

Business License and Revenue Division
205 Lawrence St., Box 609
Marietta, Georgia 30061-0609
Phone: (770) 794-5520
Fax: (770) 794-5685
Margaret Ferraro, Manager

For Office Use Only
Tax Cert. No. _____
Account No. _____
SIC Code _____
Zoning _____
Date _____

ALCOHOLIC BEVERAGE LICENSE INSTRUCTIONS

NOTE: Any transaction regarding Beer, Wine or Liquor licenses should be made "Subject to Approval By the City Manager".

*******APPLICATION MUST BE LEGIBLY PRINTED IN BLACK INK*******

- _____ 1. Applicant shall complete application by answering all questions.
- _____ 2. Applicant and agent shall define his duties and responsibilities and enclose with the application.
- _____ 3. All applicants and agents for Beer, Wine, and/or Liquor, Package or Consumption on the Premises, must submit verification of Georgia residency, such as a letter from a utility company.

*All applications for licenses shall nominate and name in the application one or more residents of Cobb County, Georgia, as the Registered Agent and Representative of the Applicant to receive all communications, notices, services, and documents in connection with issuance, holding, suspension, revocation, or other action with respect to any City license.
- _____ 4. Applicant shall obtain a surveyor's plat for the affected location.

*We request the surveyor to call the Business License office for instructions on preparing the plat for detail dimensions of the site, distance to schools, churches, method of measurement, etc...
- _____ 5. Applicant shall provide a plat of the inside of the building showing the dimensions and total square footage specifically affected by this application.
- _____ 6. Enclose photo of Applicant, Agent, and Affected Location.
- _____ 7. Applicant shall attach an executed copy of the lease or provide proof of real estate ownership of said proposed business location and attach an executed copy of the bill of sale.
- _____ 8. Applicant, agent and owners with 20% or more ownership interest in the business shall provide drivers licenses and social security cards for verification and copying.
- _____ 9. Applicant shall attach a copy of Charter, if a private club.
- _____ 10. Applicant shall enclose partnership agreement or a certificate of incorporation including the articles of incorporation.
- _____ 11. Applicant shall submit verification of investment monies.
- _____ 12. Applicant and agent shall submit a personal and business financial statement.
- _____ 13. Applicant shall attach a Certified or Cashier's Check to the application upon completion of these instructions made payable to the "City of Marietta Business License Division" for the appropriate license fee(s), regulatory fee, plus the processing fee.

- ____14. Call the Business License Division at (770) 794-5520 for an appointment to submit the application.
- ____15. Contact the State of Georgia Revenue Department, Alcohol, Tobacco, and Firearms Office for information on applying for state licenses at (770) 732-5812.
- ____16. You will be contacted by the Marietta Police Department to schedule finger printing after you submit your application to the Business License Division.

FEES ARE AS FOLLOWS:
 (Effective 5/14/14)

	PACKAGE	CONSUMPTION ON THE PREMISES
BEER	\$ 541	\$ 541
WINE	\$ 541	\$ 541
LIQUOR, Basic Fee	\$ 1,785	\$ 1,785
+1% of Gross Sales of \$0 - \$321,500		
SUNDAY SALES*	\$ 595	\$ 595
REGULATORY FEE	\$ 175	\$ 175
PROCESSING FEES		
BEER	\$ 100	\$ 100
WINE	\$ 100	\$ 100
LIQUOR	\$ 100	\$ 100
SUNDAY SALES	\$ 100	\$ 100

Brew Pub (add on to malt beverage consumption on premises only): \$50.00

Ancillary Wine and Malt Beverage Tastings for manufacturing or retail package
 (wine-only, malt beverages-only): \$50.00

***SUNDAY SALES* - To be eligible for Sunday Sales, with the exception of Malt Beverage manufacturers and licensed distilled spirit manufacturers, total food sales must equal or exceed annual alcoholic beverage sales. Documentation and support for food sales by the licensee shall be verified by providing receipts, food purchase receipts, sales tax, federal tax returns, and daily sales recap to the Marietta Business License Division. Sunday Sales Licenses may be applied for at the same time as all other license applications. The City shall have ninety (90) days to determine if applicant qualifies for an annual Sunday Sales permit.**

***MANAGER'S PERMITS* - Must be obtained from the Marietta Police Department after the license is issued. Call (770) 794-5341 for more information.**

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205 Lawrence Street
PO Box 609
Marietta, Georgia 30061-0609
Phone: (770) 794-5520 Fax: (770) 794-5685

For Office Use Only
 License No. _____
 License No. _____
 License No. _____
 Account No. _____
 Date _____

ALCOHOLIC BEVERAGE LICENSE APPLICATION

INSTRUCTIONS: PLEASE PRINT LEGIBLY AND ANSWER ALL QUESTIONS. If not applicable, enter N/A.

TYPE OF LICENSE: (Check appropriate spaces)

LIQUOR:

- NEW ()
- RENEWAL ()
- TRANSFER ()
- MANUFACTURER ()
- WHOLESALE ()
- RETAIL PACKAGE ()
- CONSUMPTION ()
- ON THE PREMISES ()
- a. Restaurant ()
- b. Bar or Lounge ()
- c. Bottle Shop ()
- d. Dancing/Live Entertainment ()
- e. Adult Entertainment ()
- f. Private ()
- g. Other ()

BEER:

- NEW ()
- RENEWAL ()
- TRANSFER ()
- MANUFACTURER ()
- WHOLESALE ()
- RETAIL PACKAGE ()
- CONSUMPTION ()
- ON THE PREMISES ()
- a. Restaurant ()
- b. Bar or Lounge ()
- c. Bottle Shop ()
- d. Dancing/Live Entertainment ()
- e. Adult Entertainment ()
- f. Private ()
- g. Food Store ()
- h. Service Station ()
- i. Other ()

WINE:

- NEW ()
- RENEWAL ()
- TRANSFER ()
- MANUFACTURER ()
- WHOLESALE ()
- RETAIL PACKAGE ()
- CONSUMPTION ()
- ON THE PREMISES ()
- a. Restaurant ()
- b. Bar or Lounge ()
- c. Bottle Shop ()
- d. Dancing/Live Entertainment ()
- e. Adult Entertainment ()
- f. Private ()
- g. Food Store ()
- h. Service Station ()
- i. Other ()

1. Full Name of Business _____
 Under what name is the Business to be operated _____
 Is the business a proprietorship, partnership, corporation, domestic or foreign? _____
2. Business Address _____
3. Phone _____ Beginning Date of Business in City of Marietta _____
4. [] New business [] Existing business purchased: _____
 If change of ownership or entity, effective date of this change _____
 If change of ownership, enclose a copy of the sales contract and closing statement.
5. Federal Tax ID Number _____ Georgia Sales Tax Number _____

6. Is business within the designated distance of any of the following:

CHURCH, SCHOOL GROUNDS, COLLEGE CAMPUS		YES	NO
Beer and Wine	300 FEET	()	()
Liquor	600 FEET	()	()
SINGLE FAMILY RESIDENCES ZONED R-10, R-15, R-20 or R-30, R-1, R-2, R-3, R-4, RA-4, RA-6, RA-8			
Beer, Wine, or Liquor Consumption on Premises Only	65 FEET	()	()
DISTILLED SPIRITS RETAIL PACKAGE STORE (HB 500 Effective 7/1/97)			
Liquor	1,500 FEET	()	()

7. Full name of Applicant _____

Social Security Number _____ Date of Birth _____

Full name of Spouse, if Married _____

Spouse's Social Security Number _____ Date of Birth _____

Are you a Citizen of the United States? _____ Birthplace _____

Persons that are not U.S. Citizens must provide **original** immigration card I-551 to the Business License Division for verification and copying. Naturalized citizens must provide their **original** certificate of naturalization for verification by the Business License Division. This applies to the applicant, each owner, each partner, each stockholder with 20% or more ownership, and their spouses. (Passports will not be accepted.)

Current Address _____ City _____ St _____ Zip _____

Home Telephone _____

Number of years at present address _____

Do you reside in Cobb County _____ If yes, how long? _____

Previous address _____

Number of years at previous address _____

State and Driver's License Number _____

What has been your occupation for the past five (5) years? Give detailed list. _____

8. Applicant's employment date with present business _____

If new business, date business will begin in Marietta _____

If transfer or change of ownership or entity, effective date of this change _____

If transfer or change of ownership, enclose a copy of the sales contract, closing statement, and check here.

Previous Applicant _____

D/B/A _____

Time Limits on Opening (8-8-2-230)--All licenses issued under this chapter must open within 90 days. Any applicant unable to comply may make a written request to the administrator for an extension of time not to exceed 90 days. Any license issued under this chapter shall be null and void when the licensed business has not operated or been open to the public for six (6) consecutive months. Initial here _____.

9. What is the name of the person who, if the license is granted will be the active manager of the business and on the job at the business? List address, occupation, phone number, and employer.
- _____
- _____
10. Has the applicant, spouse, or any individual having an interest either as owner, partner, or stockholder, been arrested, convicted or entered a plea of nolo contendere within five (5) years immediately prior to the filing of this application for any felony or misdemeanor of any state or of the United States, or any municipal ordinance except traffic violations?
If yes, describe in detail and give dates. _____
- _____
- _____
11. Do you own the land and building on which this business is to operated? _____
Date purchased _____ Amount _____
If not, give amount paid for such land and building, the manner in which the rent is determined, to whom and at what intervals it is paid. Give the name of the owner and agent, if any.
- _____
- _____
- Attach a copy of the lease and any other pertinent documents.
12. How is the proposed location zoned? Please contact Zoning – 770-794-5669 _____
13. If this is an application for an original license, attach hereto proof of adequate parking facilities as per the City of Marietta zoning requirement.
Approved by Zoning Administrator: Contact Zoning 770-794-5669 _____
14. If operating as a corporation, state name and address of corporation, when and where incorporated, and the names and addresses of the officers and directors, social security numbers and the office held by each.
- _____
- _____
- _____
15. If operating as a corporation, list the stockholders complete addresses, area code and telephone numbers, residential and business, and the amount of interest of each stockholder in the corporation.
- _____
- _____
- _____
16. If operating as a partnership, list the partners with complete addresses, area code and telephone numbers, residential and business, and the amount of interest or percent of ownership of each partner.
- _____
- _____
- _____
17. If partnership or individual, state names of any other persons or firms owning any interest or receiving any funds from the corporation.
- _____
- _____
- _____
18. If this is an application for any retail license hereunder, has applicant or spouse received any financial aid or assistance from any manufacturer or wholesaler of alcoholic beverages?

