congress of the United States, approved March 20, 1933, entitled, "An Act to Maintain the Credit of the United States," and commonly known as PL 2, 73rd Congress; or that some part of the veteran's service was rendered on or after December 7, 1941 and before December 31, 1946; or that some part of the veteran's service was rendered on or after June 27, 1950 and before January 31, 1955; or that some part of the veteran's service was rendered on or after August 5, 1946, and before May 8, 1975. Proof of such ten percent disability shall be established upon the written certificate of two physicians as to such disability or by letter or other written evidence from the United States Department of Veterans Affairs stating the degree of disability or by written evidence from the branch of the armed forces of the United States in which such veteran served.
- (2) A veteran of peacetime service in the United States armed forces must furnish proof that the veteran has a physical disability to the extent of 25 percent or more incurred in the line of duty during the period of such service by a letter or other evidence from the United States Department of Veterans Affairs stating the degree of disability or by written evidence, from the branch of armed forces of the United States in which such veteran served, that the veteran's service in the armed forces of the United States was terminated under conditions other than dishonorable.
- (3) That disabled veterans and blind persons shall only have to show proof of their disability upon their initial application, as opposed to annually. If the current language of O.C.G.A. § 43-12-2 is amended, then this definition of disabled veteran shall be controlled by O.C.G.A. § 43-12-2, as amended.

Items Permissible for Sale means items which may be offered for sale by and are limited to Tourist/traveler Convenience Items; Third Party Published (non-adult) Materials; Non-alcoholic Pre-packaged Beverages; Pre-Packaged Food; Prepared



Food; Prepared Non-alcoholic Beverages; Spirit Merchandise; and cut single stem or bunched flowers. Items Permissible for Sale shall not include any tobacco products.

Kiosk means a Valid Vendor Location which is a fixed structure owned by the City, installed in the City's Right of Way. The City shall maintain the right to advertise in a Kiosk and the City shall manage the maintenance of a Kiosk, such maintenance to be covered by annual maintenance fees. The sale of Prepared Food and/or Prepared Non-alcoholic Beverages shall not be permitted from a Kiosk.

License and Permits Unit means that unit of the Atlanta Police Department which enforces the ordinances applicable to public property vending or any other unit or division of the Atlanta Police Department assigned by the Chief of Police to undertake the duties of the License and Permits Unit.

Lottery-type Selection Process means the process by which persons shall be selected to submit an application for a Valid Vendor Location. There shall be no consideration required for participation in the Lottery-type Selection Process in which persons wishing to submit applications for each Valid Vendor Location shall be required to place their names in a separate drawing for each Valid Vendor Location. No individual prospective Vendor may receive the ability to apply for more than 10% of the available Valid Vendor Locations through the Lottery-type Selection Process at one time. The Lottery-type Selection Process shall take place annually at which time any newly created or open Valid Vendor Locations shall be entered/re-entered therein.

Moral turpitude means the act or behavior of baseness, vileness or the depravity in private and social duties which people owe to their fellow people, or to society in general, contrary to accepted and customary rule of right and duty between person and person; act or behavior that gravely violates moral sentiment or accepted moral standards of community and is a morally suitable quality held to be present in some criminal offenses as distinguished from others.

Non-alcoholic Pre-packaged Beverages means beverages sealed in plastic or aluminum single serving containers excluding all beverages in glass containers, and excluding all alcoholic beverages as defined in Section 10-1, including but not limited to malt beverages, wine and distilled spirits.

Office of Revenue means the office of the City of Atlanta Department of Finance which issues permits for public property vending or any other unit or office of the Department of Finance assigned by the Chief Financial Officer to undertake the duties of the Office of Revenue.

Operating Area means the area in which a Vendor may operate from a Vending Cart and which may not exceed 28 square feet of sidewalk including the area of the vending cart, and, when externally located, the operator and trash receptacle.



Pre-Packaged Food means single serving sealed packaged foods including but not limited to candy, popsicles, chips/bagged snacks which do not require any heating or powered refrigeration, and the service of which does not require authorization by the Fulton or DeKalb County Departments of Health.

