

CGA Update – 9-7-2023

ARTICLE I. PURPOSE AND INTENT, ~~PURPOSE AND METHODS~~¹

Section 1.1. The Margate Unified Land Development Zoning Code.

~~This appendix shall be known and cited as the "Margate Zoning Code". A code to regulate and restrict the erection, reconstruction, alteration, location and use of buildings, structures, land and water for any and all purposes; to regulate and restrict the size of buildings and other structures hereafter erected or altered, the size and dimensions of yards, courts, and other open spaces surrounding buildings; to regulate and restrict building lines and the percentage of plot that may be occupied and the density of population; and, for the said purposes, to divide the City of Margate as shown on the official zoning map in order to carry out these regulations, and for each such district to impose regulations and restrictions designating the kind or classes of industries, trades, residences or other purposes for which other structures or premises may be permitted, to be erected, altered or used; to provide for the regulation of conforming and non-conforming uses; and to prescribe penalties for the violation of the provisions of this ordinance.~~

The primary purpose of the Unified Land Development Code (ULDC) is the implementation of the City of Margate Comprehensive Plan, as adopted and amended pursuant to F.S. Ch. 163, Pt. II as may be amended from time to time. The City Commission of the City of Margate deems it necessary to adopt the ULDC for the following purposes:

1. Guiding and accomplishing coordinated and harmonious development in accordance with the existing and future needs of the city.
2. Protecting, promoting and improving the public health, safety, comfort, order, appearance, convenience and general welfare.
3. Conserving the value of land, buildings and resources, and protecting landowners from adverse impacts of adjoining developments.
4. Protecting the character and maintaining the stability of residential, business, industrial and public areas.
5. Promoting the orderly development of residential, business, industrial and public areas.
6. Achieving a single set of land development regulations that is as simple and user-friendly as possible but still able to achieve development regulation.
7. Directing and controlling, through the establishment of standards, the type, distribution and intensity of development.
8. Balancing the interest of the general public and that of individual property owners.

Section 1.2. City divided into districts.

In order to more effectively protect and promote the general welfare and to accomplish the aims and purposes of this appendix, the City of Margate is divided into districts of such number, shape, and area, and of such common unity of purpose, adaptability or use, that are deemed most suitable to provide for the best general use, and protect the common rights and interests of all by providing specific land development regulations

Section 1.3. Minimum requirements.

The zoning regulations and districts set forth in this appendix shall be considered the minimum requirements adopted for the promotion of health, safety, security, morals, comfort, prosperity and general welfare of the people of the City of Margate.

ARTICLE II. DEFINITIONS

Section 2.1. General.

For the purpose of the zoning ordinance certain terms used herein are herewith defined. ~~When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural and words in the plural number include the singular number. The word "shall" is always mandatory and not merely directory. The word "building" shall include the word "structure". The following rules for the construction of language shall apply to the text of this Code:~~

- ~~1. The particular shall control the general. In case of any difference of meaning or implication between the text of this Code and any caption, illustration or summary table, the text shall control.~~
- ~~2. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.~~
- ~~3. Words used in the present tense shall include the future; and words used in the singular number shall include the plural and the plural shall include the singular, unless the context clearly indicates the contrary.~~
- ~~4. A "building" or "structure" includes any part thereof.~~
- ~~5. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.~~
- ~~6. Where a regulation involves two (2) or more items, conditions, provisions, or events connected to the conjunction, the conjunction shall be interpreted as follows:~~
 - ~~a. And indicates that all the connected items, conditions, provisions or events shall apply.~~
 - ~~b. Or indicates that the connected items, conditions, provisions or events may apply singly or in any combination.~~
 - ~~c. Either...or indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.~~
- ~~7. The word "includes" shall not limit a term to the specified examples but is intended to extend its meaning to all other instances or circumstances of like kind of character.~~
- ~~8. The word "used" shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used.~~
- ~~9. The word "land" shall include water surface and land under water.~~

Section 2.2. ~~Terms defined~~ Definitions.