19. If this is an application for any retail license hereunder, has applicant or spouse any financial interest in any manufacturer or wholesaler of alcoholic beverages? _____
20. Show hereunder any and all persons, corporations, partnerships, or associations who have received or will receive, as a result of your operations under the requested license, any financial gain or payment derived from any interest or income from the operation. (Financial gain or payment shall include payment or gain from any interest in the land, fixtures, building, stock, and any other asset of the proposed operation under the license.) In the event that any corporation is listed as receiving and interest or income from this operation, show the names of the officers and director of said corporation together with the names of the principal stockholders.
- _____
- _____
21. State whether or not applicant, partner, corporation officer, or stockholder holds any alcoholic beverage license in other jurisdiction or has ever applied for a license and been denied. (Submit full details)
- _____
- _____
22. Do you or your spouse or any of the other owners, partners, or stockholders have an interest in other liquor stores? If so, state in how many stores each is interested and where stores are located. Explain fully. Attach a list of all your brothers, sisters, children, grandchildren, father-in-law, mother-in-law, etc.
- _____
- _____
23. Are you or any member of your family the owner, lessor, sub lessor of any real estate which is occupied by a retail liquor store? If so, give the location information as to any lease or agreement, amounts of rents, received to whom rented or leased.
- _____
- _____
24. Are you or any member of your family the executor or administrator or beneficiary or heir of any estate having any interest in a retail liquor store? If so, give the location, amount of interest, and your capacity with the estate.
- _____
- _____
25. Are you or any member of your family the beneficiary or trustee of any trust fund having any interest in a retail liquor store? If so, give your position, the name of the trust and the amount of income you receive.
- _____
- _____
26. Have you, your spouse, any partner, any stockholder, any financial interest in any wholesale liquor business? If so give details.
- _____
- _____

27. Give the amount of gross sales of each of the retail liquor, beer, and wine stores at the above location for the previous twelve (12) months and state the dates used in computing the gross sales. Indicate gross sales for beer, wine and liquor separately. _____

- a. Projected Annual Sales: Food __Beer __Wine __Liquor _____
 Total Sales _____
28. All beer, wine and Liquor retailers shall only purchase alcoholic beverages from a State of Georgia Licensed Wholesaler as per Georgia Alcoholic Beverage Laws and Regulations, 1996 Edition, as now or hereafter amended, Chapter 560-2-2.04. Initial _____
29. Property Owner for Proposed Business Location _____
 Address _____
 City, State and Zip _____ Telephone () _____
 Name of Agent or Person Responsible _____
 Address and Telephone _____

30. Real Estate Firm for Proposed Business Location _____
 Address and Telephone _____

31. Property Management Company for Proposed Business Location _____
 Address and Telephone _____

32. Do you have any questions or comments regarding the ordinances, laws, regulations or application?
 () Yes () No
33. Are you familiar with the City of Marietta ordinances, state laws and regulations, federal laws and regulations governing the operation of this type of business? () Yes () No
34. Have you made application for a State license? () Yes () No
35. Have you answered all questions? () Yes () No

GEORGIA, COBB COUNTY

I, _____, being duly sworn to law, do swear that the statements made by me in the above and foregoing answers to questions are true, and no false, or fraudulent statement is made herein, and

such statements were made in order to procure the granting of such a license. I hereby authorize the Marietta Police Department to obtain and review copies of any criminal and/or driver's histories in my name or any alias used by me in the past or at the present. I understand that this information may be used against me during the course of the Marietta Police Department's investigation. I further certify that I will notify the City of Marietta Business License Division of any changes effecting my status and/or position with this company.

_____ I am a United States citizen or legal permanent resident 18 years of age or older;
OR

_____ I am a qualified alien or non-immigrant under the Federal Immigration and Nationality Act 18 years of age or older and lawfully present in the United States.

Alien Registration no. for non-citizens _____ Attach documentation

Persons that are not U.S. Citizens must provide **original** immigration card I-551 to the Business License Division for verification and copying. Naturalized citizens must provide their **original** certificate of naturalization for verification by the Business License Division. This applies to the applicant, each owner, each partner, each stockholder with 20% or more ownership, and their spouses. (Passports will not be accepted.)

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of Code Section 16-10-20 of the Official Code of Georgia.

Signature of Applicant (Type Name Before Signing)

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE
____ DAY OF _____, 20__.

Signature and Title of Person Other Than
Applicant Completing This Application
(Type Name Before Signing)

Notary Public
My Commission Expires: _____

Phone Number _____ Work
_____ Home

Received in City of Marietta Business License and Revenue Division on _____

at _____ a.m. p.m. by: _____

Fingerprinted at Marietta Police Department by:

Date _____

REGISTERED AGENT CONSENT AND INFORMATION FORM

CITY OF MARIETTA BUSINESS LICENSE AND REVENUE DIVISION

I, _____, do hereby consent to serve as the Registered Agent for the licensee, owners, officers, and/or directors and to perform all obligations of such agency under the Alcoholic Beverage Ordinance of the City of Marietta, Georgia. I understand the basic purpose is to have and continuously maintain in Cobb County a Registered Agent upon which any process, notice, or demand required or permitted by law or under said ordinance to be served upon the licensee or owner may be served. I understand that the Registered Agent must be a resident of Cobb County. I hereby authorize the Marietta Police Department to obtain and review copies of any criminal and/or driver's histories in my name or any alias used by me in the past or at the present. I understand that this information may be used against me during the course of the Marietta Police Department's investigation. I further certify that I will notify the City of Marietta Business License Division of any changes effecting my status and/or position with this company.

This _____ day of _____, 20 ____.

Signature of Agent

Type Name of Agent

Type Agent's Home Address

Type City, State, and Zip Code

Type Date Moved into the Above Address

Type Social Security Number

Type Driver's License Number

Type Date of Birth

Type Area Code and Telephone Number

Notary Signature

Sworn to and subscribed before me this
day of _____ 20 ____.

ALCOHOLIC BEVERAGES - HOURS OF SALE

BEER AND WINE, PACKAGE

Monday through Friday	6:00 a.m. to 2:00 a.m.
Saturday	6:00 a.m. to 12:00 midnight
Sunday	12:30 p.m. to 11:30 p.m.
SPECIAL PERMIT REQUIRED	
Election Day (City, State, Federal, or County)	6:00 a.m. to 2:00 a.m. *Not allowed within 250 feet of Polling Place, during polling hours*
Thanksgiving Day	6:00 a.m. to 2:00 a.m.
Christmas Day	See hours Monday through Saturday

LIQUOR, PACKAGE

Monday through Saturday	8:00 a.m. to 11:45 p.m.
Sunday	12:30 p.m. to 11:30 p.m.
SPECIAL PERMIT REQUIRED	
Christmas Day	CANNOT SELL
Thanksgiving Day	6:00 a.m. to 2:00 a.m.
Election Day (City, State, Federal, or County)	8:00 a.m. to 11:45 p.m. *Not allowed within 250 feet of Polling Place, during polling hours*

BEER, WINE, OR LIQUOR - CONSUMPTION ON THE PREMISES

Monday through Friday	6:00 a.m. to 2:55 a.m.
Saturday	6:00 a.m. to 2:55 a.m.
Sunday	11:00 a.m.. to Midnight (rev. 11.14.18)
SPECIAL PERMIT REQUIRED	
Election Day (City, State, Federal, or County)	6:00 a.m. to 2:55 a.m. *Not allowed within 250 feet of Polling Place, during polling hours*
Thanksgiving Day	6:00 a.m. to 2:55 a.m.
Christmas Day	See hours Monday through Saturday

CITY of MARIETTA
Business License and Revenue Division
205 Lawrence Street
PO Box 609
Marietta, Georgia 30061
Phone: (770) 794-5520 Fax: (770) 794-5685

For Office Use Only
License No. _____
Account No. _____
SIC Code _____
Zoning _____
Date _____

SUNDAY SALES OF ALCOHOLIC BEVERAGES APPLICATION

Name of Business _____

Name of Applicant _____
Last First MI

Name of Agent _____
Last First MI

Business Address _____

Business Phone _____ Emergency Phone _____

Contact Name _____ Day Time Phone _____

Effective Date of This Request _____ Expiration Date of Temporary License(90 days) _____

Annual Gross Sales From All Sources _____

Annual Gross Sales--Food _____ Annual Gross Sales--Motel Lodging _____

Annual Gross Sales--Alcoholic Beverage Sales:

Beer _____ Wine _____ Liquor _____

If applying for Sunday sales of alcohol consumption on the premises, this application shall be for a TEMPORARY LICENSE and will expire ninety days from date of issuance. An annual license may be issued after ninety days if subject business meets the 50% food service requirement. This application shall include the annual Sunday Sales License fee of \$595.00 and a non-refundable processing fee of \$100.00. Initials _____

I, _____, being duly sworn according to law, do swear that the facts stated by me in the above are true.

Date Applicant's Signature

Notary Signature
Sworn to and subscribed before me this
day of _____ 20____.

* * * * *

Recommend Approval: Yes [] No [] Comments _____

Signature of Approval _____ Date _____
Business License Manager

Affidavit

I _____-, owner, partner, president or CEO of _____ (business name and location) do swear or affirm that my business is a restaurant as defined by the attached Marietta City Code Section 8-8-8-020 (C). I understand that if my business does not meet the definition of a restaurant, my business is required to obtain a license for a “Bar or Lounge”. I further understand that false statements made in this affidavit will result in denial or revocation of the alcoholic beverage licenses of my business. I also understand that failure to meet the definition of a restaurant as defined by the attached Marietta City Code Section 8-8-8-020 (C) will result in suspension, denial or revocation of any Sunday Sales of Alcoholic Beverage Consumption on the Premises license. All statements made in this affidavit are true, correct and complete.

Signature of Owner, Partner, President or CEO

Date (Month/Day/Year)

Notary Public

City of Marietta
 Business License Division
 New Alcoholic Beverage Application

Owner/ Licensee Personal Financial Statement (Confidential)

Name	Date of Birth
Social Security Number	Name of Spouse
Residence Address	Business or Organization
City, State, Zip	Business Phone
Residence Phone	Owner, Partner or Officer in any other business ()Yes()No

Assets

Liabilities

Cash on hand and in Banks		Notes Payable to Banks – Secured	
Accounts Receivable		Notes Payable to Banks – Unsecured	
Notes Receivable		Notes Payable to Others	
Stock and Bonds/ Investments		Accounts Payable	
Real Estate		Unpaid Taxes	
Cash Value of Life Insurance		Mortgages on Real Estate	
Automobiles		Other Debts	
Deposit Accounts			
Other Assets (Itemize)			
		Total Liabilities	
		Net Worth	
Total Assets		Total Liabilities and Net Worth	

Source of Annual Income

Salary	
Bonus and Commissions	
Dividends and Interest	
Alimony, child support or separate income	
Itemize all loan sources and lines of credit	
Other Income (Itemize)	
Total Annual Income	

Liquor Sales Reporting Form

Part A

- | | |
|---|----------|
| 1. For the Month Ending: (Enter month/day/year) | 1. _____ |
| 2. Gross Liquor Sales (Enter dollar amount of liquor sales) | 2. _____ |
| 3. Business License Fee (1% of Line 2) | 3. _____ |
| 4. Penalty (Line 3 X .1, if postmarked after due date) | 4. _____ |
| 5. Interest (Line 3 X .01 X number of months or any part thereof) | 5. _____ |
| 6. Subtotal (Sum of Lines 3, 4 and 5) | 6. _____ |

(Note to liquor package stores only: skip to line 12)

- | | |
|---|-----------|
| 7. Excise Tax (3% of Line 2) | 7. _____ |
| 8. Penalty (Line 7 X .1, if postmarked after due date) | 8. _____ |
| 9. Interest (Line 7 X .01 X number of months or any part thereof) | 9. _____ |
| 10. Deduction * Only if timely (3% of Line 7, not to exceed \$25) | 10. _____ |
| 11. Subtotal (Sum of Lines 7, 8 and 9 less Line 10) | 11. _____ |
| 12. Total Due (Sum of Lines 6 and 11) | 12. _____ |

Part B

Average ounces per drink poured: _____ Average price per drink sold: _____

***This report must be filed and paid by the 20th day of the month following the period for which the tax is due. Take deduction only if timely filed and paid as evidenced by postmark of United States Postal Service.**

I certify that this return, including the accompanying schedules or statements, has been examined by me and is, to the best of my knowledge and belief, a true and complete return made in good faith for the period stated. This the _____ day of _____, 20____.

