

AN ORDINANCE BY

COUNCILMEMBER MICHAEL JULIAN BOND

AN ORDINANCE TO AMEND THE CITY OF ATLANTA CODE OF ORDINANCES BY REPEALING CHAPTER 30, ARTICLE XXIII, (VENDING ON PUBLIC PROPERTY), IN ITS ENTIRETY; TO AMEND CHAPTER 30, ARTICLE XXIII TO CREATE TEMPORARY VENDING REGULATIONS; TO ALLOW PERSONS WHO IN 2012 POSSESSED PERMITS TO VEND IN ACCORDANCE WITH CHAPTER 30, ARTICLE XXIII TO APPLY FOR TEMPORARY VENDING PERMITS; TO ALLOW PERSONS WHO IN 2012 WERE ALLOWED TO VEND PURSUANT TO PERMITS ISSUED PURSUANT TO CHAPTER 30, ARTICLE XXIII DURING CALENDAR YEAR 2003 TO APPLY FOR TEMPORARY VENDING PERMITS; TO PROVIDE FOR THE EXPIRATION OF THE TEMPORARY PUBLIC PROPERTY VENDING REGULATIONS AND ALL TEMPORARY VENDING PERMITS ON DECEMBER 31, 2013; 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 amended Chapter 30, Article XXIII of the City of Atlanta Code of Ordinances to create a Public Property Vending Management Program coordinated under a contract with a Public Property Vending Management Company which would manage public property vending in the City of Atlanta; and

WHEREAS, following the passage of 08-O-1220, certain parties were issued permits to vend within the Public Property Vending Management Program in accordance with the prescriptions contained in Chapter 30, Article XXIII as amended by 08-O-1220; and

WHEREAS, due to various delays in the implementation of the Public Property Vending Management Program, other parties were permitted, though various

temporary legislative and administrative actions, to continue to vend pursuant to permits issued pursuant to Chapter 30, Article XXIII during calendar year 2003; and

WHEREAS, on July 28, 2011, a lawsuit was filed in the Superior Court of Fulton County challenging the 08-O-1220, and the resulting Public Property Vending Management Agreement. *Larry Miller and Stanley Hambrick v. City of Atlanta*, 2011CV203707; and

WHEREAS, on December 21, 2012, the Superior Court issued an Order declaring 08-O-1220 and the Public Property Vending Management Agreement void and without effect; and

WHEREAS, as a result, Chapter 30, Article XXIII is now void and without effect; and

WHEREAS, therefore, no public property vending permits may be issued thereunder, and those previously so issued are no longer in effect; and

WHEREAS, there are no legislative or administrative actions currently in effect which authorize the continued public property vending of those who were issued permits during the 2003 calendar year; and

WHEREAS, in accordance with the December 21, 2012 Superior Court Order, it is the desire of the Atlanta City Council to repeal Chapter 30, Article XXIII in its entirety;

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

WHEREAS, it is the desire of the Atlanta City Council that persons vending during calendar year 2012 be permitted to apply for temporary public property vending permits to allowing them to continue vending between the repeal of the void text of Chapter 30, Article XXIII and the adoption of a new permanent public property vending program; and

WHEREAS, it is the desire of the Atlanta City Council to adopt temporary regulations which shall govern those granted temporary public property vending permits; and

WHEREAS, it is the desire of the Atlanta City Council that all temporary public property vending regulations created by the passage of this Ordinance, and temporary public property vending permits issued in accordance with this Ordinance shall expire on December 31, 2013.

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), is hereby amended by repealing the text thereof, as set forth in Exhibit A, in its entirety.

Section 2: That Chapter 30, Article XXIII shall be further amended such as it 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).

Class C food vending station means a fully enclosed, self-contained, non-motor vehicle that is approved by the Fulton County health department for the purpose of vending on city streets or from a public assigned location.

Disabled individual means an individual who has a physical or mental impairment that substantially limits one or more of the major life activities of such individual, a record of such impairment or being regarded as having such impairment as determined by the Americans with Disabilities Act of 1990.

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.

Display goods for sale or distribution means the act of offering goods for sale or the act of free distribution of goods by display or arrangement of the goods on a table, stand, or ground cover or by offering such goods from the hands of individuals.

Household means a principal place of abode comprised of a group of persons constituting a distinct domestic or social body living in the same residence. A household can include parents, children, stepchildren, domestics, lodgers and boarders.

Immediate family shall include the spouse, domestic partner registered under Section 94-133, mother, father, sister, brother, and natural or adopted children.

Motor vehicle vending means the use of any motorized vehicle, approved for use by the department of police, and used by a lawfully permitted vendor for the purpose of vending from place to place and on city streets. No such vehicle shall be authorized to vend from any fixed location. The vehicles include rolling stores, catering trucks, ice cream trucks and motorized carts.

License and Permits Unit means that unit of the Atlanta Police Department which issues permits for public 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.

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.

Permissible food item means any food product or substance, including beverages, that legally may be dispensed for the public's consumption pursuant to the rules and regulations of the county health department.

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

Recording means a tangible medium on which sounds, images, or both are recorded or otherwise stored, including an original phonograph record, disc, tape, audio or video cassette, wire, film, or other medium now existing or developed later on which sounds, images, or both are or can be recorded or otherwise stored, or a copy or reproduction that duplicates in whole or in part the original. An illicit recording is a recording produced without the authorization of the recording's owner, or which is otherwise sold or offered for sale in violation of any state or federal law pertaining thereto.

Registered agent means any person who is authorized by a vendor or itinerant vendor and who agrees to accept service or process and legal notices on behalf of the vendor or itinerant vendor.

Site plan means a visual depiction of the vending site showing 1) the exact location of the vending operation on the property; 2) the length, width, and height of the vending stand; 3) the location of all on-site parking spaces which serve the property; and 4) the location of any power sources which the vendor intends to use. The site plan shall be filed along with each application.

Stand means any fixed or movable structure, table or device used by a vendor for the purpose of displaying or storing any merchandise, article or food which is offered for sale.

Valid vendor location means an area which is authorized in this Article, in which vending can take place.

Valid vendor permit means a permit issued by the department of police. Such permit shall consist of a police photo identification card which contains the vendor's name, photograph, vending type and classification, authorized location and time period for which such permit is valid.

Vending business means any commercial enterprise operated for profit in which merchandise, food, services or a combination thereof are rendered for sale to the general public on public property and approved by the city.