Prepared Non-alcoholic Beverages means beverages prepared on site and which are not served in glass containers, and excluding all alcoholic beverages as defined in Section 10-1, including but not limited to malt beverages, wine and distilled spirits.

Prepared Food means food prepared on site, the sale of which requires authorization by the Fulton or DeKalb County Departments of Health.

Public property and "*public space*" both mean for the purpose of this article any property owned by the City of Atlanta within street rights-of-way, including any roadways and sidewalks, but excluding city-owned parks.

Public property vending means vending activity as permitted on publicly owned property under the jurisdiction of the City of Atlanta other than on city-owned parks. Vending shall only be permitted in city-owned parks where such activity is associated with a special event and/or subject to regulation under a more specific permit.

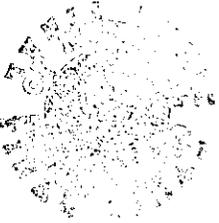
Spirit Merchandise means licensed branded merchandise or generic "Atlanta" branded merchandise. Merchandise shall be limited to shirts, hats, scarves and gloves.

Third Party Published (non-adult) Materials means periodicals, books, newspapers, and maps which have been published by a third-party and are not adult material as defined in Section 16-29.001.

Tourist/traveler Convenience Items means, weather-related supplies such as umbrellas, scarves, hats, gloves and ponchos); convenience toiletries; over-the-counter medicines; cell phone accessories; and third-party produced souvenirs that celebrate Atlanta landmarks, institutions, or other Atlanta icons.

Valid Vendor Location means an area which is authorized in this Article, in which vending can take place. Vending at a Valid Vendor Location shall only be permitted from Kiosks installed in the City's Right of Way and Vending Carts that meet the standards set forth in this Article. Other than Kiosks or approved Vending Carts, vending will be prohibited from tables or semi-permanent or permanent structures.

Valid Vendor Permit means a permit issued by the Department of Finance's Office of Revenue. Such permit shall consist of a photo identification card which contains the Vendor's name, photograph, vending type and classification, authorized Valid Vendor Location and time period for which such permit is valid.



Vending Cart means a cart which meets the following design requirements:

Length of the cart may not exceed seven feet and width may not exceed four feet height-excluding canopies, umbrellas, or transparent enclosures-may not exceed five feet;

Umbrellas or canopies shall have a minimum clearance of seven feet and a maximum height of nine feet six inches above the sidewalk;

Umbrellas or canopies may not exceed forty-eight square feet (eight feet x six feet);

All carts must be mobile, and able to roll on wheels;

The design, materials, and colors are to be of natural wood or metal products and considerate of the immediate surroundings of the proposed location;

Materials must be in working order, and may not include peeling paint, visible defects or areas requiring maintenance;

The wheels located under the car are preferred, however projecting wheels must have fenders; and

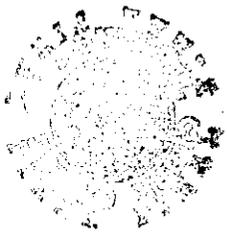
Hitches attached to the cart must be removable and detached when in operation.

If used, propane tanks must be enclosed.

Vendor means any person who has been issued a Valid Vendor Permit.

Sec. 30-1401. – Purpose, intent and applicability.

- (a) Vending on public property in the city, as defined in this Article, shall be subject to regulation as set forth in this Article, including the requirement of regulatory licenses and permits. Vending in the public right of way without a permit issued pursuant to this Article shall be unlawful and subject to punishment as set forth in this Section.
- (b) Any person violating this Section shall, upon conviction thereof, be punished as follows:
 - (1) First conviction. A fine of not less than \$100.00 nor more than \$1,000.00 and costs or imprisonment in the city jail for not more than 60 days or both.



- (2) Second conviction. A fine of not less than \$200.00 nor more than \$1,000.00 and costs or imprisonment in the city jail for not more than 60 days or both.
- (3) Third conviction. A fine of not less than \$500.00 nor more than \$1,000.00 and costs or imprisonment in the city jail for not more than 60 days or both.
- (4) Fourth conviction. Any person convicted of four or more violations of this Article shall be subject to a fine of not less than \$500.00 nor more than \$1,000.00 and costs or imprisonment in the city jail for not more than 60 days or both.