Return prepared by: _____ Title: _____

Signature: _____ Telephone: _____

MARIETTA POLICE DEPARTMENT

240 LEMON STREET, MARIETTA, GEORGIA 30060-1651
PHONE (770) 794-5300

We do request that you provide us with the following information when turning in your application to the Business License Office. This will expedite the business license application process.

1. Names of all persons who are officers of the corporation or partners in the business.
2. Provide copies of all documentation to the Marietta Business License Department. (Drivers License, Social Security card, INS documentation, ect.) You will also need to bring the **original documents** to the Permit/ I.D. Office, for the final investigative stage.
3. Make sure the business license application is correct and legible. Hand written material is very difficult to read.

When the Marietta Business License Office has all of the requested information, you will be contacted by a Police Representative with the Marietta Police Department Permit/ I.D. Office; located at 240 Lemon Street Marietta, GA 30060 for the final phase of your investigation. It is important to remember the permit office has 30 days to complete the investigation process, so your cooperation is necessary to expedite your request for a business license.

Please contact the Police Department's Permit and ID office at 770-794-5341.

CHAPTER 8-8 ALCOHOLIC BEVERAGES

ARTICLE 8-8-2 GENERAL PROVISIONS

8-8-2-010 Definitions.

In this chapter, in addition to the definitions provided in Section 8-4-020 of this Code, the following words shall have the indicated meanings:

- A. "Alcoholic beverages" shall mean and include, but are not limited to, malt beverages, hard cider, wines and spirituous liquors as defined herein.
- B. "Brew pub" shall mean any eating establishment which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals and food and in which beer or malt beverages are manufactured or brewed subject to the barrel production limits and regulations under state law.
- C. "Building code" shall mean and include all building, plumbing and electrical codes and any other similar technical code of the city.
- D. "Church" shall mean any permanent building which houses the main sanctuary in which persons regularly assemble for religious worship.
- E. "College" shall mean only those state, county, city, church or other colleges that teach the subjects commonly taught in the common colleges of this state and shall not include private colleges where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.
- F. "Distance" shall mean the measurement in horizontal lineal feet from the front door of the proposed licensee's premises to the nearest church, school ground or college campus along the nearest practical street route.
- G. "Hard cider" shall mean an alcoholic beverage obtained by the fermentation of the juice of apples, containing not more than six (6) percent alcohol by volume, including, but not limited to flavored or carbonated cider. For purposes of this title, hard cider shall be deemed a malt beverage. The term does not include "sweet cider".
- H. "Growler" shall mean a properly sanitized reusable bottle made of glass or other material customary to the industry provided that the bottle is capable of being sealed with a screw cap and then sealed with a plastic collar over the screw for the purpose of complying with open container laws, and further provided that the bottle does not exceed 64 ounces and is filled by a licensee or employee of the licensed establishment with malt beverage, craft beer or hard cider from a keg for off-premises consumption.
- I. "Malt beverages" shall mean any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than six percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, hard cider and strong beer. The term does not include sake, known as Japanese rice wine.
- J. "Premises" shall mean the definite closed or partitioned establishment, whether room, shop or building wherein alcoholic beverages are sold or consumed. "Premises" shall also include any privately owned or leased courtyard or patio which is architecturally visibly defined.
- K. "Bona fide private club" shall mean any nonprofit association organized under the laws of this state which:
 - 1. Has been in existence at least one year prior to the filing of its application for a license to be issued pursuant to this chapter;
 - 2. Has at least 75 regular dues-paying members;
 - 3. Owns, hires, or leases a building or space within a building for the reasonable use of its members, which building or space:
 - a. Has suitable kitchen and dining room space and equipment; and

- b. Is staffed with a sufficient number of employees for cooking, preparing, and serving meals for its members and guests; and
- 4. Has no member, officer, agent, or employee directly or indirectly receiving, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.
 - L. "Private residence" shall mean a house or dwelling wherein not less than one nor more than three families customarily reside and shall not include an apartment house having facilities for housing four or more families; or any residence which has been unoccupied for a period of six consecutive months immediately prior to the filing of an application.
 - M. "Retail" shall mean retail sales packaged to go and not for consumption on the premises.
 - N. "School" shall mean only those state, county, city, church or other schools that teach the subjects commonly taught in the common schools of this state and shall include the adjacent open land used for school purposes but this shall not include any portion of a private school where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.
 - O. "Spirituos liquors" shall mean all beverages containing alcohol, obtained by distillation or containing more than 21 percent alcohol by volume, including fortified wines.
 - P. "Wine" shall mean any alcoholic beverage containing not more than 21 percent alcohol by volume made from rice, fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this Code section.

8-8-2-020 License required, scope of chapter—City business license effective.

- A. No malt beverage, hard cider, wines, spirituous liquors or any other alcoholic beverage shall be stored, delivered, sold or manufactured in the city except under a license issued pursuant to this chapter and then only for the specific beverage and manner of sale provided in the license.
- B. The requirements of this chapter shall be in addition to any other requirements for business licenses under this Code and if other provisions of this Code conflict with this chapter then this chapter shall control.
- C. Licenses which may be issued under this chapter and the business license fees are:
 - 1. Manufacturing:
 - a. Malt beverages, including hard cider, \$595.00;
 - b. Wines, \$595.00;
 - c. Spirituous liquors, \$3,569.00;
 - 2. Wholesale:
 - a. Malt beverages, including hard cider, \$108.00;
 - b. Wines, \$108.00;
 - c. Spirituous liquors, \$1,785.00;
 - 3. Retail Package:
 - a. Malt beverages, including hard cider, \$541.00;
 - b. Wines, \$541.00;
 - c. Spirituous liquors, \$1,785.00, plus one percent of gross receipts up to \$321,500.00;
 - d. Sunday sales, \$595.00;
 - 4. Consumption on the Premises:
 - a. Malt beverages, including hard cider, \$541.00;

- b. Wines, \$541.00;
 - c. Spirituous liquors, \$1,785.00, plus one percent of gross receipts up to \$321,500.00;
 - d. Sunday sales, \$595.00;
5. Brew Pub (add on to malt beverage consumption on premises only): \$50.00;
 6. Ancillary Wine and Malt Beverage Tastings for manufacturing or retail package (wine-only, malt beverages-only): \$50.00; or
 7. Any combination of the above at the same location provided no retail or wholesale licensee shall hold any consumption on the premises license for the same location.
- D. If the wholesale dealer's principal place of business is located within the city, the city will levy a license fee in accordance with the classification into which the applicant falls. In addition to the general occupation tax, the wholesale dealer shall also pay a \$100.00 processing fee to cover the expenses of investigation and processing. The applications of wholesale dealers located within the city shall be approved by the city manager or his designee. If the wholesale dealer delivers alcoholic beverages based on orders previously taken, no license fee shall be required but the wholesaler shall be required to register with the business license manager on a form prescribed by the city prior to delivering any alcoholic beverages.
- E. No city business license shall become effective until each business which is required to obtain a license from the State of Georgia has registered with the state and is in good standing with the state or has received such license.

8-8-2-030 Time limits on opening and continuing business.

- A. All licenses issued under this chapter must, within 90 days after the issuance of a city license, open for business. Failure to open for business shall constitute a forfeiture and cancellation of the issued licenses and no refund of license fees or business taxes shall be made. Any applicant unable to comply with the time limit of this section may make written request to the city manager for an extension of time not to exceed 90 days; and the city manager at his or her discretion may grant or deny the request.
- B. Any license issued under this chapter shall automatically be null and void where the licensed business has not operated or been open to the public for six consecutive months. Any applicant unable to comply with the time limit of this section may make written request to the city manager for an extension of time not to exceed 90 days; and the city manager at his or her discretion may grant or deny the request.

8-8-2-040 Prohibited interests

- A. No person who has any direct financial interest in a license for the sale of alcoholic beverages at wholesale shall hold any other license or an interest in any other license under the terms of this chapter unless otherwise allowed by state law.
- B. No person, related within the first degree of consanguinity or affinity under civil law to any wholesale licensee or employee thereof or any person with any interest therein, shall hold any other license or an interest in any other license issued under this chapter unless otherwise allowed by state law.
- C. No elected or full-time appointed official of the city or any person related within the first degree of consanguinity or affinity under civil law to such an official of the city shall own any interest in any license issued under this chapter unless one of the following conditions is met:
 1. The interest was obtained prior to election or appointment to office;
 2. The interest is declared in writing at the time the application for said license is made and said elected or full-time appointed official shall not participate in official action or consideration of license;
 3. The interest obtained in an ongoing business holding a license is declared in writing at the time of the acquisition and filed with the city clerk.

8-8-2-050 Applications for new license.

- A. The provisions of this Code on general business licensing shall apply in addition to the following.
- B. All applications for new licenses under this chapter shall be accompanied by a payment in cash or by certified check, for all the minimum fees and business taxes provided for in this Code for the classification into which the applicant falls.
- C. Each application for malt beverages, craft beers, hard ciders, wine or spirituous liquor license, whether manufacturing, wholesale, retail package or consumption on the premises, shall include a \$100.00 processing fee to cover the expenses of advertising, investigation and processing of the application. All applications shall be subject to approval by the city manager or his designee.
- D. The city application shall be a photostatic or other copy of all the appropriate state applications and forms along with a city supplemental application form provided by the city along with the following:
 - 1. A legal description of the property upon which the premises are located;
 - 2. A current photograph of the applicant;
 - 3. Fingerprints of the applicant to be taken by the police department.
- E. The application shall also contain a form of oath providing that the information disclosed in the application is true and correct, and providing further that the applicant will abide by, observe and conduct his or her business according to the rules and regulations prescribed by the city, the acts of the general assembly, known as the Georgia Alcoholic Beverage Laws And Regulations 1986 Edition, as now or hereafter amended, and the rules and regulations of the state department of revenue in respect thereto. The oath shall be taken by the applicant and the agent in charge of the establishment if different from or additional to the applicant, and the oath shall be taken by the true owners.
- F. Any false statement or material misrepresentation in any application hereunder shall be grounds for the revocation of any license granted hereunder.