Vendor means any person whose primary business is the selling or bartering, or carrying for sale or barter, or exposing therefor, any goods, wares, merchandise, services, food, confectionery or drink carried by hand from portable stands or tables, by manually propelled vehicles, or by motor vehicle.

Sec. 30-1401. - Purpose and intent.

- (a) The provisions contained in this Article are temporary. Only persons authorized to vend on public property in 2012, either pursuant to Chapter 30, Article XXIII as it existed in 2012, or pursuant to permits issued pursuant to Chapter 30, Article XXIII during calendar year 2003, may apply for permits to vend in accordance with Section 2 of this Ordinance at the valid vendor locations at which they vended in 2012.
- (b) That the provisions contained in this Article shall expire on and have no further effect after December 31, 2013.
- (c) That all permits issued in accordance with this Article shall expire on and have no further effect after December 31, 2013.
- (d) 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.
- (e) 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 keep records.

- (a) Every vendor shall maintain a permanent record book in which shall be entered in ink and in legible English at the time any property is acquired for the purpose of retail sale.

Nothing in this section shall prohibit the suspension or revocation of any permit by the police department's license and permit section, the license review board, or the mayor in accordance with the provisions of division 2 of this article.

- (b) 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 license, including but not limited to the following:
 - (1) The 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;
 - (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 restrictions and prohibitions.

- (a) Any power sources must be depicted on the site plan and must meet all applicable electrical code standards.
- (b) Vending structures shall not be left unattended or stored at any time on the open vending site when vending is not taking place or during restricted hours of operation.
- (c) Hours of operation shall be 5:00 a.m. to 2:00 a.m.
- (d) Amplified sound or sound equipment must comply with the City of Atlanta Noise Ordinance.
- (e) Any and all signage must comply with the City of Atlanta Sign Ordinance.

Sec. 30-1404. - Littering.

All vendors engaged in food vending shall affix to their vending station a receptacle for litter, which shall be maintained and emptied regularly and which shall be marked as being for litter.

Sec. 30-1405. - Penalties.

Any person violating any of the provisions of this article 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 within any 12-month period 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; and a court-ordered referral shall be forwarded to the chief of police for revocation of their permit.

Sec. 30-1406. - Aesthetic standards.

- (a) Vending is permitted from skirted tables only. Tables shall not extend beyond the perimeter of the covered canopy area.
- (b) Canopy. If used, must be a portable folding canopy only. One canopy shall be permitted (not required), shall be white in color, shall not contain any writing and shall not exceed ten by 20 feet in size.
- (c) Vending structures must be removed from the open vending site when the vendor is not doing business and during restricted hours of operation.
- (d) Vending structures must be in good repair at all times.
- (e) Merchandise shall be displayed on the table only and shall be stored within the interior area of the canopy.
- (f) All storage of merchandise shall be beneath the skirted tables.
- (g) If signage is allowed, no more than one sign which shall not exceed two × three feet in size and displayed only on or attached to the vending table. Any such sign shall be included in the site plan, if signage is to be used.
- (h) A description of the structure and the hours of operation shall be included in the site plan.

Sec. 30-1407-----30-1425 - Reserved.

DIVISION 2. – Permits and Licenses

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

- (a) No person shall vend any article, merchandise, produce, permissible food item, or service on public property in the city without first having obtained a temporary vending permit and satisfied all other requirements, including but not limited to those of the health department in the county in which the vending site is located. No permit shall be required for persons selling newspapers at-large other than from a fixed location on public property.
- (b) No person shall vend in the city on public property, except in conformity with the privileges granted via this Article and 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 permits issued to vendors or assistant vendors, or registered agents 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 permits issued to vendors shall contain a general description of the merchandise, food, services, or any combination thereof to be offered for sale by such vendor at the permitted location, and shall indicate if the permit authorizes the sale of recordings.

Sec. 30-1427. - Classification of permits.

- (a) *Food permit.* A food permit shall authorize a person to vend permissible food items in an individually assigned vending site. A food permit shall allow the sale of food only pursuant to the conditions specified by the health department of the county in which the vending site is located. Fulton County Health Department regulations class A nonhazardous, nonregulated foods do not require a health department food service permit. Where applicable, class B and class C foods require a valid certificate of inspection from the county in which the vending site is located and must specify the particular foods authorized to be sold. No vendors shall sell any cooked food from an open-pit barbecue grill from any public property location within the city without first obtaining written approval from the health department of the county in which the vending site is located.
- (b) *Merchandise permit.* A merchandise permit shall authorize a person to vend items including but not limited to the following:

- (1) Crafts:
 - a. Baskets.
 - b. Jewelry.
 - c. Leather.
 - d. Quilts.
 - e. Wood carvings.
 - f. Needle crafts.
 - g. Fragrances/incenses.
 - (2) Fresh flowers.
 - (3) Clothing and apparel.
 - (4) Seasonal items, such as Christmas trees, firewood.
 - (5) Accessories:
 - a. Leather goods.
 - b. Sunglasses.
 - c. Umbrellas.
 - (6) Licensed nonethnic apparel. In order to vend any items which are licensed by an organization (e.g., the Braves), a vendor must have a license from the appropriate organization to sell such goods and must produce such license to the police department for inspection when requested.
- (c) *Service permit.* A service permit shall authorize a person to sell services, including but not limited to the following:
- (1) Face paintings.
 - (2) Shoe shining.
 - (3) Portrait painting.
 - (4) Street music.
 - (5) Photography.
- (d) *Combination permit.* A combination permit shall authorize a person to vend food and merchandise at individually assigned vending sites and locations. Any person may apply for and receive a combination permit, if all applicable requirements are met.

Sec. 30-1428. - Application.

- (a) An application shall be required by all persons seeking issuance of temporary permit for vending on public property. Each applicant must apply in person and

complete an application form. Application forms may be obtained from and filed with the department of police license and permits unit.

- (b) A nonrefundable application fee of \$50.00 is required to accompany each application for a temporary vendor's permit.
- (c) Permit fees for food, merchandise, service or combination permits are due and payable if and when the application is approved by the city.
- (d) The application for an temporary public property vendor's permit 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. Vending location designated pursuant to Sec. 30-1401.
 - e. Size of the proposed vending station, if applicable, i.e., length, width, and height.
 - f. Name and current address of each proposed assistant vendor.
 - g. The exact times during which the vendor intends to vend on the proposed property.
 - h. State department of revenue retail identification tax number.
 - i. State i.d.
 - j. City business license.
 - k. A general description of the food, merchandise, or services to be sold or offered for sale at the proposed vending location, including whether recordings will be sold or offered for sale.
 - (2) All applicants shall furnish all data, information and records requested of them by the police department licenses and permits unit 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. – Sunset Provisions.