Accessory building or structure: A subordinate building or structure on the same ~~plot~~lot with, or a part of, the main building which is ~~occupied by, or~~ devoted to, an accessory use. Such building or structure shall comply with the following general requirements:

- (a) Is located only in the side or rear yards of the principal building, and not within a side yard abutting a right-of-way street; and
- (b) No accessory structure shall be located within a platted or recorded easement; and
- (c) In no case shall an accessory structure be taller than the associate principal structure.

~~*Accessory dwelling unit:* An apartment not greater than six hundred (600) square feet sharing ownership and utility with a single family residence.~~

Accessory use: A use that is naturally and customarily incidental to, subordinate to, and subservient to the principal use and is permitted on the subject lot after the principal structure is permitted. Such uses shall comply with the performance criteria set forth below:

- (a) Is located on the same lot as the principal use; and
- (b) Contributes to the comfort, convenience, or necessity of the principal use; ~~and~~
- ~~(c) Does not exceed twenty-five (25) per cent of the gross floor area of the principal use; and~~
- ~~(d) Is operated and maintained under the same ownership as the permitted principal use.~~

Adult bookstore: Any establishment having as a substantial or significant portion of its stock-in-trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as defined in section 35.1(A) of this appendix, or an establishment with a segment or section devoted to the sale or display of such material.

Adult family care home: A full-time, family-type living arrangement, in a private home, under which a person who owns or rents the home provides room, board, and personal care, on a twenty-four-hour basis, for no more than five (5) disabled adults or frail elders who are not relatives. The following family-type living arrangements are not required to be licensed as an adult family-care home:

- (a) An arrangement whereby the person who owns or rents the home provides room, board, and personal services for not more than two (2) adults who do not receive optional state supplementation under Section 409.212, F.S. as may be amended from time to time. The person who provides the housing, meals, and personal care must own or rent the home and reside therein.
- (b) An arrangement whereby the person who owns or rents the home provides room, board, and personal services only to his or her relatives.
- (c) An establishment that is licensed as an assisted living facility under Chapter 429, Florida Statutes as may be amended from time to time.

Adult ~~motion picture theatre~~Entertainment Establishment: Any enclosed building, or any area or section within any enclosed building, used for live entertainment or presenting material that is distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas", as defined in Article XXXVsection 35.1(A) of this appendix, for observation by patrons therein.

Alley: An unnamed public thoroughfare or way, not more than twenty-two (22) feet in width and which normally provides a secondary means of access to abutting property, or allows access by commercial vehicles for

services and deliveries in the business district, and is not intended for general traffic circulation use by pedestrians or vehicles.

Alteration: "Alter" or "alteration" shall mean any change in size, shape, character, occupancy or use of a building or structure.

Apartment, efficiency: A dwelling unit in a multiple dwelling, consisting of not more than one habitable room, together with kitchen or kitchenette and sanitary facilities.

Assisted living facility: Any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one (1) or more personal services for a period exceeding twenty-four (24) hours to one (1) or more adults who are not relatives of the owner or administrator.

Automobile storage: The parking placement of an inoperable or unregistered vehicle on a property, for more than twenty-four (24) hours. It shall not include "parking" as defined in this section nor the storage of new or used vehicles for sale, service, rental.

Automobile wrecking: The dismantling or disassembling of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

Bar ~~or saloon~~: Any place devoted primarily to the retailing and drinking of malt, vinous or other~~any~~ alcoholic beverages, including any lounge, nightclub, tavern, or saloon, or any other place where any sign is exhibited or displayed indicating that alcoholic beverages are obtainable for consumption on the premises.