8-8-2-060 Residency required—Agents.

- A. All applicants for licenses under this chapter shall be bona fide residents of the State of Georgia at the time of the filing of the application and shall remain a bona fide resident of the state during all times that the license and any renewal thereof is in effect. All applicants, if a natural person, and all managers designated as such pursuant to Section 8-8-2-230 of this Code, and all registered agents nominated pursuant to this Code section shall be at least 18 years of age.
- B. All applications for licenses under this chapter shall nominate and name in the application one or more residents of Cobb County, Georgia, as the registered agent and representative of the applicant to receive all communications, notices, services or process or other papers or documents, on behalf of the applicant in connection with any matter arising out of or connected with the issuance, holding, suspension, revocation or other action with respect to any city license. The applicant shall give the mailing address of such registered agent, and the mailing to any registered agent at that address of any notice required to be given under this chapter or any other law shall be sufficient notice to the applicant/licensee.
- C. Such registered agent shall be a representative of the licensee and must be approved by the city manager. The city manager shall refuse to approve any registered agent who is not a bona fide resident of Cobb County or who has been convicted, within the five years preceding his nomination, of any felony of any kind or any misdemeanor relating to an alcoholic beverage business or any state law or county or municipal ordinance violation relating to any alcoholic beverage business. As used herein, the term "conviction" shall have the same meaning as in Section 8-8-2-010 of this Code.
- D. If any registered agent shall cease to be a representative of the licensee or shall cease to be a resident of the county or in any manner ceases to meet the requirements of Subsection (C) of this section, the licensee shall

notify the city manager in writing of such event and shall nominate a new registered agent within five days after such event occurs. Such new registered agent shall meet the requirements in Subsections (B) and (C) of this section and must be approved by the city manager. The city shall charge a fee of \$200.00 for a change of the licensee's registered agent; provided, however, that if the licensee fails to notify the city and nominate a new registered agent within said five-day period, then the city shall charge a fee of \$400.00 for a change of the licensee's registered agent and/or revoke the licensee's license.

- E. In addition to the fees imposed for the change of registered agent, a \$100.00 processing fee per alcoholic beverage license shall also be submitted to cover the costs of advertising, investigation and processing.

8-8-2-070 Preliminary approval required—Taxes—Police.

- A. The city manager shall cause an inquiry to be made into the city tax records to determine if the applicant or other parties with interest in the application has any outstanding taxes or special assessments that are delinquent against his or her property or any other monies owing to the city. No license shall be issued or renewed until such debts are paid in full.
- B. All applications shall be approved or disapproved by the chief of police or a designee as a condition to action thereon and issuance of a license by the city manager. In the event that the police department determines that the application is not in order, in view of the requirements of federal or state law or this Code and any police department investigation, the city manager shall then notify the applicant of the reasons for not issuing the license to the applicant.
- C. All applicants shall furnish all reasonable data, information and records requested of them by the city manager or police department and failure to furnish such data, information, contracts, documents, financial statements and other records within 30 days of the request shall automatically serve to dismiss the application.
- D. The police department may require in addition to the licensee, fingerprinting and background investigation of any person interested in the application, including any person with a financial interest, such as stockholders, partners or employees, and any sibling of any person with a financial interest, and the nominated registered agent of any corporate applicant. Should the applicant fail to produce such persons within 30 days of the request, the application may be denied by the police department.
- E. Applicants by filing an application agree to produce for interview any person or persons requested by the police department and considered as being important in the ascertainment of the facts relative to such license. The failure to produce those persons within 30 days after being requested to do so may result in a denial of the application by the police department.
- F. The city may require 45 days for processing any application for a license required under this chapter. For investigative purposes and according to the licensee's compliance, the chief of police may extend the processing period up to an additional 15 days should the chief deem it necessary.

8-8-2-080 Notice of application—Posting of sign on premises

The applicant shall cause to be placed upon the location of the proposed premises to be licensed, signs of a size, number and form prescribed by the city manager, stating the names of owners and address of the applicant, type of license applied for, business name and location applied for, and the time, date and location of the council meeting on the application. Said signs shall be posted at the location within a two-week period immediately preceding the council meeting date. Said sign shall be posted within five feet of the street and on the building. In cases where the building is on the public right-of-way, said sign shall be posted on the building.

8-8-2-090 Change of location—Fee.

- A. Any business taxable under this Code moving from one location in the city to another shall notify the business license manager of the move and the new address in writing on a form provided by the business license manager and pay a \$10.00 administrative fee for each license which must be transferred no later than the day of moving for the purposes of ensuring that all other code requirements have been met. This \$10.00 administrative fee shall be separate and in addition to the occupation tax.
- B. In addition to the transfer fee, the person shall pay a \$100.00 processing fee for each alcoholic beverage license to cover the expenses of investigation and approval. The business license will be valid at the new location if the new location conforms to the zoning regulations of the city and any other location transfer requirements of this Code. The change of location must be approved by the city manager or his designee.

8-8-2-100 Transfer of ownership

- A. The transfer of ownership of a business license shall be considered in the same manner as the termination of the business and the establishment of a new business. In the event that the owner of a business license desires to transfer the same, or in the event that any interest in the business for which the license was issued is sold or otherwise transferred, then the purchaser or transferee of such license or interest shall apply to the city as for an original license on or before the date on which such sale or transfer is made. Ownership of such business license shall remain unchanged until the application of such purchaser or transferee is approved by the city council and all proper fees and taxes are paid. Notwithstanding the foregoing, in the case of a corporation, a new license shall not be required as herein provided unless a change in stock ownership in the corporation results in ownership of more than 50 percent of the outstanding corporate stock, voting or otherwise, by persons or combinations of persons not owners of such stock at the time the license was issued. "Any interest" is defined as being an ownership of stock or control of 50 percent or more of the partnership or corporation.
- B. A processing fee of \$100.00 for each such alcoholic beverage license sought to be transferred shall be paid in addition to the new general business license fees. However, the sale, transfer or other disposition of 50 percent or more corporate stock or interest in the business shall be treated as a change in ownership for purposes of this section and a new license required.
- C. The transfer of ownership of a business shall not affect the distance requirements previously approved by the city.
- D. Upon the sale or other transfer of any interest in the business for which the license was issued, the purchaser or transferee of such interest shall be entitled to continue to operate such business for a period of no more than 60 days, pending the issuance of a new license, but only if such purchaser or transferee has filed an application with the city as required in Subsection (A). In case of the death of any natural person holding a city business license, or any interest therein, the license may be transferred to the administrator, executor of the lawful heir or devisee of the deceased person by filing a new application with the city for the change in license ownership within 75 days of such death. The business involved may continue to operate until disposition of the application is determined as for an original license. No additional fees or business taxes shall be charged above what would be due if the business, or portion thereof, remained under the deceased person's ownership.

8-8-2-110 Completion of premises proposed to be licensed.

Where a building in which any person intends to operate under the provisions of this chapter is, at the time of the application for the license, not in existence or not yet completed, a license may be issued for the location provided the plans for the proposed building show clearly a compliance with the other provisions of this chapter. No sales or consumption shall be allowed in the establishment until it has been completed in accordance with the plans and is in conformity with all of the other provisions of this chapter and the city code.

8-8-2-120 Issuance of license to persons with prior convictions prohibited.

- A. No license under this chapter shall be issued, renewed or transferred to any person, partnership or corporation where any individual having any interest either as owner, partner, stockholder, directly or indirectly, beneficial or absolute, shall have been convicted within five years immediately prior to the filing of the application for any felony or convicted within two years immediately prior to the filing of the application for any misdemeanor relating to any alcoholic beverage business or any municipal ordinance violation relating to any alcoholic beverage business. "Any interest" is defined as being an ownership of stock or control of 50 percent or more of the partnership or corporation.
- B. The term "conviction" shall include an adjudication of guilt, a plea of guilty or the forfeiture of a bond in part or in whole when charged with a crime or the suspension or revocation of any alcoholic beverage license owned in whole or in part by persons listed in Subsection (A) of this section.

8-8-2-130 Denial of license application—Granting—Appeal.

- A. The city manager shall deny a city license under this chapter on any of the following grounds:
 - 1. Failure to meet state requirements for state license;
 - 2. Failure to pay required fees and taxes;
 - 3. Failure to provide valid information, documents and the like required by this chapter;
 - 4. False information in the application or attached documents;
 - 5. Improper residency of applicant, owner, or registered agents;
 - 6. Failure to pass review by the chief of police;
 - 7. Failure to post and maintain proper signs and advertisements required in this chapter;
 - 8. Failure to meet distance or location;
 - 9. Prior convictions as herein provided;
 - 10. Failure to meet any other requirements in this chapter for a license of the class applied for or any other requirement in any other provision of the Marietta City Code or Charter; or
 - 11. Failure to meet any and all requirements in Chapter 8-20 (Adult Entertainment Establishments), including Section 8-20-320.
- B. Otherwise, the city manager may issue any city license provided for in this chapter.
- C. Consideration of a license application by the city manager or his designee shall be in accordance with Section 8-4-080(E) of this Code.

8-8-2-140 State regulations.

All licenses issued under this chapter shall be subject to the rules and regulations set forth in an act of the General Assembly known as the Georgia Alcoholic Beverage Laws And Regulations 1986 Edition, to legalize and control alcoholic beverages and liquors, as now or hereafter amended, and those prescribed by the state department of revenue and violation of these statutes and regulations shall be violations of this Code. In addition, all businesses, the applicant for the license, the agent in charge of the business and the owner and owners thereof, shall observe and obey the regulations provided in this article and any other applicable provisions of this chapter.

8-8-2-150 Open to inspection.

Any establishment holding a license issued under this chapter shall at all times during the hours that the establishment is open to the public, be open to inspection by any officer of the police department or any license

inspector of the city or to any person designated by the chief of police or the city manager.

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 chapter, 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 chapter.
- B. No establishment licensed under this chapter to sell alcoholic beverages shall allow a person to leave that premises with alcoholic beverages in open cup, bottle, can or other open container.
- C. This provision shall not apply to city-sanctioned events. A City of Marietta sanctioned event is one which is conducted by any department agency, board or commission of the City of Marietta, the Downtown Marietta Development Authority, the Marietta Welcome Center or as specifically approved by city council.
- D. As provided in Subsection C., at no time shall a person be permitted to leave a premises with alcoholic beverages in a glass container unless the customer(s) is seated at a permitted outdoor dining restaurant.

8-8-2-170 Hours and days for sale and purchase.