This Article and all permits issued in accordance therewith shall expire on December 31, 2013.

Sec. 30-1430. - Fees.

- (a) Temporary permit fees are due and payable by certified funds after approval of the temporary vending application. Temporary permit fees for vending shall be as follows:

Merchandise permit	\$ 75.00
--------------------	----------

Food permit	\$ 75.00
Combination permit	\$ 125.00
Service permit	\$ 25.00
Assistant vendors	\$ 15.00

- (b) The fee for a replacement vending permit photo identification card that has been lost shall be \$30.00 and may be obtained at the police department's license and permit section.

Sec. 30-1431. - Location.

Permits are to be used only for the location specified in the vendor's application and such location shall be clearly written on the permit. The vendor or an assistant vendor to whom the permit is issued shall be present at the location specified on the permit at all such times as merchandise, food, services, or any combination thereof are sold or offered for sale at such location.

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

Whenever either the name or address provided by the permit holder on the application for a vending permit or health or building inspection certificate changes, the licensee shall notify the department of police's license and permit section 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 police department's license and permit section at all time.

Sec. 30-1433. - Denials, revocation and suspension.

- (a) No permit shall be issued for vending 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 alcohol or drug offenses and related matter; crimes of moral turpitude; gambling offenses and related matters; larceny, fraudulent conveyance, perjury and/or false swearing, or subrogation. Any conviction for dealing and/or trafficking in illegal drugs will automatically disqualify a vending applicant.
- (b) Failure to maintain initial qualifications shall be grounds for revocation or suspension.
- (c) Any permit issued pursuant to this article may be suspended or revoked by the police department's license and permit section for any of the following causes:
- (1) Fraud, misrepresentation or false statements contained in the application for the vending permits.
 - (2) Fraud, misrepresentation or false statements made in connection with the selling of any article, merchandise, produce or permissible food item.

- (3) Violation of the provisions of Fulton County or DeKalb County Health Department regulations applicable folders of food permits.
 - (4) Conduct of a vending business in an unlawful manner or in such a way as to constitute a menace or detriment to the health, safety or welfare of the public.
 - (5) Failure on the part of a vendor to maintain initial eligibility qualifications.
 - (6) Failure on the part of the vendor's assistant to maintain initial eligibility qualifications shall be grounds for the revocation or suspension of the vendor's assistant permit.
 - (7) Failure to furnish any and all documentation requested by either the police department, the department of finance 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.
 - (8) Failure to abide by the duties imposed on the permit holder pursuant to this division.
- (d) Any person whose permit is revoked may not reapply for another temporary vending permit.
- (e) In addition to carrying out all other investigations as may be permitted under this article, the police department's license and permit section 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. After receiving a properly filed complaint, the police department's license and permit section shall conduct its investigation and, based on the results of such investigation, may suspend or revoke any permit issued pursuant to this article to the person who is the subject of such complaint by providing notice as required by this division. A copy of such notice also shall be provided to the person who filed the complaint.

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

- (a) A suspension, revocation or denial of a permit issued under this division 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, suspension or revocation shall be given in writing, setting forth the complaint, the grounds for denial, suspension or revocation, and the time, date and place of the hearing. Such notice shall be mailed to the vending permit holder 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, 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.

Sec. 30-1435. - Duties of permit holder.

Every person authorized to vend under this article shall:

- (1) A vendor shall comply with all laws and regulations applicable to the operation of a vending business;
- (2) A vendor shall refrain from engaging in any vending business after the expiration of the vendor permit and during any period when it has been suspended or revoked;
- (3) A vendor shall surrender the vendor permit promptly to the police department's license and permit section upon its expiration, or upon revocation or suspension.
- (4) A vendor shall have no more than two assistants who shall first obtain assistant vendor permits from the police department licenses and permits unit. At no time shall more than three vendors or assistant vendors be present at the assigned vending location.
- (5) A vendor shall be responsible for the on-site activities of the vendor's assistants.
- (6) No vendor shall sell or offer for sale any illicit recordings.

Sec. 30-1436. – 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. Such persons shall only be required to pay the application fee of \$50.00.

Secs. 30-1437—30-1460. - Reserved.

Section 3: That only persons authorized to vend on public property in 2012, either pursuant to Chapter 30, Article XXIII as it existed in 2012, or pursuant to permits issued pursuant to Chapter 30, Article XXIII during calendar year 2003, may apply for permits to vend in accordance with Section 2 of this Ordinance at the locations at which they vended in 2012.

Section 4: That the amendment to Chapter 30, Article XXIII set forth in Section 2 of this Ordinance shall expire on and have no further effect after December 31, 2013.

Section 5: That all permits issued in accordance with Section 3 of this Ordinance shall expire on and have no further effect after December 31, 2013.

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

Section 6: That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict.

E

X

H

I

B

I

T

A

**Atlanta, Georgia, Code of Ordinances >> PART II - CODE OF ORDINANCES—GENERAL ORDINANCES >>
Chapter 30 - BUSINESSES >> ARTICLE XXIII. - VENDING ON PUBLIC PROPERTY >> DIVISION 1. -
GENERALLY >>**

DIVISION 1. - GENERALLY

Sec. 30-1400. - Statement of intent.

Sec. 30-1401. - Definitions.

Sec. 30-1402. - Permit required to use public property for vending purposes.

Sec. 30-1403. - Vending advisory board.

Sec. 30-1404. - Penalties.

Sec. 30-1405. - Vending locations.

Sec. 30-1406. - Records of vendors and public vending management companies; inspection of records.

Sec. 30-1407. - Duties of vendors.

Sec. 30-1408. - Restrictions on vending locations and operations.

Sec. 30-1409. - Public vending management program.

Sec. 30-1410. - Hours of operation of vendor stations.

Sec. 30-1411. - Persons selling from motor vehicles.

Sec. 30-1412. - Littering.

Sec. 30-1413. - Unlawful to display goods without a permit.

Secs. 30-1414—30-1425. - Reserved.

Sec. 30-1400. - Statement of intent.

