

AN ORDINANCE

AMENDING the Municipal Code of Marietta, Section 8-8-2-160, Open containers prohibited exception and Section 10-4-070, Drinking prohibited.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA, THAT:

Section 1: Section 8-8-2 of the Marietta City Code is hereby amended as follows:

8-8-2-160 - Open containers prohibited—Exception.

- A. No bottle or other container of alcoholic beverages shall be opened or consumed by any person on the premises, upon which the place of business is conducted and licensed under this article, whether the bottle or other container so opened or consumed was bought or obtained at the place of business or elsewhere unless the premises is licensed for consumption on the premises under this article.
- B. No establishment licensed under this article to sell alcoholic beverages shall allow a person to leave that premises with alcoholic beverages in open cup, bottle, can or other open container, except as provided in section 8-8-2-163 D or 8-8-2-160 C.
- C. This provision shall not apply to city-sanctioned events. A city-sanctioned event is one which is conducted by any department agency, board or commission of the city, the downtown development authority, the welcome center, the branding project, or as specifically approved by city council.
- D. As provided in Subsection B., at no time shall a person be permitted to leave a premise with alcoholic beverages in a glass container unless the customer(s) is seated at a permitted outdoor dining restaurant.

8-8-2-161 - Open containers provisions.

The purpose of this section is intended to set forth certain exceptions and provisions applicable only to licensees whose establishments:

- (1) Are located within an approved entertainment district.
- (2) Possess a license to sell alcoholic beverages for consumption on the premises.

Except as specifically set forth in this section, all such licensees will remain subject to all other provisions of the city's alcoholic beverages ordinance.

8-8-2-162 - Definition of entertainment district.

For the purpose of this section only, the entertainment district is defined as following: Atlanta Street beginning at South Marietta Parkway north to Anderson Street; Anderson Street east to Waddell

Street; Waddell Street north to Roswell Street; Roswell Street west to East Park Square; East Park Square north continuing on Cherokee Street to Lemon Street; Lemon Street west continuing on to Polk Street to North Marietta Parkway; North Marietta Parkway south continuing on to South Marietta Parkway to Atlanta Street SE. For the purposes of this definition, any licensed establishment, the property of which abuts the described streets, shall be located within the district.

Street and/or sidewalk mean the inside curb nearest buildings and licensed establishments.

No alley, to include McNeel Alley, NW or any other alley shall be considered a part of the district. Exception, traversing through or across McNeel Alley to enter Atherton Square is permitted. Congregating in said alley with open containers is not allowed.

The entertainment district specifically excludes Glover Park and the sidewalk bordering the Park.

8-8-2-163. - Outside consumption of alcoholic beverages permitted.

A. This exception to 8-8-2-163 shall remain in effect from the date approved by council for a period not to exceed one year from that date.

B. Container. No container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed 12 fluid ounces in size. No person shall hold in their possession on the public streets and sidewalks and/or any other public place within an entertainment district any open alcoholic beverage container, which exceeds 12 fluid ounces in size, provided further, that no person shall remove more than one (1) such alcoholic beverage per person from the licensed premises at a time.

C. Hours of Consumption. Any establishment licensed to sell alcoholic beverages by the drink for consumption on the premises, which is located within the approved entertainment district is authorized to dispense alcoholic beverages in a clear plastic cup for removal from the premises: Thursdays from 5 pm until 10 pm, Friday from 5 pm until 11 pm, and Saturday from 10 am until 11 pm.

D. Drinking from can, bottle, or glass prohibited. Except as specifically set forth in sections 8-8-2-161 through 8-8-2-164 herein with respect to a clear plastic cup, and section 8-8-2-160 C and D., it shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, glass, cup, or container, on the public streets, sidewalks, trails, parks, rights-of-way, and public or private parking lots within the city.

E. Purchase from licensed premises within an approved entertainment district allowed off premises. Alcoholic beverages purchased in accordance with this chapter may be consumed in the approved entertainment district except as prohibited in this section. Alcoholic beverages consumed pursuant to this provision must be purchased from a licensed establishment authorized to sell alcoholic beverages for consumption on the premises within the approved entertainment district.

F. Licensed establishments shall only be permitted to serve from their approved premises as approved on their alcohol license and shall not serve from temporary locations upon the premises unless specifically allowed during a City sanctioned event in accordance with section 8-8-2-160 C.

G. Consumption limited to certain areas in entertainment district. No alcoholic beverage purchased pursuant to this provision may be consumed:

- (1) Outside the boundary of the approved entertainment district or within the approved entertainment district on any parcel used as a trail, public park, church, day care center or school or the adjoining sidewalk, with the exception of Atherton Square, unless during a City sanctioned event in accordance with section 8-8-2-160 C.
- (2) in an alley, with the exception of McNeel Alley in accordance with Section 8-8-2-162; or
- (3) in any public or private parking lot.