(c) It is the intent of Council in enacting this Article to:

- (1) Serve and protect the health, safety and welfare of the general public.
- (2) Establish a uniform set of rules and regulations which are fair and equitable.
- (3) Provide economic development opportunities for small entrepreneurs in the city.
- (4) Provide a variety of goods and services for sale.
- (5) Promote stable Vendors who will enrich the city's ambiance and be assets to public security.

Sec. 30-1402. - Vending business required to remit sales taxes and keep records.

- (a) Every Vendor shall file Georgia Department of Revenue (GDOR) St-3 Forms and remit monthly sale tax revenues to GDOR. Nothing in this section shall prohibit the revocation of any permit in accordance with the provisions of Division 2 of this Article.
- (b) Prospective Vendors, by filing an application, agree to produce documents and records which may be considered pertinent to the ascertainment of facts relative to the issuance and maintenance of the permit, including but not limited to the following:
 - (1) The Prospective Vendor's bank or other financial institution records, including those which are personal or from any business in which the Vendor has any interest, such as savings and checking account records, bank statements, ledgers, deposit tickets, withdrawal slips, canceled checks, check stubs, bank drafts, cashier's checks, certificates of deposit, money market accounts, pass books and applications for each account;

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- (2) Personal state and federal income tax statements for the past five years; and
 - (3) Records of sales and receipts for purchases and expenses from any business in which a Vendor has any interest.

Sec. 30-1403. - Vending operational rules.

- (a) Hours of operation shall be 7:00 a.m. to 12:00 a.m.
- (b) Amplified sound or sound equipment must comply with the City of Atlanta Noise Ordinance.
- (c) Any and all signage must comply with the City of Atlanta Sign Ordinance.
- (d) Vendors may offer Items Permissible for Sale only.
- (e) All Vendors shall display their Valid vending permits and any required copies of licensing agreements at the Valid Vendor Location.
- (f) All Vendors must maintain an auditable point-of-sale system to track and report on sales revenue and appropriate taxation in accordance with the requirements of Section 30-1402.
- (g) Vending operations may not obstruct vehicular traffic flow except for up to fifteen minutes to load and unload Kiosks and/or Vending Carts and merchandise.
- (h) Vending operations may not exceed the approved Operating Area.
- (i) Vending Carts shall not be left unattended or stored at any time in the Operating Area when vending is not taking place or during restricted hours of operation.
- (j) The sale of Prepared Food and/or Prepared Non-alcoholic Beverages shall not be permitted from a Kiosk.
- (k) The sale of branded Items Permissible for Sale a Vendor shall not be permitted absent a valid licensing agreement authorizing the Vendor to engage in such sales a copy of which must be maintained at the Valid Vendor Location.

Sec. 30-1404. - Littering.

All Vendors engaged in the sale of Pre-Packaged Food, Non-alcoholic Pre-packaged Beverages, Prepared Food, and/or Prepared Non-alcoholic Beverages shall affix to their Vending Cart, or shall locate directly outside the Kiosk, a receptacle for trash, which shall be maintained and emptied regularly and which shall be marked as being for trash.

Sec. 30-1405. - Aesthetic standards.

Vending is permitted from Kiosks and Vending Carts only.

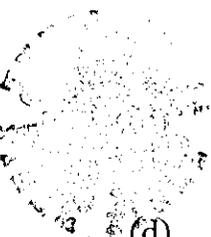
- (a) Length of the cart may not exceed seven feet and width may not exceed four feet height-excluding canopies, umbrellas, or transparent enclosures-may not exceed five feet;
- (b) Umbrellas or canopies shall have a minimum clearance of seven feet and a maximum height of nine feet six inches above the sidewalk;
- (c) Umbrellas or canopies may not exceed forty-eight square feet (eight feet x six feet);
- (d) All carts must be mobile, and able to roll on wheels;
- (e) The design, materials, and colors are to be of natural wood or metal products and considerate of the immediate surroundings of the proposed location;
- (f) Materials must be in working order, and may not include peeling paint, visible defects or areas requiring maintenance;
- (g) The wheels located under the car are preferred, however projecting wheels must have fenders; and
- (h) Hitches attached to the cart must be removable and detached when in operation.
- (i) If used, propane tanks must be enclosed.