- A. Spirituous Liquor Package Sales. It is unlawful for any licensee under this chapter or person employed by a licensee to sell, offer for sale, transfer or offer to transfer to others any packaged spirituous liquors on Christmas Day; or between the hours of 11:30 p.m. on Sunday and 8:00 a.m. on Monday; or between the hours of 11:45 p.m. on Monday and 8:00 a.m. on Tuesday; or between the hours of 11:45 p.m. on Tuesday and 8:00 a.m. on Wednesday; or between the hours of 11:45 p.m. on Wednesday and 8:00 a.m. on Thursday; or between the hours of 11:45 p.m. on Thursday and 8:00 a.m. on Friday; or between the hours of 11:45 p.m. on Friday and 8:00 a.m. on Saturday; or between the hours of 11:45 p.m. on Saturday and 12:30 p.m. on Sunday.

It shall be unlawful for any person to purchase, receive or offer to receive from a licensee or person employed by a licensee any packaged spirituous liquors during the hours listed in this section.

- B. Sales by Consumption On-Premises Licensees. It is unlawful for any licensee under this chapter or person employed by a licensee to sell, offer for sale, transfer or offer to transfer to others any spirituous liquors, malt beverages and/or wine for consumption on the premises between the hours of 2:55 a.m. on Sunday and 6:00 a.m. on the following Monday morning and between the hours of 2:55 a.m. and 6:00 a.m. on the other days of the week; and it shall be unlawful for any person to purchase, receive or offer to receive from a licensee or person employed by a licensee any spirituous liquors, malt beverages and/or wine for consumption on the premises between the hours of 2:55 a.m. on Sunday and 6:00 a.m. on the following Monday morning and between the hours of 2:55 a.m. and 6:00 a.m. on the other days of the week.

Provided, that, establishments licensed for consumption on the premises which derive at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where food is served and in any licensed establishment which derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging shall be permitted to sell spirituous liquors, malt beverages on Sundays between the hours of 12:30 p.m. and midnight upon approval and issuance of a permit authorizing such sales. License applications shall be submitted to the city manager who shall issue such licenses, upon payment of such fee as established from time to time by the mayor and council, to establishments meeting the applicable requirements of this Code and/or state law.

In the case of restaurants, the Alcoholic Beverage Sunday Sales license application and the required fees may be submitted at the same time as all other license applications. The city shall have 90 days to determine if the

application qualifies for Sunday Sales. During said 90-day period, applicant shall be granted a "temporary permit" which shall automatically expire 90 days after issuance. If the applicant qualifies for Sunday Sales, then the applicant shall be issued an annual Sunday Sales permit. If the applicant qualifies for Sunday Sales, no further fees are necessary. If the applicant does not qualify, the city will retain all fees paid hereunder, including the \$100.00 processing fee.

In the event New Year's Eve falls on a Sunday, notwithstanding any other provisions contained within the City Code to the contrary, persons, firms, or corporations owning or operating a place of business licensed under Part 8, Chapter 8, Article 8-8-2, Section 8-8-2-170 B. of the Code of Marietta, Georgia may sell, offer for sale, and/or permit the consumption of spirituous liquors, malt beverages, and/or wine upon the business premises between the hours of 12:01 a.m. and 2:55 a.m., in addition to the hours otherwise authorized for such activity under Chapter 8 of Part 8 of said Code.

- C. Malt Beverages, Hard Ciders and Wine Package Sales. It shall be unlawful for any licensee under this chapter or person employed by a licensee to sell, offer for sale, transfer or offer to transfer to others any packaged malt beverages, hard ciders or wine between the hours of 12:00 midnight on Saturday night and 12:30 p.m. on the following [day]; or between the hours of 2:00 a.m. on Tuesday and 6:00 a.m. on Wednesday; or between the hours of 2:00 a.m. on Wednesday and 6:00 a.m. on Thursday; or between the hours of 2:00 a.m. on Thursday and 6:00 a.m. on Friday; or between the hours of 2:00 a.m. on Friday and 6:00 a.m. on Saturday. It shall be unlawful for any person to purchase, receive or offer to receive from a licensee or person employed by a licensee any malt beverages or wine during the hours listed in this section.
- D. Sales on Election Days. Pursuant to the delegation of authority granted to this governing authority by Act No. 750 (House Bill No. 247) effective July 1, 1985, amending O.C.G.A. § 3-3-20(b)(2)(B), the sale by wholesale and retail of alcoholic beverages, to wit: distilled spirits, wine and malt beverages, shall be lawful during the polling hours of any election; provided however, nothing herein shall authorize the sale of alcoholic beverages within 250 feet of a polling place during such time as the polls are opened.
- E. Change of Time Affecting Closing Hours. On those days when the time changes, a grantee shall determine closing hour at the end of the business day by the same time on which he opened that regular business day. The closing hour for the sale and purchase of spirituous liquors, malt beverages or wine under this section shall be determined as follows:
1. On the day when the time changes from Eastern Standard Time to Daylight Savings Time, the closing hour shall be determined by Eastern Standard Time.
 2. On the day when the time changes from Daylight Savings Time to Eastern Standard Time, the closing hour shall be determined by Daylight Savings Time.
- F. Licensed malt beverage manufacturers and licensed distilled spirit manufacturers shall be permitted to sell their respective beverages to the public as permitted by state law, O.C.G.A. 3-5-24.1 (b) and O.C.G.A. 3-4-24.2(b), during such hours not prohibited below.
1. It shall be unlawful for any licensee under this article or person employed by a licensee to sell, offer for sale, transfer or offer to transfer to others any packaged spirituous liquors, malt beverage, hard ciders or wine during hours prohibited by 8-8-2-170 (A), which shall apply to distilleries, or 8-8-2-170 (C), which shall apply to breweries.
 2. It shall be unlawful for any licensed manufacturers under this article or person employed by a licensee to sell, offer for sale, transfer or offer to transfer to others any beverage for consumption on the premises during hours prohibited 8-8-2-170 (B). Notwithstanding anything to the contrary contained herein, such licensees may sell to the public for consumption on the premises on Sundays with no requirement for the sale of prepared meals or food.

8-8-2-180 Hours and places for drinking, when prohibited.

- A. It is unlawful for any person, firm or corporation owning or operating a place of business licensed under this chapter to permit any person to sell any whiskey, wine, beer or other alcoholic beverage upon the business premises between the hours of 2:55 a.m. Sunday and 6:00 a.m. on the following Monday morning and between the hours of 2:55 a.m. and 6:00 a.m. on the other days of the week, except as authorized by special permit as provided in Section 8-8-2-170(b).
- B. It is unlawful for any person to drink any whiskey, wine, beer or other alcoholic beverage while upon the streets, sidewalks, parks or public places of the city, upon or within any vehicle upon the premises or in any adjacent parking area of any business establishment holding a license under this chapter, except as may be permitted under Section 10-1009 or Section 8-8-2-160(C) of this Code.

8-8-2-190 Drive-in and curb service.

- A. Curb service by retail or consumption on the premises licensed under this chapter or delivery of any alcoholic beverages off the licensed premises, other than by wholesalers licensed hereunder or by the state is prohibited.
- B. Drive-in service windows at premises licensed under this chapter are prohibited except as provided in this section.
- C. Business licensed by the city for the retail sale of malt beverages, hard cider, wine or liquor may provide drive-in service windows only as follows:
 - 1. The window shall be clear and unobstructed for a minimum of 24 inches wide and 36 inches in height.
 - 2. The location of the window shall be lighted in a manner that will enable the attendant of the window to clearly view the entire interior of any vehicle being served at the window.

8-8-2-195 Minors—Prohibited practices

- A. It shall be unlawful for any person under 21 years of age to buy or allow to be bought for him or her any alcoholic beverage from any place where these beverages are kept.
- B. It shall be unlawful for any person in charge of, or employed in any place of business where alcoholic beverages are kept, to permit any person under 21 years of age to buy or to allow to be bought for any person under 21 years of age any alcoholic beverages in or from the place of business or to frequent or loiter about the premises unless accompanied by a parent or guardian. This sub-Section B shall not prevent a person under the age of twenty-one (21) from ordering food in an establishment that meets the fifty-percent (50%) food sales requirement.
- C. It shall be unlawful for any person in charge of, or employed in any place of business that is defined as a "bar" or "lounge", to allow any person under 18 years of age to enter or loiter about the premises. This provision shall not apply to any person employed and on duty in such place of business. For the purpose of this Subsection C., the term "bar" or "lounge" shall be defined in Section 8-8-8-020 A., and the term "restaurant," if applicable, shall be defined in Section 8-8-8-020 C. The limitation set forth herein in this Subsection C. shall not apply to any establishment licensed pursuant to Section 8-12-14-010 et seq. (Pool Rooms and Billiard Parlors).
- D. Any attempt to commit an act made unlawful by this section shall be itself unlawful and subject to punishment in the municipal court.
- E. It shall be unlawful for any person under 21 years of age to falsely represent his or her age, in any manner whatever, for the purpose of illegally obtaining any alcoholic beverages.

- F. It shall be unlawful for any person to allow or require a person in his or her employment under 18 years of age to dispense, serve, sell or take orders for any alcoholic beverage; provided, however, that the provisions of this section shall not prohibit persons under 18 years of age who are employed in supermarkets, convenience stores or drug stores from selling or handling alcoholic beverages which are sold for consumption off the premises.
- G. It shall be unlawful for any person who is under 21 years of age to have in his or her possession, or under his or her control, at any place whatever in the city, any alcoholic beverage, unless otherwise provided by law.
- H. Violation of any provisions of this section shall constitute an offense hereunder and shall be punishable in the municipal court; provided, violation of this section by persons who have not yet reached the age of 17 years shall be handled as provided by O.C.G.A. §§ 15-11-1 et seq. and 3-3-2 et seq.

8-8-2-200 Duration and renewal of license.

- A. Duration and renewal of licenses under this chapter shall be as for business licenses generally; alcoholic beverage license renewals shall be due on or before November 15 of the year in which the license expires; and no licensee shall have any vested right to the renewal of any city license. Renewals may be made after November 15 and shall be subject to a ten percent penalty and one percent interest per month delinquent.
- B. No licenses under this chapter may be renewed if the licensee could be denied a new license under this chapter, except as provided in Section 8-8-2-240.