The Charter provides that the City of Atlanta may regulate or restrict the manufacture, sale, lease, rental, use, or solicitation of personal property by licenses, bonds, permits, or other regulatory methods and may allow or decline to allow the use of public spaces and right-of-way to offer such items to the public. Pursuant to those powers, it is the intent of the City Council to use this article and any other part of the Code to which this article refers to regulate vending on public property and the advertising of commercial products and services associated with the vending structures to achieve the following public policy objectives:

- (1) Serve and protect the health, safety and welfare of the general public;
- (2) Develop a public vending program to enhance the overall appearance and environment along public streets, pedestrian ways and other public property in a manner that will enhance the city's international image;
- (3) Increase the variety and quality of goods and services for sale or rent pursuant to contractual agreements between the City and private entities;
- (4) Provide guidelines for the erection of structures on public property under the general authority allowed by Division 7 of Article 2 of Chapter 138 of this Code as it now exists or it may be from time to time amended;
- (5) Authorize the use of public property for vending purposes through permitting the use of specifically identified sites on public property;
- (6) Provide economic development opportunities;
- (7) Allow limited commercial messages to be displayed on vending structures permitted on public property in order to defray the City's costs in managing the vending program, as

well as to maximize the revenue and economic development opportunities available as a part of the public vending management program;

- (8) Authorize a vending advisory board to act as a liaison between the City, vendors, vending management companies, the manufacturers of vending equipment and other interested parties for the purpose of offering advisory opinions on the operation of public property vending.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08; Ord. No. 2009-68(09-O-1895), § 1(a), 11-24-09)

Sec. 30-1401. - 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:

Applicable building code requirements means any law or regulation which pertains to the erection or use of structures in the City of Atlanta including without limitation the "state minimum codes" listed in O.C.G.A. § 8-2-20(9)(B)(i) as it exists now or may be from time to time amended and all local amendments,

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).

Class C food vending station means a fully enclosed, self-contained, non-motor vehicle that is approved by the Fulton County health department for the purpose of vending on city streets or from a public assigned location.

Disabled individual means an individual who has a physical or mental impairment that substantially limits one or more of the major life activities of such individual, a record of such impairment or being regarded as having such impairment as determined by the Americans with Disabilities Act of 1990.

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.

Display goods for sale or distribution means the act of offering goods for sale or the act of free distribution of goods by display or arrangement of the goods on a table, stand, or ground cover or by offering such goods from the hands of individuals.

Household means a principal place of abode comprised of a group of persons constituting a distinct domestic or social body living in the same residence. A household can include parents, children, stepchildren, domestics, lodgers and boarders.

Immediate family shall include the spouse, domestic partner registered under section 94-133, mother, father, sister, brother, and natural or adopted children.

Motor vehicle vending means the use of any motorized vehicle, approved for use by the department of police, and used by a lawfully permitted vendor for the purpose of vending from place to place and on city streets. No such vehicle shall be authorized to vend from any fixed location. The vehicles include rolling stores, catering trucks, ice cream trucks and motorized carts.

License and Permits Unit means that unit of the Atlanta Police Department which issues permits for public 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.

Managed public vending area means that public property which is the subject of a public vending management contract.

Motorized vehicle means any vehicle, trailer or bicycle propelled by a motor capable of moving a vending station from place to place which is used for vending food, merchandise or services for sale.

Non-managed public vending area means that public property which has been made available for use by persons whose designated location existing under a prior ordinance has been terminated or eliminated.

Permissible food item means any food product or substance, including beverages, that legally may be dispensed for the public's consumption pursuant to the rules and regulations of the county health department.

Prior vending location means a location on public property where vending was permitted prior to the institution of a public vending management program.

Produce means any agricultural product raised on a farm or orchard.

Public festival means a public function or activity which does not exceed two weeks in duration and which has been issued a festival permit in accordance with chapter 138, article VI of this Code.

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

Public vending contractor is a person or entity whose contract with the city allows such person or entity the right to conduct vending activities including, without limitation, the right to subcontract to other vendors, on property under the jurisdiction of the City of Atlanta other than city-owned parks.

Public vending management contract means that contract, between a public vending contractor and the City of Atlanta, granting the right to conduct vending activities on property under the jurisdiction of the City of Atlanta other than city-owned parks, and may include prescribed rules and procedures, in addition to the requirements in this article, which vendors at public vending sites must follow in the operation of those sites.

Public vending management program means that method of selecting and contracting with a public vending contractor to conduct and/or manage public vending activities pursuant to a contract with the City.

Public vending management contract means that contract, between a public vending contractor and the City of Atlanta, granting the right to conduct vending activities on property under the jurisdiction of the City of Atlanta and may include prescribed rules and procedures, in addition to the requirements in this article, which vendors at public vending sites must follow in the operation of those sites.

Public vending site means an individual vending site on public property.

Pushcart/vending cart means any portable vehicle or device from which property intended to be sold is displayed at an approved public vending site. The term "pushcart" shall be synonymous with the term "vending cart."

Reasonable distance shall mean 400 feet as measured from the edge of vending structure along the path of pedestrian travel to the nearest edge of the next vending structure including within such distance all public rights-of-way.

Registered agent means any person who is authorized by a vendor or itinerant vendor and who agrees to accept service of process and legal notices on behalf of a vendor or itinerant vendor.

Special events means those which have regional, national or international significance and which attract a magnitude of people to the city up to a two-week period, e.g., the World Series, the Super Bowl, the Olympics, among others.

Street furniture zone means a geographical area located on the sidewalk portion of a street right-of-way whose width lies between the street curb extending four feet onto the sidewalk, as measured from the curb, and whose length extends from intersecting street to intersecting street.

Street music means a music performance for which the musician or musical group requires payment by the audience or business owner as a precondition for performing. The act of accepting donations from listeners while performing music in public is excluded from regulation under this Code section.

Street vending means vending activity permitted within public street rights-of-way.

Vendor permit means those document(s) issued by the license and permits unit which contain information necessary to identify the vendor such as name, photograph, vending type and classification, authorized location and period of time for which the permit is valid.

Vending business means any commercial enterprise operated for profit in which merchandise, food, services or a combination thereof are rendered for sale to the general public in public space and approved by the city.

Vending site or vending location means the assigned area where a vendor permit is valid and includes any fixed or movable structure, table or device used by a vendor.

Vending Station means any fixed or movable structure, table or device used by a vendor for the purpose of displaying or storing any merchandise, article or food which is offered for sale.