Sec. 30-1406-----30-1425 - Reserved.

DIVISION 2. – Permits and Licenses

Sec. 30-1426. – Vendor permit and business license required.

- (a) No public property vending shall occur without a permit issued pursuant to this Article, except that no permit shall be required for persons selling newspapers at-large other than from a fixed location on public property.
- (b) Public property vending shall be permitted only on the location stated on the permit. This permit requirement is in addition to any general business license required or other special permission requirement.
- (c) No person shall engage in the business or trade of vending without first obtaining a business license. Disabled veterans and blind persons, as defined by O.C.G.A. §



43-12-1, are exempt from payment of business license fees, but must obtain such licenses.

- (d) All Valid Vendor Permits are nontransferable, and must be displayed in clear view, together with the vending permit photo identification card, at the permitted location at all times when the Vendor or assistant Vendor is present.
- (e) All Valid Vendor Permits shall indicate if the permit authorizes the sale of licensed branded merchandise.

Sec. 30-1427 – Lottery-type Selection Process.

- (a) Persons permitted by the City of Atlanta to vend in Kiosks during the calendar year of 2012 may submit applications for permits to vend in accordance with this Article at the Kiosk locations at which they had been permitted to vend in 2012.
- (b) Any Kiosk locations for which applications have not been submitted by persons described in Subsection (a) of this Section within 30 days of the approval of this Ordinance shall be included in the Lottery-type Selection Process.
- (c) No earlier than 31 days following the approval of this Ordinance, the Office of Revenue shall administer a Lottery-type Selection Process by which persons shall be selected to submit an application for a Valid Vendor Location.
- (d) There shall be no consideration required for participation in the Lottery-type Selection Process.
- (e) Persons wishing to submit applications for each Valid Vendor Location shall be required to place their names in a separate drawing for each Valid Vendor Location.
- (f) No individual prospective Vendor may receive the ability to apply for more than 10% of the Valid Vendor Locations available in the Lottery-type Selection Process.
- (g) The Lottery-type Selection Process shall take place annually at which time persons wishing to submit application for any newly created or open Valid Vendor Locations shall be required to place their names in a separate drawing therefor. Vendors wishing to continue vending from a Valid Vendor Location at the time of the Lottery-type Selection process shall not be required to participate therein and shall instead be permitted to renew their permits to vend from the Valid Vendor Location pursuant to Section 30-1429.

Sec. 30-1428. - Application.

- (a) Except for persons who may submit applications for Kiosk locations pursuant to Section 30-1427 (a), following selection by the Lottery-type Selection Process, an



application shall be required by all persons seeking issuance of a Valid Vendor Permit. Each applicant must apply in person and complete an application form. Application forms may be obtained from and filed with the Office of Revenue.

- (b) Permit fees and applicable Maintenance fees are due and payable by money order, certified check or cashier's check if and when the application is approved by the Office of Revenue.
- (d) The application shall, at a minimum, consist of the following data:
 - (1) Each applicant shall submit detailed data as follows:
 - a. Applicant's name and current address.
 - b. Applicant's previous addresses within the last five years.
 - c. Social security number.
 - d. Valid Vending location designated pursuant to Sec. 30-1427.
 - e. A dimensional drawing that clearly shows the footprint and placement of the cart and the Operating Area.
 - f. The exact times during which the Vendor intends to vend on the proposed property.
 - g. GDOR retail identification tax number.
 - h. State issued picture identification.
 - i. City business license.
 - j. A general description of the Items Permissible for sale to be sold or offered for sale.
 - k. A valid licensing agreement authorizing the Vendor to engage in sales of licensed branded merchandise if applicable.
 - (2) All applicants shall furnish all data, information and records requested of them by the Office of Revenue within 30 days from the date of request. Failure to furnish such information within 30 days shall automatically dismiss, with prejudice, the application.