8-8-2-210 Distance and area requirements

- A. Unless the following uses of property are nonconforming under the city's zoning regulations, no person shall be licensed by the city under this chapter where the proposed place of business is located within a distance of 300 feet of any church, or primary or secondary school; or provided, however, that:
 1. Where the applicant's place of business is located within the central business district and is a restaurant whose food sales equal at least 75 percent of its gross annual sales, then the aforementioned distance requirement shall be reduced to 150 feet; or
 2. Where the applicant's place of business is located 300 feet of any public or private college or university, and is a restaurant whose food sales equal at least 50 percent of its gross annual sales, then the aforementioned distance requirement shall be reduced to 50 feet.
- B. For any spirituous liquor licenses for retail, consumption on the premises or otherwise, the distance requirement from primary or secondary schools shall be increased to 600 feet.
- C. No alcoholic beverage pouring license shall be issued to any person when the front door of the proposed place of business is located within 65 feet, as set forth below, of the front corner of any parcel of land which is zoned and used as R-1, R-2, R-3, R-4, RA-4, RA-6 and RA-8 for single-family residential as such classifications are defined in the Zoning Code of the City of Marietta. The distance shall be measured from the nearest corner of the front yard of the nearest residence zoned in the above-referenced categories of single-family residential to the front door of the proposed licensee's premises along the nearest practical street route.
- D. Notwithstanding anything to the contrary herein, no church which becomes located within the central business district after December 20, 1994, shall be entitled to object to the location of a licensee within 300 feet of such church and no license shall be denied because it is within the prohibited footage as set forth in Subsection A. above when such footage is applied to a church which became located within the central business district after December 20, 1994. In addition, no license shall be denied because the location is within the prohibited footage of a temporary church.
- E. Notwithstanding anything to the contrary herein, no church, as defined in Section 8-8-2-010 on the date of the adoption of the ordinance codified in this Part 8 of the code, which expands within the central business district

after December 20, 1994, shall be entitled to object to the location of a licensee within 300 feet of such expansion and no licensee shall be denied because the location is within the prohibited footage of the expanded area (land or building) for any expansion after December 20, 1994.

8-8-2-220 Penalties—Revocation.

- A. It is declared that a violation of any provision of this chapter shall constitute a violation of the city code, and upon conviction in the municipal court, the punishment shall be as follows:
 - 1. First offense, minimum fine of \$150.00;
 - 2. Second offense, if within 12 months of the first, minimum fine of \$200.00;
 - 3. Otherwise punishment shall be as set by the municipal judge as allowed by the city charter.
- B. Upon conviction in the municipal court of any provision of this chapter or any violation of state or federal law, the city manager or his designee is authorized to revoke, probate or suspend as a civil matter the alcoholic beverage license previously granted herein as set forth below. The licensee shall be given written notification of such action and such notice shall contain a specification of the violation or violations and shall be served upon the licensee at least five days prior to the notice of the hearing. The licensee shall be given notice of the time and place of the hearing. The license shall not be revoked, probated or suspended until a final decision is rendered by the city manager at the hearing. Any licensee aggrieved by the action of the city manager or his designee may appeal to the Superior Court of Cobb County within 30 days from the date of the decision to revoke, probate or suspend the license.
 - 1. First offense, not less than six months nor more than 12 months probation of the license;
 - 2. Second offense, if during the probationary period, then the license shall be suspended for no less than 15 nor more than 90 days and probation of the license may be extended up to an additional 12 months;
 - 3. If a third offense occurs during the probationary period, then the license may be suspended for a period of up to 12 months or may be revoked and if revoked, no new license shall be issued to any person, firm or corporation for a period of 12 months at that location.
- C. Whenever the state shall revoke any permit or license to manufacture or sell at wholesale or retail any alcoholic beverages, the city license to manufacture or deal in those products shall thereupon be automatically revoked without any action by the council or any municipal officer.

8-8-2-230 Manager's permit.

- A. Every person licensed under this chapter for the retail sale of spirituous liquor, malt beverages or wine for consumption on the premises shall employ one or more persons as manager for the license establishment. At least one manager shall be at the licensee's premises during all times that alcoholic beverages are being consumed thereon, and such manager shall be in charge of the premises and responsible for the actions of the employees and customers of the licensed establishment. In lieu of being present on the premises, the manager shall be authorized to certify that the manager shall have the ability to be, and will be, present on the premises within 45 minutes of being notified of the need for his or her presence on the premises. Each such manager shall obtain a manager's permit as provided in this section, and this permit shall be valid for a period of 12 months from the date of issuance.
- B. Each person wishing to obtain a manager's permit must make application on a form provided by the police department within three days of the date of employment. Upon receiving the completed application, the police department shall arrange to have the applicant photographed and fingerprinted and to place these records on

file in the police department. The police department shall be authorized to issue a manager's permit as provided in Section 8-8-2-230 E. after verifying the facts in the application.

- C. Licensees and managers under this section shall keep a copy of the permit on file at all times in the establishment and shall make these permits available for inspection during operating hours.
- D. Any person who has been convicted of a violation of any law or ordinance governing the sale of alcoholic beverages or sale or possession of illegal drugs in the past 12 months shall be ineligible to receive a manager's permit hereunder.
- E. If any manager of the licensee shall cease to be an employee of the licensee or shall cease to be a resident of the county or in any manner ceases to meet the requirements of this section, the licensee shall notify the city manager of such event and shall name a new manager within three days after such event occurs. Such new manager shall meet all the requirements of this Code for managers. The fee for a manager's permit, including a change of the licensee's manager, shall be \$30.00; provided, further, that if the licensee fails to notify the city and name a new manager within the three-day period set forth above, then the city shall charge a fee of \$50.00 for a change of the licensee's manager and/or revoke the licensee's license.

8-8-2-240 Outstanding licenses, compliance

- A. So as to prevent an unconstitutional taking of property, all licensees for alcoholic beverages within the city in compliance with city ordinance requirements involving residency, distance, location, parking and type of building structure in effect at the time of first receiving the licenses and continuing to be in compliance therewith shall be exempt from the requirements of this chapter involving residency, distance, location, parking and type of building structure. Renewals of such licenses shall also be deemed in compliance hereunder to the extent provided in this subsection.
- B. Transfers of business ownership at the same location shall be deemed in compliance hereunder with regard to the city ordinance requirements involving distance, location, parking and type of building structure, provided that such business complied with such requirements at the time a license was first issued for such business and further provided that such business has continuously been in compliance with such requirements.
- C. Business transfers to new locations and new licenses must comply with all requirements of this chapter.
- D. In the event a business which has been previously issued a current beverage license ceases to operate or closes its business for any reason, and a new business located on the same premises applies for a beverage license at that location within 365 days next following the day after which the prior business ceases operations, the city shall be authorized to approve or reject said application, as provided under this Code, even though a church has been established within the distance restrictions set forth in Section 8-8-2-210 with respect to the prior business if the church was so established in its location after the issuance of a beverage license to the prior business.

8-8-2-250 Happy hour promotions.

- A. All on-premise licensees are prohibited from selling or giving away alcoholic beverages under the following circumstances:
 - 1. Serving multiple drinks for a single price or offering all you can drink for a set price during a set time.
 - 2. Making a single price the basis for a required purchase of two or more servings.
 - 3. Sponsoring, conducting or allowing of contests or other promotions which have as their primary purpose the increasing of the consumption of alcoholic beverages.
 - 4. Offering or delivering any free alcoholic beverage to the general public.
- B. This section shall not apply to private functions not open to the public. Private function not open to the public shall mean any function wherein the licensee has agreed to the use of the licensee's establishment by a person, firm or organization for a set period of time for valuable consideration.

8-8-2-260 Temporary permit for nonprofit or charitable organizations.

Temporary permits may be issued by city council to nonprofit or charitable organizations in accordance with the requirements specified herein as follows:

- A. The application shall comply in all respects with the requirements contained in this Chapter 8-8, of Part 8 of the city code of the City of Marietta, Georgia, and said application shall be processed in accordance with this Code and in the normal course of processing applications.
- B. The applicant must be a bona fide nonprofit corporation or charitable organization and must supply, with the original application, proof of its exempt status as granted by the Internal Revenue Service.
- C. The length of the temporary permit shall be the length of the event for which such permit is requested, or three days, whichever is shorter. After the expiration of such period, the permit shall expire. The permit described hereunder may be applied for and granted no more than two times per any 12-month period.
- D. The processing fee for this temporary permit shall be the existing fee contained in the Marietta City Code for each beverage requested by the applicant.
- E. The fee for such permit shall be \$100.00 per beverage requested.
- F. The permit granted under this section shall be deemed to be a privilege permit. The application shall be processed in accordance with this Code and shall be presented to the city manager or his designee, which may take such action as it deems appropriate. The city council may also approve or disapprove the days and hours of operation for this temporary permit.
- G. The applicant shall also comply with all applicable laws of the state of Georgia related to this application and shall obtain all necessary state permits.

8-8-2-270 Growlers.

The sale of growlers in compliance with this ordinance is authorized for retail package establishments licensed in subsection 8-8-2-020 of this chapter authorized to sell alcoholic beverages, excluding spirituous liquors by the package. The filling of growlers by means of a tapped keg shall not constitute the breaking of a package as contemplated by O.C.G.A. § 3-3-26 or other provisions of this chapter. The term "growler" means a properly sanitized reusable bottle made of glass or other material customary to the industry provided that the bottle is capable of being sealed with a screw cap and then sealed with a plastic collar over the screw for the purpose of complying with open container laws, and further provided that the bottle does not exceed 64 ounces and is filled by a licensee or employee of the licensed establishment with malt beverage, craft beer or hard cider from a keg for off-premises consumption. Growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler. Only properly sanitized and sealed growlers may be filled and made available for retail sale. Each growler must be securely sealed and removed from the premises in its original sealed condition. The licensee must comply with all state, federal and local packaging and labeling laws regarding alcoholic beverages. Consumption on the premises is strictly prohibited. However, samples of malt beverages, craft beers or hard ciders from tap may be made available, but shall not exceed two (2) ounces, nor shall any one individual be offered more than three (3) samples within a calendar day.

8-8-2-275 Exceptions for brew pubs.

- A. Notwithstanding any other provision of this chapter to the contrary, a limited exception from section under state law shall exist for owners and operators of brew pubs provided that:
 - 1. No individual shall be permitted to own or operate a brew pub without first obtaining a consumption on premises license for malt beverages and a proper brew pub license from the city pursuant to the same procedures as are set forth in section 8-8-2-050, and each brew pub license holder shall comply with all other applicable state and local license requirements; and
 - 2. A brew pub license authorizes the holder of such license to (i) manufacture on the licensed premises not more than ten thousand (10,000) barrels of malt beverage, beer or hard cider in a calendar year solely for

retail on the premises and solely in draft form; and (ii) operate an eating establishment that shall be the sole retail outlet for such beer and may offer for sale any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this chapter, provided that such alcoholic beverages are purchased from a licensed wholesaler for consumption on the premises only; and, provided, further, that in addition to draft beer manufactured on the premises, each brew pub licensee shall offer for sale commercially available canned or bottled malt beverages from licensed wholesalers.

- B. A brew pub license does not authorize the holder of such license to sell alcoholic beverages by package for consumption off the premises.
- C. A brew pub licensee shall pay all state and local license fees and excise taxes applicable to individuals licensed under this chapter as manufacturers, retailers, and, where applicable, wholesalers.
- D. Except as set forth above in this section, a brew pub license holder shall be subject to all provisions of this chapter.

8-8-2-280 Ancillary wine tasting license.