Vendor means any person whose primary business is the selling or bartering or carrying for sale or barter or exposing therefor any goods, wares, merchandise, services, food, confectionery or drink carried by hand, from portable stands or tables, pushcarts or vending carts, by manually propelled vehicles or by motor or animal-driven vehicles.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08; Ord. No. 2009-68(09-O-1895), § 1(b), 11-24-09)

Sec. 30-1402. - Permit required to use public property for vending purposes.

- (a) Pursuant to this article, a permit issued by the license and permits unit shall be required to vend on public property owned or otherwise under the jurisdiction of the City of Atlanta.
 - (i) Specific permit and licensing requirements set forth in Division II of this article are in addition to the general requirements of this section.
 - (ii) Certain vending activities may be permitted at specific locations and for specific times pursuant to other sections of the code which allow for vending on public property. In the event that no specific regulation covers a vending activity on public property, the rules of this article shall govern.
 - (iii) Where a public vending management contract gives a public vending contractor the right to control the placement of vending stations, vending carts, and/or control vending activity in the area specified in the contract, individual vendors shall obtain the written approval of the public vending contractor before being eligible to apply.
- (b) The right to manage vending on public property may be contracted to private persons or entities. A public vending management contract may provide that the public vending management company be allowed the exclusive right to vend on public property within a specified area of the city or the entire city.
- (c) No public vending permit or public vending management contract shall convey any interest in the real property under the jurisdiction of the City of Atlanta which is identified in any permit or contract and such permit or contract shall only convey the right to use the property for the purposes allowed in this article.
- (d) All public property identified as suitable for use as a public vending site under a permit issued pursuant to this article shall only be used for that purpose and the premises and the right to occupy or use any structures thereon shall at all times be controlled by the terms of this article and any applicable building code requirements.
- (e) The placement of structures at public vending sites, including sites which are part of public vending management program, shall not be allowed unless and until the site where the activity

is to be conducted has been approved by the commissioner of the department of public works. Except in the case of an imminent public health, safety or welfare need, such approval may be withdrawn for the convenience of the City at a time to coincide with the expiration of the vendor's lease with the public vending contractor and the site shall be vacated within 30 days of the date of expiration. In the case of an imminent public health, safety or welfare need, any public vending site shall be closed when the closing is ordered by the police department or the department of public works and may not be reopened until the order is lifted. This section shall not limit the City's right to condemn any public vending site.

- (f) The public vending contractor shall provide a copy of a specimen or form lease or form license which-sets forth the general terms under which it shall form agreements with the vendors who shall lease or license the vending sites or vending stations. Such requirement to provide a specimen or form lease or form license shall not require a public vending manager to provide copies of any specific lease, license or other form of contract or agreement between the public vending contractor and individual vendors.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1403. - Vending advisory board.

- (a) The vending advisory board shall be composed of six members nominated by the mayor and confirmed by the city council. The members of the board shall annually select a chair and a vice-chair from the membership of the board. The mayor shall nominate the following:
- (1) One vendor with experience in food vending.
 - (2) One vendor with experience in merchandise vending.
 - (3) One representative of the Buckhead Community Improvement District
 - (4) One representative of Central Atlanta Progress, Inc.
 - (5) One representative of the Midtown Community Improvement District
 - (6) One representative of individual, blind or disabled veteran vendors.
 - (7) One representative of the Atlanta Planning Advisory Board.
 - (8) One representative from MARTA.
- (b) The members of the board to be appointed under the terms of this section shall serve an initial term which begins as of the date of the adoption of this ordinance and terminates as of the end of the calendar year following the adoption. After the initial term, all subsequent terms for positions 1, 2, 3 and 4 shall be for two years and positions 5, 6, 7 and 8 shall be for three years. Any board member who misses two consecutive meetings of the board may be deemed to have abandoned the position on the board and the mayor is authorized to nominate a new member to fill the position.
- (c) Members of the board shall not be compensated for their service and may serve more than one term.
- (d) Operation of the vending advisory board.
- (1) The board shall establish a quarterly meeting time and place and shall publish schedule of the meetings for that year on the City website. The board may but is not required publish agendas of items to be discussed in advance.
 - (2) The board shall establish its own rules of procedure at its initial meeting and may update the rules annually at the first meeting of each calendar year.
 - (3) Each meeting shall reserve a portion of time for public comment as may be provided in the board's adopted rules of procedure.
 - (4) The board may call special meetings as it deems necessary provided however that the board shall cause notice of such meeting to be posted on the City's website.

- (5) All meetings shall be open to the public, and all votes of the board shall be announced in public session.
 - (6) Administrative and legal services as may be required by the board shall be furnished by appropriate departments and agencies of the city.
 - (7) The department of public works shall provide staff support for the board.
- (e) The board shall advise the mayor and city council on public property vending by informing the mayor of the issues discussed and results of the votes taken. The board is not required to vote any particular issue since its role is advisory but a vote on a question made by motion shall be taken at the request of any board member.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1404. - Penalties.

- (a) Any person violating this article shall, upon conviction thereof, be punished as follows:
- (1) *First conviction.* A fine of not less than \$100.00 or 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 or 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 or 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, within any 12-month period, shall be subject to a fine of not less than \$500.00 or more than \$1,000.00 and costs or imprisonment in the city jail for not more than 60 days or both, and a court-ordered referral shall be forwarded to the police chief for revocation of the person's permit.
- (b) Revocation, non-renewal or termination of the right to participate in a public vending program set up under a public vending management contract shall not require conviction under this section where violation of the contract between the vendor and the public vending management company provides for such grounds of termination.
- (c) Failure to comply with public vending program operating protocols set by the public vending contractor shall be sufficient cause for the public vending administrator to request that the permit be revoked by the license and permits unit or by the public vending management company.
- (d) The issuance of citations to individuals for violation of the public vending ordinances shall not prevent the city from pursuing any remedies under a public vending management contract.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1405. - Vending locations.

- (a) The department of public works shall create a public vending location map to specify the location of all vending sites existing as of the date of this ordinance.
- (b) Public vending sites which are permitted under the terms of a public vending management contract shall be added to the public vending location map. The public vending location map is to be amended administratively to record the changes to the existing public vending sites which occur as the result of the implementation of the public vending management program. Amendments to the map shall be recorded in a manner which shall allow identification of such changes.
- (c) Where prior vending locations are included in the area of a public vending management contract that has been authorized by the governing authority, such locations shall not be

permitted at the conclusion of the term of the permit for the prior existing location.