Sec. 30-1429. – Term and renewal of permits.

- (a) A Valid Vendor Permit for a Valid Vendor location will be issued for a one-year period. When the one-year permit expires, a Vendor may apply for a renewal



permit which allows the Vendor to vend for another one-year period at the same location.

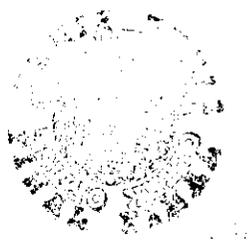
- (b) No applicant may receive the ability to apply for more than ten percent of the Valid Vendor Locations available through the Lottery-type Selection Process.
- (c) Vendors may present to the Office of Revenue an application for a renewal permit. Upon a review and approval of the renewal application by the appropriate agencies, satisfaction of all other license and permit requirements, and upon payment of the appropriate fees as indicated in section 30-1430, the Office of Revenue shall furnish the Vendor with a renewal permit.
- (d) Each applicant for a renewal application shall submit an application which shall at a minimum consist of the data required for the issuance of an initial permit as set forth in Section 30-1428.

Sec. 30-1430. – Annual Fees.

- (a) Annual permit fees and applicable annual Maintenance fees are due and payable if and when the application is approved by the Office of Revenue.
- (b) The annual permit fee for all Valid Vendor Permits shall be \$75.00.
- (c) The annual maintenance fee for a Kiosk Valid Vendor Location shall be \$2,500.00. In the year when the applicant for a Valid Vendor Permit submits their initial application, the annual maintenance fee shall be prorated from the date of the approval of the application.

Sec. 30-1431. - Location.

- (a) Valid Vendor Locations shall be designated by the City through the Office of Revenue before the Lottery-type selection process and are as follows:
 - (1) Phase 1:
 - a. 19 Kiosks.
 - b. 12 Downtown locations:
 - i. Five locations on the east side of Lee Street south of Ralph David Abernathy Blvd;
 - ii. One location on the southwest side of Washington St. and Mitchell St;
 - iii. One location on the west side of Washington St. between Mitchell St. and Trinity Ave;



iv. Two locations on the east side of Peachtree Street between Martin Luther King Jr. Drive and Mitchell Street;

v. One location on Broad Street SW between Martin Luther King Jr. Drive and Trinity Avenue;

vi. One location on the east side of Peachtree Street between Auburn Avenue and Edgewood Avenue (Vending of Prepared Food and Prepared Non-alcoholic Beverages shall only be permitted at this location).

vii. One location on Peachtree Street between Harris Street and Andrew Young International Boulevard (Vending of Prepared Food and Prepared Non-alcoholic Beverages shall only be permitted at this location)..

(b) Valid Vendor Locations shall:

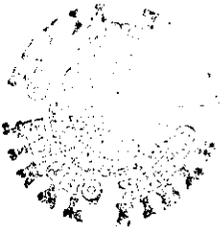
- (1) Not be within fifteen feet of street intersections or pedestrian crosswalks or fifteen feet of building entrances/exits or within fifty feet of hotels/motels;
- (2) Not be within fifteen feet of other Valid Vendor Locations;
- (3) Not be within 1,500 feet of permanent businesses selling the same or similar products as the Vendor;
- (4) Provide a minimum of nine feet of unobstructed pedestrian space;
- (5) Not be within fifteen feet of a fire hydrant; and
- (6) Not be within 600 feet of the closet property line of any public or private elementary, middle or high school.

Sec. 30-1432. - Notification of name change or change of address.

Whenever either the name or address provided by the Vendor on the application for a Valid Vendor Permit changes, the Vendor shall notify the Office of Revenue in writing within ten days of such change and provide same with the name change or address change. Vendors shall assure that a current and correct name, residence address and mailing address are on file with the Office of Revenue at all times.

Sec. 30-1433. - Denials, fines, suspensions and revocations.