- A. The holder of a retail package license for wine or retail package license for malt beverages shall be eligible for either an ancillary wine tasting license or an ancillary malt beverage tasting license, but not both, to provide samples of wine or malt beverage offered for sale to customers under the conditions set forth in this section. However, neither an ancillary wine tasting license nor an ancillary malt beverage tasting license is available to grocery stores and convenience stores.
- B. Wine sampling shall be on limited occasions when a customer requests a sample of a wine offered for sale within the premises, or in conjunction with wine education classes and sampling designed to promote wine appreciation and education.
- C. Wine tasting for customers shall only be conducted at a counter area constituting no more than ten (10) percent of the entire floor area of the premises.
- D. Wine sampling for customers shall be limited to one consecutive two-hour period in any one day. Samples shall not exceed two (2) ounces, and no customer shall consume more than eight (8) ounces in any two-hour period.
- E. Wine bottles shall be opened only by the licensee or an employee, and samples shall only be poured by the licensee and/or an employee.
- F. No open containers of wine shall be removed from the licensed premises.
- G. Not more than one time per week for a period of not to exceed two (2) consecutive hours, the holder of an ancillary wine tasting license may conduct educational classes and sampling for classes. All conditions of sampling forth in this section shall apply to such classes, except for the limitation on floor areas where the classes can be conducted.
- H. Holders of an ancillary wine tasting permit shall not charge for samples or tastings, but may accept donations for a charitable organization of their choice.
- I. Wine sampling and tasting is only permitted within the enclosed portion of the premises.
- J. The annual fee for an ancillary wine tasting license shall be fifty dollars (\$50), which fee may be revised from time to time by resolution of the mayor and council.

8-8-2-290 Ancillary malt beverage tasting license.

- A. The holder of a retail package license for wine or retail package license for malt beverages shall be eligible for either an ancillary wine tasting license or an ancillary malt beverage tasting license, but not both, to provide samples of wine or malt beverage offered for sale to customers under the conditions set forth in this section. However, neither an ancillary wine tasting license nor an ancillary malt beverage tasting license is available to grocery stores and convenience stores.
- B. Malt beverage sampling shall be on limited occasions when a customer requests a sample of a malt beverage offered for sale within the premises, or in conjunction with wine education classes and sampling designed to promote malt beverage appreciation and education.
- C. Malt beverage tasting for customers shall only be conducted at a counter area constituting no more than ten (10) percent of the entire floor area of the premises.

- D. Malt beverage sampling for customers shall be limited to one consecutive two-hour period in any one day. Samples shall not exceed two (2) ounces, and no customer shall consume more than eight (8) ounces in any two-hour period.
- E. Malt beverage containers shall be opened only by the licensee or an employee, and samples shall only be poured by the licensee and/or an employee.
- F. No open containers of malt beverage shall be removed from the licensed premises.
- G. Not more than one time per week for a period of not to exceed two (2) consecutive hours, the holder of an ancillary malt beverage tasting license may conduct educational classes and sampling for classes. All conditions of sampling forth in this section shall apply to such classes, except for the limitation on floor areas where the classes can be conducted.
- H. Holders of an ancillary malt beverage tasting permit shall not charge for samples or tastings, but may accept donations for a charitable organization of their choice.
- I. Malt beverage sampling and tasting is only permitted within the enclosed portion of the premises.
- J. The annual fee for an ancillary malt beverage tasting license shall be fifty dollars (\$50), which fee may be revised from time to time by resolution of the mayor and council.

ARTICLE 8-8-4 RETAIL SPIRITUOUS LIQUORS

8-8-4-010 Scope of article.

In addition to the general business license requirements of this Code and Article 8-8-2 of this chapter, the following sections shall apply to the licensing and operation of retail spirituous liquor establishments in the city and should any section of this article conflict with other provisions in this chapter or the general business license requirements of this Code, then this article shall control.

(Code 1978, § 8-2041; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-4-020 Additional application and license requirements--Fee.

In addition to the license application requirements of this chapter in Article 8-8-2, a processing fee of \$100.00, in addition to other fees and taxes required in this chapter, shall be deposited with the application to cover the expense of advertising, investigation and processing of the application and the fee shall be nonrefundable.

(Code 1978, § 8-2042; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96; Ord. No. 5882, 8/12/98, § 2)

8-8-4-030 Limitation on number of licenses within a family or corporation.

A. No application for a license to sell spirituous liquors at retail shall be granted where the person applying for the license or any person who would have an interest therein or members of such person's family or any corporation in which the person owns an interest already holds any interest in two or more licenses to sell spirituous liquor by the package at retail within the State of Georgia. Family for this section shall mean any spouse, brother, sister, child or parent of the applicant or any other person who would have an interest in the license hereunder.

B. As used in this section, an interest in a license shall be deemed to exist if the person involved is the outright owner of the license; a co-owner of the license; a partner in a partnership which owns all or any part of a license; a stockholder in any corporation organized for pecuniary gain which owns all or any part of a license. Notwithstanding any of the other provisions of this section, no one person shall be deemed to have more than one interest in any one license.

C. All applications for a license under this article, both original and renewal, must be accompanied by a full and complete statement under oath of information relative to any and all interest (as herein before defined in Subsection (B) above) in retail liquor stores. This shall include the names and addresses of all persons interested in the ownership of the business of selling at retail package liquor, together with any interest each person or any member of his or her family has in any other retail liquor store and any other similar information called for by the police department or city manager.

(Code 1978, § 8-2043; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-4-040 Restrictions on other merchandise.

A licensee of a retail establishment under this article shall not operate the business in connection with any other mercantile establishment; provided, this shall not prohibit a licensee from operating in the same building complex with other businesses. No retailer hereunder shall sell, offer for sale, display or keep in stock at his or her place of business where packaged spirituous liquors are offered for sale any other commodity except the following, all of which may be sold by the retailer at his or her option:

- A. Beverages containing no alcohol and commonly used to dilute distilled spirits;
- B. Wines and malt beverages, when properly licensed;
- C. Glasses, stirring sticks and similar paraphernalia commonly used in the consumption of alcoholic beverages;
- D. Tobacco products; and
- E. Packaged ice.

(Code 1978, § 8-2044; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

ARTICLE 8-8-6 RETAIL BEER AND WINE

8-8-6-010 Scope of article.

In addition to the general business license and occupation tax requirements of this Code and Article 8-8-2 of this chapter, the following sections shall apply to the licensing and operation of retail malt beverage or wine establishments in the city and should any section of this article conflict with other provisions in this chapter or the general business license requirements of this Code, then this article shall control.

(Code 1978, § 8-2061; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

ARTICLE 8-8-8 CONSUMPTION ON THE PREMISES

8-8-8-010 Scope of article.

In addition to the general business license requirements of this Code and Article 8-8-2 of this chapter, the following sections shall apply to the licensing and operation of all establishments selling alcoholic beverages for consumption on the premises and should any section of this article conflict with other provisions in this chapter or the general business license or occupation tax requirements of this Code, then this article shall control.

(Code 1978, § 8-2081; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-8-020 Definitions.

In addition to definitions provided in Section 8-8-2-010 and other sections of this Code, the following words shall have the indicated meaning for purposes of this article:

A. "Bar" or "lounge" shall mean any public place kept, used, maintained, advertised and held out to the public as a place where spirituous liquor, malt beverages and wine are sold and served for consumption on the premises and which does not meet the definition of a restaurant as defined herein.

B. "Bona fide private club" shall mean any nonprofit association organized under the laws of this state which:

1. Has been in existence at least one year prior to the filing of its application for a license to be issued pursuant to this chapter;
2. Has at least 75 regular dues-paying members;
3. Owns, hires, or leases a building or space within a building for the reasonable use of its members, which building or space:
 - a. Has suitable kitchen and dining room space and equipment; and
 - b. Is staffed with a sufficient number of employees for cooking, preparing, and serving meals for its members and guests; and
4. Has no member, officer, agent, or employee directly or indirectly receiving, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.

C. "Restaurant" shall mean any public place kept, used, maintained, advertised and where meals are actually and regularly served; such place being provided with adequate and sanitary kitchen and dining room equipment, air conditioned, having employed therein a sufficient number and kind of employees to prepare and serve suitable food for its guests. At least one meal per day shall be served at least three days a week, with the exception of holidays, vacations and periods of redecorating, and the serving of those meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. In the event that the business does not meet the definition of a restaurant and requirements as defined herein, the business will be classified as a "bar" or "lounge" and shall be required to obtain a license for such operation. License applications shall be submitted to the city manager, who shall issue such permits, upon payment of such fee as established from time to time by the mayor and council, and such fees shall be in addition to all other license fees required by this Code.

This subsection will not apply to nonprofit cultural operations whose primary function is not the serving of alcoholic beverages. The requirements for nonprofit cultural operations are set forth in code Section 8-8-8-040 of this chapter.

D. "Service area" shall mean that in the event a lounge, private club or restaurant is located adjacent to an indoor recreational establishment and within the same building or structure, the recreational area is defined as being within the service area of said lounge, private club or restaurant and the consumption of alcoholic beverages within the recreational area is permitted.

E. "Indoor recreation establishment" shall mean an indoor facility that contains regulation size courts or alleys where physical sporting activity takes place and equipment related to activity is available for rent or sale.

F. "Nonprofit" shall mean an association, organization or corporation organized for purposes other than generating a profit. For purposes of this section, a nonprofit organization will be one organized for the promotion and operation of cultural activities, as defined herein.

G. "Cultural activities" shall mean the training and refinement of the intellect, interest, tastes, and skills of a person. Cultural activities shall include the promotion of the theater defined as the dramatic presentation of plays and operas, and the promotion of the fine arts, specifically architecture, painting, sculpture, music and literature.
(Code 1978, § 8-2082; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-8-030 Additional application and license requirements.

In addition to the application and license requirements of this chapter in Article 8-8-2, the following shall be required for licenses under this article:

A. Upon the filing of an application for a new, change of ownership or agent change license, the city shall require the applicant to deposit a processing fee of \$100.00 per alcoholic beverage license to cover the expense of advertising, investigation and processing of the application and that fee is nonrefundable.

B. No license under this article shall be issued to any applicant who does not meet the requirements of a restaurant, lounge or private club as defined herein.

C. Drinks hereunder shall be served only by employees of the establishment.
(Code 1978, § 8-2083; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96; Ord. No. 5641, 1/8/97)

8-8-8-040 Nonprofit cultural operations.

A. A license for the sale of alcoholic beverages may be issued by the city to any nonprofit operation whose primary function is not the serving of alcoholic beverages but the promotion of cultural activities, as defined in Section 8-8-8-020.

B. The application shall comply in all respects with the requirements contained in Chapter 8-8 of Part 8 of the City Code of the City of Marietta, Georgia, and said application shall be processed in accordance with this Code and in the normal course of processing applications.

C. The fee for such license shall be \$100.00 per alcoholic beverage license plus \$100.00 processing fee per alcoholic beverage license, renewals excepted. The processing fee is nonrefundable.

D. The applicant shall comply with all applicable laws of the State of Georgia related to this application and shall obtain all necessary state permits.

ARTICLE 8-8-10 ALCOHOLIC BEVERAGES CATERERS

8-8-10-010 Scope of article.