- (d) Public vending sites approved by the Department of Public Works may be added to the map prior to the issuance of permits to vend at such locations.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1406. - Records of vendors and public vending management companies; inspection of records.

Every vendor and public vending management company shall keep records utilizing generally accepted accounting practices for the purpose of compliance with the city occupation tax. Any record which meets the requirement set forth in this section shall be subject to the same confidentiality protections as set forth in that article of the city code which governs occupation taxes.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1407. - Duties of vendors.

Every person authorized to vend under this article shall:

- (1) Comply with all laws and regulations applicable to the operation of a vending business;
- (2) Refrain from engaging in any vending business after the expiration of the vendor permit and during any period when it has been suspended or revoked;
- (3) Surrender the vendor permit promptly to the department of police license and permit section upon its expiration or upon revocation or suspension;
- (4) Where the permit is issued for a site subject to the terms of a public vending management contract, follow the operating protocols in the agreement under which the public vending program manager agreed to recommend the applicant for the issuance of the permit. Violations of operating protocols, which are not also violations of this article, shall not be a basis for the issuance of citations, but are grounds for revocation of the permit.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1408. - Restrictions on vending locations and operations.

(a) Specific location criteria:

- (1) No vending location may interfere with the visibility of a street intersection or pedestrian crosswalk as reasonably determined by the department of public works.
- (2) No vending location may impede the reasonable use of a driveway, parking entrance or parking space.
- (3) All vending locations shall allow for sufficient space for pedestrian travel on any public or private sidewalk.
- (4) No vending location may be within 50 feet of any entrance or exit of any hotel or motel except with permission of the owner.
- (5) No vending location shall unreasonably block the view of the entrance or display windows of fixed location businesses when viewed from the route of closest pedestrian travel.
- (6) No vending location shall be within 15 feet of a fire hydrant.
- (7) No vending location shall be located within 600 feet of the closest property line of any public or private elementary, middle or high school.
- (8)

Any location within 100 feet of the entrance to a MARTA Station shall be reviewed by MARTA and the Department of Public Works shall consider MARTA's comments in its consideration of the application.

- (b) The following prohibitions on vendor's operations shall apply at all times.
 - (1) Vending operations shall not unduly obstruct vehicular traffic flow, except for up to 15 minutes to load and unload vending stations and vending merchandise.
 - (2) Vending businesses shall not obstruct traffic signals or regulatory signs.
 - (3) Vending operations which obstruct pedestrian traffic flow due to heavy volume may be required to relocate or utilize temporary pedestrian traffic control measures or structures to aid in the orderly processing of sales or service.
- (c) No vendors are authorized to sell any products within 500 feet of any Atlanta Housing Authority property unless authorized by the housing authority.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1409. - Public vending management program.

- (a) The public vending management program shall be implemented by one or more contracts approved by the governing authority designating one or more private entities to manage vending on public property under the jurisdiction of the City of Atlanta.
- (b) All public vending management contracts approved by the governing authority shall require compliance with this article. No term of any public vending contract shall excuse compliance with any provision of this article and any such term which purports to excuse such compliance shall be void.
- (c) The public vending management company shall have the right to employ personnel or choose the persons with whom it wishes to contract for the operation of public vending sites to be implemented pursuant to the terms of its contract. All operating employees and operators of vending sites shall be required to have a valid vendor permit.
- (d) A public vending management program contract shall set forth the City's policy on the type of advertising which will meet the City's goals of: (i) defraying the City's costs in managing the vending program; (ii) maximizing revenue potential for the City, the vending management company and the vendors; (iii) supporting economic development opportunities pursuant to the City's guidelines for the area; and (iv) maintaining the appearance of the public spaces in a manner which maintains an aesthetically attractive city in which such advertising is compatible with the use patterns of established zoning districts in the immediate area of the vending site.
- (e) A public vending management program contract shall set forth the minimum operating protocols to be enforced in the operation of vending site.
- (f) A public vending management program contract shall set forth the method for the enforcing the maintenance responsibilities with respect to any structures or equipment which are to be leased to operators or operated by its employees as well as the requirement for cleanliness of the areas in the proximity of the vending site.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1410. - Hours of operation of vendor stations.

No vending station or any item related to the operation of a vending business shall be located in public space between the hours of 2:00 a.m. and 5:00 a.m. except, however, that a vendor participating in any public vending management program shall further be subject to the terms and conditions related to hours of operation as set forth in any agreement related thereto.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1411. - Persons selling from motor vehicles.

- (a) Vendors selling ice cream or other food items out of motor vehicles shall be subject to this section.
- (b) Every vendor selling ice cream or other food items out of a motor vehicle shall, before making any sale, park the vehicle at the right curb and at least eight feet from any other vehicle that may be parked on the street and not less than 100 feet from any intersecting street. When the vending vehicle stops, all sound equipment or other devices used to notify customers of the presence of the vendor shall be stopped and shall not be resumed until the vehicle is again put in motion.
- (c) No vehicle using sound equipment or other method of attracting customers shall operate such equipment before 9:00 a.m. or after 9:00 p.m. daily or between the hours of 9:30 a.m. and 12:00 noon on Sundays. Furthermore, such equipment shall not be operated within one block of a church between the hours of 7:00 a.m. and 9:00 p.m. on Sundays. No motor vehicle shall be operated within 600 feet of any public school in the city between the hours of 7:30 a.m. and 3:30 p.m. on days in which schools are actually in session.
- (d) No vehicle shall stop or stand and do business for more than 30 minutes.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1412. - Littering.

- (a) Vendors shall keep the sidewalks, roadways and other space immediately adjoining and adjacent to their vending sites or locations clean and free from paper, peelings and refuse of any kind generated from the operation of their businesses.
- (b) A person engaged in food vending shall affix to the vending station or motorized vehicle or pushcart a receptacle for litter which shall be maintained and emptied regularly and which shall be marked as being for litter.
- (c) A vendor participating in any public vending management program shall further be subject to the terms and conditions related to trash removal as set forth in any agreement related thereto.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1413. - Unlawful to display goods without a permit.

A valid vendor license assigned to that specific location of public property shall be required for a person to display goods for sale or to offer free goods for distribution in connection with advertising promotions regardless of whether such goods are advertised by commercial signage, commercial flyers or commercial handbills or by voice or by music (recorded or live) and without regard to whether such goods are not advertised in way. This requirement shall also applied to all goods carried by hand

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Secs. 30-1414—30-1425. - Reserved.