8-8-2-164. – Craft Beer and Wine.

No open containers of wine, beer or malt beverages shall be removed from the licensed premises unless in compliance with state law and section 8-8-2-163.

8-8-2-165 - Signage.

Any licensed establishment that allows patrons to leave an establishment with an alcoholic beverage as regulated herein shall have an 11-inch by eight and one-half inch sign posted at the door for public view whereas a patron exiting the establishment can read the following:

"All patrons leaving this establishment with an alcoholic beverage do hereby take full responsibility to only consume an alcoholic beverage served in a clear plastic cup not to exceed 12 ounces in size and obtained by an establishment licensed to sell alcoholic beverages in the entertainment district boundary outlined on the map below. Any individual that leaves the permitted area with an alcoholic beverage in an open container is in violation of city code and may be subject to a citation and/or fine."

8-8-2-166. - No abrogation of other laws.

The provisions of this article shall not be deemed to abrogate or otherwise impact any state law or local ordinance pertaining to public drunkenness, disorderly conduct, driving with an open container or under the influence of alcohol, or similar laws.

Nothing in this ordinance or any resolution enacting an entertainment district shall be construed as to allow the possession or consumption of alcoholic beverages in city parks or recreation buildings.

Section 2: Section 10-4-070 of the Marietta City Code is hereby amended as follows:

10-4-070 - Drinking prohibited.

- A. Drinking of alcoholic beverages upon the premises of any city owned or operated parks, buildings, recreation centers, or upon the streets and sidewalks to those premises is prohibited, excepted as provided in Section 8-8-2-161 to Section 8-8-2-164.
- B. It is unlawful for any person at any time to drink any whiskey, wine, beer or other alcoholic beverages upon or within any parked vehicle upon parking lots and streets adjacent to city owned or operated parks and recreation centers.
- C. The prohibition set forth in Subsections A. and B. as it pertains to Glover Park may be waived by action of the council after petition therefore for a bona fide charitable eleemosynary or civic cause, and the council may require special conditions and stipulations as it may deem appropriate if it so grants said waiver.
- D. The prohibition set forth in Subsection A. as it pertains to the premises of city owned buildings is hereby waived for the City Club, Marietta, the Marietta Conference Center and Resort and Brumby Hall and Gardens provided consumption is restricted to customers of the facilities.
- E. Notwithstanding any provision of this Code to the contrary, the city council may permit the consumption of beer, wine, and liquor in Glover Park; and, the sale of beer and wine adjacent to Glover Park, or within Atherton Square, pursuant to the following conditions:
 - 1. The permit may only be granted by council for a bona fide charitable, eleemosynary or civic cause; or for a city sanctioned event;
 - 2. Such permit may only be granted to the holder of an alcoholic beverage pouring license;
 - 3. If there are more eligible applications for such permits than there are permits to be granted for any particular event, such permit shall be awarded pursuant to a nondiscriminatory selection process; and
 - 4. As used in this subsection, Glover Park shall mean that area of the park lying within the fenced perimeter.
- F. Notwithstanding any provision of this Code to the contrary, the prohibitions set forth in this section regulating the sale of beer and wine in the area of the square as defined on the map (Exhibit A) attached to Ordinance No. 6660 is automatically waived for all city sanctioned events pursuant to the following conditions:
 - 1. Businesses with a valid beer and wine license on one side of their establishment during the event. The sale of beer and wine must not impede the efficiency of the pedestrian path and shall not block or restrict the passageway to less than four feet in width or block the ingress/egress to any building. In areas of congested pedestrian activity, the parks and recreation director is authorized to modify the location of the sales area for protection and welfare of the public and/or to improve ingress/egress to adjacent businesses. The distribution of beer, wine, or liquor in glass containers to customers is prohibited unless seated at a permitted outdoor dining restaurant.

2. Notwithstanding any provision of the Code to the contrary, beer and wine may be sold in Atherton Square if it is part of a city sanctioned event as set forth in Subsection G. below.

G. A city-sanctioned event is one which is conducted by any department agency, board or commission of the city, the downtown development authority, the welcome center, the branding project, or as specifically approved by city council hereinafter referred to as an approved host.

Council may prescribe such other conditions and stipulations as it may deem appropriate with regard to the granting of any such permit.

Section 3: It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses and phrases are severable, and if any section, paragraph, sentence, clause or phrase of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance.

Section 4: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

Section 5: This Ordinance shall become effective upon the signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

DATE: November 11, 2020

APPROVED: R. Steve Tumlin, Jr., Mayor

ATTEST: Stephanie Guy, City Clerk

Approved as to Form: Douglas R. Haynie, City Attorney

Proposed Entertainment District

Proposal 4



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November 2020

