

AN ORDINANCE BY COUNCIL MEMBER

MICHAEL J. BOND

~~AN ORDINANCE TO AMEND CHAPTER 30, ARTICLE XXIII OF THE CITY OF ATLANTA CODE OF ORDINANCES, (VENDING ON PUBLIC PROPERTY), IN ORDER TO ADD NO MORE THAN X VENDING CART LOCATIONS NEAR TURNER FIELD; TO GIVE PERSONS PERMITTED BY THE CITY OF ATLANTA AS VENDORS AND AUTHORIZED TO VEND ON PUBLIC PROPERTY NEAR TURNER FIELD AT THE TIME OF THE ADOPTION OF THE PUBLIC VENDING MANAGEMENT PROGRAM A FIRST RIGHT OF REFUSAL DURING THE LOTTERY-TYPE SELECTION PROCESS HELD FOR THE LOCATIONS CREATED IN THIS ORDINANCE; TO ADOPT A SUNSET PROVISION WHEREBY THE AMENDMENTS CONTAINED IN THIS ORDINANCE WILL EXPIRE ON DECEMBER 31, 2016; 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, the City of Atlanta’s Ordinances regulating the use of the public right of way for vending purposes is located at Chapter 30, Article XXIII of the City of Atlanta Code of Ordinances; and

WHEREAS, Section 30-1431 sets forth the pre-vetted list of Valid Vendor Locations where public property vending may take place; and

WHEREAS, the Atlanta Braves have announced their intention to cease hosting baseball games at Turner Field following the 2016 baseball season; and

WHEREAS, there has been no determination regarding the redevelopment of the Turner Field site following the departure of the Atlanta Braves therefrom; and

WHEREAS, it is the desire of the Atlanta City Council to amend section 30-1431 to temporarily authorize up to 10 additional Vending Cart locations near Turner Field, such locations to expire on December 2016; and

WHEREAS, because the City's vending ordinance which would have previously authorized persons to vend from locations near Turner Field 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 permitted by the City as Vendors at the time of the adoption of the unconstitutional ordinance, and assigned to vend at locations near Turner Field pursuant to the proceeding (pre-2008) ordinance, be given first right of refusal during the Lottery-type Selection Process to be held in order to assign the locations created by this Ordinance; and

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

Section 1: That Chapter 30, Article XXIII, Division 2, Section 30-1437 of the City of Atlanta Code of Ordinances, currently reserved, is hereby amended such that Section 30-1437 shall read as follows:

**Sec. 30-1437 – Temporary Turner Field Locations.**

(a) Temporary Turner Field Valid Vendor Locations are designated by the City as follows:

[x]

(b) Lottery Type Selection Process for Temporary Turner Field Locations:

(1) Persons wishing to submit applications for each Temporary Turner Field Valid Vendor Location shall be required to place their names in a separate drawing during the Lottery-type Selection Process for each such location.

(2) Persons permitted on September 1, 2008 by the City of Atlanta as Vendors (not as Assistant Vendors) authorized to vend on public property locations near Turner Field, [such locations described in Section 30-1405(a)(6) of the version of Chapter 30, Article XXIII of the City of Atlanta Code of Ordinances (Vending on Public Property) in effect prior to September, 2008 and officially repealed in Section 2 of Ordinance 13-O-1339], shall be given first right of refusal in the drawings for each of the Temporary Turner Field Valid Vendor Locations described in this Section.

(3) No individual prospective Vendor may receive the ability to apply for more than one (1) of the Temporary Turner Field Valid Vendor Locations available in the Lottery-type Selection Process.

(c) This Section shall expire in its entirety, and shall have no further effect on December 31, 2016. Following the expiration of this Section:

(1) the locations contained in subsection (a) shall no longer be designated by the City of Atlanta as Valid Vendor Locations, and no vending shall be authorized thereon;

(2) Valid Vendor Permits for Temporary Turner Field locations shall expire and shall not be renewable.

Section 2: That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of any conflict.

Section 3: This Ordinance shall become effective immediately upon its approval.

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