**Atlanta, Georgia, Code of Ordinances >> PART II - CODE OF ORDINANCES—GENERAL ORDINANCES >>
Chapter 30 - BUSINESSES >> ARTICLE XXIII. - VENDING ON PUBLIC PROPERTY >> DIVISION 2. -
PERMITS AND LICENSES >>**

DIVISION 2. - PERMITS AND LICENSES

- Sec. 30-1426. - Vending permits and business licenses required.
- Sec. 30-1427. - Certain vending activities exempted.
- Sec. 30-1428. - Application for permit.
- Sec. 30-1429. - Vending site requirements.
- Sec. 30-1430. - Term and renewal of permits.
- Sec. 30-1431. - Permit fees.
- Sec. 30-1432. - Display of permit; alteration of permit.
- Sec. 30-1433. - Notification of change of name or address.
- Sec. 30-1434. - Grounds for denial, revocation and suspension of vendor permits.
- Sec. 30-1435. - Appeal of suspension, revocation or denial of permits.
- Sec. 30-1436. - [Disabled veterans.]
- Secs. 30-1437—30-1460. - Reserved.

Sec. 30-1426. - Vending permits and business licenses required.

- (a) No person shall vend any article, merchandise, produce, permissible food item or service where public vending is allowed in the city without first having obtained a vending permit and satisfied all other requirements of this article, including without limitation, those of any county health department or applicable state laws.
- (b) No person shall vend in the city on public property except in conformity with the permit and this article. The vending permit is in addition to any general business license or other requirements imposed by this article or other sections of the City Code.
- (c) No person permitted to engage in any vending related activity may undertake such activity without first obtaining a business license from the office of revenue or its successor agency. Pursuant to O.C.G.A. § 43-12-1 et seq., as existing and as from time to time amended and upon the meeting the criteria as defined therein, disabled veterans and blind persons are exempt from the payment of occupation taxes, administrative fees, or regulatory fees which would ordinarily be imposed. All persons entitled to an exemption from the payment of fees and taxes shall meet all other requirements necessary to obtain the permits and licenses required by this article.
- (d) All vendor permits are nontransferable.
- (e) No vendor permit shall authorize vending at more than one location.
- (f) There shall be no subleasing of any assigned vending site or location by vendors. Public vending management programs may reallocate their assignment of locations between permitted vendors provided however that such transfer of locations shall not become effective until an amendment to each vendor permit has been processed by the license and permits unit.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1427. - Certain vending activities exempted.

- (a) Vending on public property pursuant to a permit issued under the Outdoor Events Chapter (City Code section 142-1 et seq. as amended) shall not require a separate vending permit under this article.
- (b) No permit shall be required for persons selling newspapers at large other than from a fixed location on public space or on public streets.
- (c) No permit shall be required for persons playing music in public, including but not limited to sidewalks, parks, or other public spaces, so long as payment by the audience or business owner is not required as a precondition for performing.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1428. - Application for permit.

- (a) An application shall be required by all persons seeking issuance of a vending permit to allow that person to vend on public property. Each applicant must apply in person and complete an application form. Application forms may be obtained from and filed with the license and permits unit. Any application to vend in an area under a public vending management contract shall also include the approval of the public vending management company and copies of all materials required to be submitted by the public vending management contract.
- (b) A nonrefundable application fee of \$150.00 is required which shall accompany each application for a vendor's permit.
- (c) The permit fee is due and payable when the permit is issued.
- (d) The application for a vendor's permit shall, at a minimum, require that the following information be provided:
 - (1) Applicant's name and current address.
 - (2) Applicant's previous addresses within the last five years.
 - (3) Social security number.
 - (4) Applicant's previous city vending license number.
 - (5) The vending site or location for which the permit will be effective
 - (6) Required vending site information.
 - (7) Federal tax I.D. number, if applicable.
 - (8) State department revenue retail I.D. number, if applicable.
 - (9) Whether the application is for a person who has a subcontract with a public vending management company and holds the vending site permit for the location or is an employee at that vending location.
- (e) Each person working at any vending location must obtain her/his own individual vending permit, except:
 - (1) Where a park conservancy with a valid memorandum of understanding with the city performs vending pursuant to that memorandum of understanding, only the company performing the vending under a contract with the conservancy must receive a permit, and each employee thereof need only pass a background check."
 - (2) Where a person or corporation holding an approved vendor permit in an area managed by a public vending company hires employees and first submits to the license and permits unit a list of the employees for a particular site, such employees will be allowed to work at such site without obtaining an individual vending permit. The information to be submitted to the license and permits unit shall list the name and social security number of the employees to be employed at each site prior to the first day of any employee at such site.
- (f) All vending applications shall contain the vending site information or make specific reference to

a vending site permit. No vendor permit shall be issued without the specific identification of the site where the vendor will operate and each site so identified must meet the site requirements of this article.

- (g) No permit will be issued to any vending employee unless the person who has a subcontract with a public vending management company for the vending site also has a vending permit.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08; Ord. No. 2009-68(09-O-1895), § 1(c), 11-24-09)

Sec. 30-1429. - Vending site requirements.

- (a) A public vending management company may provide to the public works department an application for vending site approval which shall not require that such site application identify those vendors who will operate thereon but no vending site permit will be issued until the subcontractor who will operate on the site has a vendor permit.
- (b) The license and permit unit shall consult with the department of public works as to the suitability of any vending site application or any vendor permit application which contains site information and render a decision within 30 days. In the event that the location is approved, the site shall be added to the public vending location map.
- (c) All vending site applications shall contain the following information as to a vending site or location:
- (i) The type of food or merchandise to be sold or the service to be provided;
 - (ii) The location of the area or vending station as identified by a map which makes reference to the nearest intersections of any public right-of-way and specifies the distance from the edge of the curb at the nearest lane of travel for each public right-of-way;
 - (iii) A drawing or photograph of any vending station, its size and height and details as to where the proposed vending station is to be located on the vending site including a statement as to how the proposed vending station will be configured on the vending site and where the persons who operate the vending station will be located during the normal course of business;
 - (iv) Where the vending station is attached to the ground or requires any type of utility connections, a site survey prepared by a surveyor licensed in the State of Georgia showing the actual dimensions of the structure relative to the public right-of-way and any other building or structure within 400 feet of the vending station, and shall include the location of connection for utilities;
 - (v) Where the vending station is attached to the ground or requires any type of utility connections, an encroachment agreement approved by the department of public works shall be required and shall reference the consent of the department to the location of the vending station and the location of the utility connections;
- (d) A permit to vend at the location requested in the vending site application shall not relieve the applicant from the obligation to obtain a building permit and a certificate of occupancy, if it is required for the vending station.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1430. - Term and renewal of permits.