- (a) No Valid Vendor Permit shall be issued to any person who has been convicted within five years immediately prior to the filing of the application for any felony



or misdemeanor relating to drug possession and related matter; crimes of moral turpitude; larceny, fraudulent conveyance, perjury and/or false swearing, or subrogation. Any conviction for dealing and/or trafficking in illegal drugs will automatically disqualify an applicant.

- (b) Failure to maintain initial qualifications shall be grounds for revocation or denial of a renewal permit.
- (c) A denial, fine, suspension, revocation of any permit issued pursuant to this Article may be imposed for any of the following causes:
 - (1) Fraud, misrepresentation or false statements contained in the application.
 - (2) Failure on the part of a Vendor to maintain initial eligibility qualifications.
 - (3) Failure to furnish any and all documentation requested by either the police department, the Office of Revenue or the license review board for purposes of the investigation of any application or for the inspection of records pursuant to this division within 30 days of such request.
 - (4) Any failure to comply with any requirement set forth in this Article.
- (d) Any person whose permit is revoked may not reapply until such time as the Lottery-type Selection Process shall occur.
- (e) In addition to carrying out all other investigations as may be permitted under this article, the License and permits Unit shall investigate any alleged violation of this Article upon receipt of a written, sworn complaint by any person who witnesses or becomes aware of a potential violation. Such complaint shall be signed under penalty of perjury, and shall be accompanied by any supporting evidence.

Sec. 30-1434. - Public hearing on suspension, fine, revocation or denial.

- (a) A fine, suspension, revocation or denial of a permit issued under this Article may be appealed to the license review board within 20 days of the applicant or permit holder's receipt of notice as described herein.
- (b) Notice of the denial, fine, suspension or revocation shall be given in writing, setting forth the complaint, the grounds for denial, fine, suspension or revocation, and the time, date and place of the hearing. Such notice shall be mailed to the Vendor at least five calendar days prior to the date set for the hearing. Such notice shall be mailed by registered or certified mail to the address shown on the application. The license review board shall conduct the hearing at a regularly scheduled license review board meeting and report its conclusions and recommendations to the mayor. The mayor, upon receiving the recommendation of the license review board, may, within 60 calendar days of receipt of said recommendation, deny or grant an application for a new permit and may revoke,



suspend, fine or refuse to renew any existing permit. In addition, within said 60-day period, if the mayor determines there is a need to correct a clear error or prevent a manifest injustice, the mayor may remand the application or matter back to the license review board for further hearing. If the mayor fails to take action within the 60-day period, the recommendation of the license review board shall become the final decision of the mayor. The decision of the mayor may be appealed via Certiorari to the Superior Court of Fulton County.

(c) Under this Section:

- (1) A first violation within 24 months will result in a \$100.00 fine;
- (2) A second violation within 24 months will result in a fine of no less than \$100.00 and no more than \$1,000.00 and/or up to a 12 month suspension of the permit, or revocation of the permit.
- (3) A third violation within 24 months will result in the revocation of the permit.

Sec. 30-1435. – Disabled Veterans.

Permit fees are waived for disabled veterans, as that term is currently defined in O.C.G.A. § 43-12-2 or as amended, currently holding a valid certificate of eligibility as O.C.G.A. § 43-12-5, and blind persons who meet that definition of O.C.G.A. § 49-4-51(b) as it exists now or is from time to time amended.

Secs. 30-1436–30-1460. - Reserved.

Section 4: That Chapter 2, Article II, Division 1, Section 2-45 is waived to the extent that it is applicable to this ordinance.

Section 5: This Ordinance shall become effective immediately upon its approval.

AAR

A true copy,

Shanika Daughon Johnson
Municipal Clerk

ADOPTED by the Atlanta City Council
APPROVED by Mayor Kasim Reed

NOV 04, 2013
NOV 04, 2013

RCS# 3119
11/04/13
3:08 PM

Atlanta City Council

13-O-1339

REPEAL COA CODE CH.30;VENDING ON PUBLIC
PROPERTY; PUBLIC RIGHT OF WAY
ADOPT/SUB/AMEND

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

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

13-O-1339