In addition to the general business license requirements of this Code and Article 8-8-2 of this chapter, the following sections shall apply to the licensing and operation of all establishments selling alcoholic beverages for consumption off-premises in connection with an authorized catered event or function and should any section of this article conflict with other provisions in this chapter or the general business license requirements of this Code, then this article shall control.

(Code 1978, § 8-2091; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-10-020 Definitions.

In addition to the definitions provided in Section 8-8-2-010 and other sections of this Code, the following words shall have the indicated meaning for purposes of this article:

A. "Food caterer" shall mean any person who prepares food for consumption off the premises.

B. "Licensed alcoholic beverage caterer" shall mean any retail dealer licensed pursuant to Sections 8-8-2-020, 8-8-4-010 or 8-8-8-010 of the Code of Marietta, Georgia.

C. "Person" shall extend and be applied to associations, firms, partnerships and bodies politic and corporate, or any combination thereof, as well as to individuals.

(Code 1978, § 8-2092; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-10-030 Alcoholic beverage license required.

A. Any alcoholic beverage caterer who possesses a valid license from the City of Marietta or another city or county in Georgia and possesses a valid license from the state of Georgia to sell malt beverages, wine or distilled spirits by the drink and/or by the package at a fixed location within the city may be issued by the city an event permit authorizing such sales off-premises and in connection with an authorized catered event or function.

B. A licensed alcoholic beverage caterer may only sell that which is authorized by his alcoholic beverage license. For example, if the alcoholic beverage caterer possesses a valid license to sell malt beverages, he may only sell malt beverages at the authorized catered event or function.

C. An alcoholic beverage caterer shall submit an application for an off-premises event permit to the city manager. The license may be applied for at the same time as the alcoholic beverages license(s).

D. It is unlawful for any person to engage in, carry on or conduct the sale or distribution of alcoholic beverages off-premises and in connection with a catered event or function without first having obtained a permit as provided herein.

(Code 1978, § 8-2093; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-10-040 Food caterer.

Any food caterer, as defined herein, operating within the city shall apply for an alcoholic beverage caterer's license in order to distribute or sell any distilled spirits, malt beverages or wine off the premises of the food caterer's business. This does not affect any requirements that the food caterer have a license to sell alcoholic beverages on the premises of the food caterer's business.

(Code 1978, § 8-2094; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-10-050 Event permit and application--Fee.

A. Exclusive of the license required herein, each alcoholic beverage caterer wishing to sell or distribute distilled spirits, malt beverages, or wine at an authorized catered event or function within the city must apply for an event permit. The application for the event permit shall include the name of the caterer; the date, address, time and name of the event; and the quantity of alcoholic beverages to be transported from the licensee's primary location to the location of the authorized catered event or function.

B. The event permit fee shall be \$50.00 per event for those caterers located outside the City of Marietta; the event permit fee shall be waived for those caterers located inside the City of Marietta.

C. The original event permit shall be kept in the vehicle transporting the alcoholic beverages to the catered event or function, and shall be available for inspection at the catered event or function during the duration of such event or function.

D. It is unlawful for a licensed alcoholic beverage caterer to distribute or sell alcoholic beverages off-premises except as authorized by the event permit.

E. The event permit will be valid for the length of the authorized event or function or as approved by the city. After expiration of the event, the alcoholic beverage caterer shall apply for a new event permit in the same manner as the original period.

(Code 1978, § 8-2095; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-10-060 Sunday sales.

If an alcoholic beverage caterer wishes to cater an event or function on Sunday, they must possess a valid Sunday sales license and comply with the requirements of state law with respect to the service of alcoholic beverages on Sunday. A copy of the Sunday sales license must also be presented to the city manager prior to approval of an event permit for a catered event or function to be held on a Sunday.

(Code 1978, § 8-2096; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-10-070 Duration and renewal of licenses.

Any license issued hereunder shall automatically expire on December 31st of the year of its issuance. Each licensee shall make a written application for renewal on or before November 15th of each year.

(Code 1978, § 8-2097; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-10-080 Restrictions.

A. No person under the age of 21 may be employed by a licensed alcoholic beverage caterer to dispense, serve, sell or handle alcoholic beverages as prohibited by O.C.G.A. § 3-3-23, and Section 8-8-2-180 of this Code.

B. No alcoholic beverage caterer may distribute or sell alcoholic beverages during any hours prohibited in the City of Marietta.

(Code 1978, § 8-2098; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-10-090 Violations.

Any person violating the provisions of this chapter shall be guilty of a misdemeanor.

(Code 1978, § 8-2099; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

ARTICLE 8-8-12 ALCOHOLIC BEVERAGE EXCISE TAXES

8-8-12-010 Definitions.

When used in this article, the following words shall have the indicated meanings:

A. Definitions used in Section 8-8-2-010 of this Code shall likewise apply to this article.

B. "City manager" means the city manager of the City of Marietta or his or her agent.

C. "Person" shall extend and be applied to associations, firms, partnerships and bodies politic and corporate, or any combination thereof, as well as to individuals.

D. "Retailer" means a person who sells alcoholic beverages to the consumer or any other person for any purpose other than for resale in the form of tangible personal property and holds a city license for retail sales or for consumption on the premises.

E. "Wholesaler" means a person who sells alcoholic beverages to jobbers or to another person other than the consumer anything in the form of tangible personal property.

(Code 1978, § 8-2101; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-12-020 Levy and computation.

In addition to all other taxes or license fees imposed upon retailers selling malt beverages, wine or spirituous liquors at retail or for consumption on the premises in the city, there is levied and imposed upon each such retailer the following excise taxes:

A. Upon the sale of any malt beverages there is imposed an excise tax of \$0.05 per 12 ounce container and \$6.00 for each container of tap or draft beer of 15 1/2) gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

TABLE INSET:

Size of Container	Tax Per Container
7 oz.	\$0.0292
8 oz.	0.0333
12 oz.	0.0500
14 oz.	0.0583
16 oz.	0.0667
32 oz.	0.1333
1/2 barrel (15- 1/2 gal.)	6.00
1 barrel (31 gal.)	12.00

B. Upon the sale of wine there is imposed an excise tax of \$0.22 per liter.

C. Upon the sale of any spirituous liquors there is imposed an excise tax of \$0.22 per liter.

D. These taxes shall be collected by the wholesaler at the time of sale to the retailer.

(Code 1978, § 8-2102; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-12-030 Retailers dealing with wholesalers--Registration of wholesalers.

A. No retailer of alcoholic beverages in the city shall purchase or otherwise receive alcoholic beverages for any wholesaler not registered under this section. Any retailer failing to comply with this requirement shall be subject to revocation of any and all city business licenses held by the retailer and any other penalty which may be imposed for violation of this Code.

B. Unless a wholesaler in alcoholic beverages is licensed by the city, no wholesaler shall take orders from or make deliveries to any retailer in alcoholic beverages within the city unless and until the wholesaler registers with the city manager on a form provided by the city; and otherwise satisfies the requirements of this article placed on such wholesalers.

(Code 1978, § 8-2103; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-12-040 Wholesaler's reports--Tax collection--Payment--Records.

A. Each wholesaler registered under this article or licensed by the city shall file a report with the city manager by the tenth day of each month, itemizing for the preceding calendar month the exact quantities of all alcoholic beverages by size and type of container sold within the city. The report shall show the name and address of each retailer with which they did business in the city and any other information as may be required by the city manager.

B. Each wholesaler reporting under this section shall collect from each retailer with whom the wholesaler did business the amount of tax due the city under this article and shall hold the same in trust for the city.

C. The wholesaler's monthly report shall be accompanied by remittance to the city of all taxes due the city under this article for the preceding month from each retailer.

D. Each wholesaler hereunder shall keep true and correct records, including invoices of all sales, shipments or deliveries of beverages to retailers in this city. These records shall be preserved for at least one year and shall be made available on request for inspection by any authorized representative of the city.

(Code 1978, § 8-2104; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-12-050 Wholesaler's deposit.

Each new wholesaler, licensed by the city or registered with the city, whether located outside or within the city limits, shall be required to place three months of the tax required by this article on deposit with the city. This deposit shall be an amount equal to the amount of tax paid by the wholesaler during the first month of operation in the city, and shall be deposited at the same time as the first payment of taxes. This deposit shall be retained by the city, to be applied to make up for any default on the part of the wholesaler and shall be refunded to the wholesaler upon its ceasing to do business in the city, provided that the wholesaler is current in its remission of taxes. This deposit shall be adjusted each year to be an average of 1/12 of the previous year's tax collections. A surety bond payable to the city may be posted in lieu of this deposit if such bond is in an amount equal to twice the deposit required. The deposit or bond required by this section shall be waived by the city manager upon a showing by the wholesaler that it has timely paid the tax levied by Section 8-8-12-010 for a period of five consecutive years; provided, however, that if such deposit or bond is so waived, the city manager shall have the right to reinstitute the requirement of making such deposit or posting such bond if the wholesaler thereafter fails to make timely payment of the tax levied by Section 8-8-12-010 with respect to any month.

(Code 1978, § 8-2105; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-12-060 Unlawful retail sales.

It is unlawful for any retailer within the city to sell any alcoholic beverages on which the taxes under this article have not been paid as herein provided by the retailer.

(Code 1978, § 8-2106; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-12-070 Penalty--Revocation of license.

A. The failure to make a timely report or remittance shall render a wholesaler, under this article, liable for a penalty equal to ten percent of the total amount due and a further penalty of ten percent of the amount of the remittance for each successive month or any portion thereof during which the report and remittance are not filed. The filing of a false or fraudulent report shall render the wholesaler making the report liable for a penalty equal to ten percent of the amount of the remittance which would be required under an accurate and truthful report.

B. Any failure to make a timely report or remittance or the filing of a false or fraudulent report shall also constitute grounds for the revocation of the business license or registration issued by the city to the wholesaler.

C. The above subsections shall be in addition to any other penalty which may be imposed for violation of this Code.

(Code 1978, § 8-2107; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)

8-8-12-080 Sale of distilled spirits by the drink.

A. Pursuant to the authority contained in O.C.G.A. § 3-4-130, there is imposed and levied a tax on the sale of distilled spirits by the drink, which tax shall be equal to three percent of the charge to the public for such drink.

B. The tax imposed by this section shall be paid monthly, with payment due on the twentieth day of the month following the month for which such tax is to be paid.

C. Any taxes imposed by this section which are not timely paid shall incur a penalty of ten percent of the amount of said taxes and bear interest at the rate of one percent per month, or any fraction thereof.

D. Operators collecting the tax for the sale of distilled spirits by the drink shall be reimbursed in the form of a deduction in submitting, reporting and payment of the amount due, if said amount is not delinquent at the time of payment. The rate of deduction shall be three percent of the gross tax or \$25.00, whichever is less.

(Code 1978, § 8-2108; Ord. No. 5390, § 3, 12/20/94; Ord. No. 5575, 6/12/96)