- (a) An annual vendor permit shall be valid only for the calendar year in which it is issued.
- (b) An application for renewal of an annual vendor permit for the next calendar year shall be received by the license and permits unit no later than December 15.
- (c) The license and permits unit may choose to issue a vendor permit with a term that matches the

term of a vendor's agreement with the public vending management company, provided however that the permit fee shall be increased in accord with the length of the permit term to the same rate as if the permit were required to be renewed annually.

- (1) No extended term vendor permit shall be issued unless the vending management contractor specifies that an extended term is requested in their endorsement of the vendor permit application.
- (2) No extended term vendor permit shall prevent the city from revoking a vendor permit for cause.
- (3) Renewal of an extended term vendor permit is permitted under the same terms as the renewal of an annual vendor permit and an application for renewal of an extended term vendor permit beginning in the next calendar year following the years of expiration of such extended term vendor permit shall be received by the license and permits unit no later than December 15 of the year of expiration
- (4) Any refund of the extended term permit shall be prorated.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1431. - Permit fees.

- (a) Permit fees are due and payable by cash or money order after approval of the vending application. A vending permit shall not be issued prior to payment of the fees.

Permit fees for vending shall be as follows:

Type of Permit	Fee
Initial vendor permit application	\$150.00
Renewal of vendor permits	\$100.00
Vending site	\$250.00
Vending employee	\$100.00

- (b) The fee for a replacement vending permit photo identification card that has been lost shall be \$30.00 and may be obtained at the department of police license and permit section.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1432. - Display of permit; alteration of permit.

- (a) All vendor permits shall be properly and conspicuously displayed at all times during the operation. Such permit shall be deemed to be properly displayed when it is attached to the outer garment of the vendor and clearly visible to the public and law enforcement officials. A certificate of health inspection shall be deemed to be properly displayed when it is firmly attached to the vending pushcart, motorized or non-motorized vehicle or vending station and clearly visible to the public and law enforcement officials.
- (b) No person shall fraudulently alter, mutilate, forge or unlawfully display any vending permit issued pursuant to this division.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1433. - Notification of change of name or address.

Whenever either the name or address provided by the permit holder the application for a vending permit or health or building inspection certificate changes, the permit holder shall notify the

license and permit unit in writing within ten days of such change and provide the department with the name change or address change. Vendors shall ensure that a current and correct name, residence address and mailing address are on file with the license and permit section at all times.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1434. - Grounds for denial, revocation and suspension of vendor permits.

- (a) No 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 alcohol or drug offenses and related matters; crimes of moral turpitude; gambling offenses and related matters; larceny, fraudulent conveyance, perjury or false swearing; or subrogation. Any conviction for dealing or trafficking in illegal drugs will automatically disqualify an applicant from approval.
- (b) No permit for a motorized vehicle vendor shall be issued if the applicant has been convicted of five or more moving violations for three years immediately prior to the application. To be eligible for such a permit, the applicant must possess a current state driver's license, proper registration, liability insurance on the vehicle to be used in the vending operation and an emissions sticker, regardless of county registration. A motorized vendor is held to the same standards as any other vendor.
- (c) Failure to maintain initial qualifications shall be grounds for revocation or suspension.
- (d) Any permit issued pursuant to this article may be suspended or revoked by the license and permits unit for any of the following causes:
 - (1) Fraud, misrepresentation or false statements contained in the application for the vending permit;
 - (2) Fraud, misrepresentation or false statements made in connection with the selling of any article, merchandise, produce or permissible food item;
 - (3) Violation of the provisions of Fulton County or DeKalb County health department regulations applicable to holders of food permits;
 - (4) Conduct of a vending business in an unlawful manner or in such a way as to constitute a menace or detriment to the health, safety or welfare of the public;
 - (5) Failure to furnish any and all documentation requested by the police department, the department of finance or the license review board for the purposes of the investigation of any application or for the inspection of records pursuant to section 30-1406 within 30 days of such request;
 - (6) Notice of termination from the vending management company of a subcontract for a vending location.
 - (7) Four violations of any section of this article within a 12-month period shall constitute grounds for denial, revocation or suspension of a vendor permit.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Sec. 30-1435. - Appeal of suspension, revocation or denial of permits.

- (a) A suspension, revocation or denial of a permit issued under this division may be appealed to the license review board within 20 days of the applicant or permit holder's receipt of notice as described in section 30-1435(b).
- (b) Notice of the suspension or revocation shall be given in writing, setting forth the complaint; the grounds for suspension or revocation; and the time, date and place of the hearing. Such notice shall be mailed to the vending permit holder at least five calendar days prior to the date set for

the hearing. The notice shall be mailed to the address shown on the application by registered or certified mail.

- (c) The license review board shall conduct the hearing 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, 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.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08; Ord. No. 2008-79(08-O-1677), § 20, 11-6-08)

Sec. 30-1436. - [Disabled veterans.]

- (a) 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 currently holding a public property vending permit, 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 and who hold a public property valid vending permit in force as of the date of the adoption of this subsection, shall be permitted to participate in the public vending program at a location in the public vending program closest to their existing licensed location subject to full application to the public vending management company in the same manner as all other participants and the execution of a lease, license or other form of contract or agreement as is generally utilized between the public vending management company and other vendors who will participate in the program, provided however that the rental or lease of any equipment required to participate in the public vending management program shall not exceed \$200.00 per month for the first 60 months that such vendor participates in the public vending program.
- (b) In the event that a disabled veteran as that term is defined in this subsection (g) applies to participate in the public property vending program after the adoption of this ordinance, such disabled veteran shall be permitted to participate in the program at a discounted rate for the first 36 months provided that the disabled veteran has been approved under the application process and further provided that no more than six spaces shall be dedicated to disabled veterans including those made available to subpart (g) above.

(Ord. No. 2008-74(08-O-1220), § 2, 9-8-08)

Secs. 30-1437—30-1460. - Reserved.