Bedroom: A room that can be used for sleeping , or that:

- a. Any room with air conditioned space designated on building plan submittals as den, library, loft, office, study or other extra room will be considered to be a bedroom for the purpose of this Code. For site-built dwellings, has a minimum of seventy (70) square feet of conditioned space;
- b. ~~For manufactured homes, is constructed according to the standards of the United States Department of Housing and Urban Development and has a minimum of fifty (50) square feet of floor area;~~
- c. ~~Is located along an exterior wall;~~
- d. ~~Has a closet and a door or an entrance where a door could be reasonably installed; and~~
- e. ~~Has an emergency means of escape and rescue opening to the outside in accordance with the Florida Building Code.~~

Bike locker. An enclosure made of theft-resistant material, with a lockable door that opens the full width and height of the locker, designed for the storage of one bicycle and accessible only to the operator of the bicycle.

Body art studio: A use that involves the practice of tattooing and/or body piercing, and most frequently features custom fine art design and "by appointment" services only.

Brewpub. An establishment licensed by the Florida Division of Alcoholic Beverages and Tobacco to manufacture ales, beers, meads, hard ciders, or similar beverages for on premises consumption in conjunction with full course meals individually prepared on the premises.

Buffer: A physical barrier which effectively screens one parcel from an abutting parcel.

Building: Any structure, either temporary or permanent, which encloses space, having includes a roof, and is used or built for the shelter or protection~~enclosure~~ of persons, animals, chattels, or property of any kind. ~~This definition shall include tents, awnings, or vehicles situated on private property and serving in any way the function of a "building".~~

Building configuration: The form of a building, based on its massing, private frontage, and height.

Building disposition: The placement of a building on its lot.

Building type: A structure category determined by function, configuration, and frontage.

~~*Build-to-line (BTL):* A line along which the front facade of a building is required to be located.~~

Bulk quantities: Quantity stored in any container, which quantity is to be removed for repackaging.

Bulk storage: Any storage or any material, which material is to be removed for repacking.

Canopy: An unenclosed, roof-like structure on a supporting frame, consisting of any material, extending from a building or free-standing.

~~*Carpports:* A canopy that is attached to or abuts a principal structure and is open on at least three-two (2) sides for the purpose of providing shelter for one (1) or more vehicles. A private garage not completely enclosed by walls and doors, and shall comply with the requirements of accessory structures.~~

Change of occupancy: The term "change of occupancy" shall mean a discontinuance of an existing use and the substitution therefor of a use of a different kind or class, as defined by the Florida Building Code. "Change of occupancy" is not intended to include a change of tenants or proprietors unless accompanied by a change in the type of use.

~~*Charitable organization:* Any person who is or holds herself or himself out to be established for any benevolent, educational, philanthropic, humane, scientific, artistic, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary purpose, or any person who in any manner employs a charitable appeal as the basis for any solicitation or an appeal that suggests that there is a charitable purpose to any solicitation. It includes a chapter, branch, area office, or similar affiliate soliciting contributions within the State of Florida for a charitable organization, which has its principal place of business outside the state.~~

~~*Charitable purpose:* Any benevolent, philanthropic, patriotic, educational, humane, scientific, artistic, public health, social welfare or advocacy, environmental conservation, civic, or other eleemosynary objective.~~

~~*Charitable sales promotion:* An advertising or sales campaign conducted by a commercial co-venturer which represents that the purchase or use of goods or services offered by the commercial co-venturer are to benefit a charitable organization. The provision of advertising services to a charitable organization does not, in itself, constitute a charitable sales promotion.~~

Charter school: A tax-supported public school established by a charter, pursuant to F.S. 1002.33-as may be amended from time to time.

Child care facility: An establishment in which custodial care is rendered to children unrelated to the operator, and for which the owner or operator receives a payment, fee, or grant for any of the children receiving care, whether or not operating for profit.

~~*City co-sponsored event:* Any event that is partially planned, organized and funded or otherwise supported by the city at the request of another person or entity.~~

~~*City-sponsored event:* An event that is solely or primarily planned, organized and funded by the city.~~

~~*Club, night:* A restaurant, dining room, bar or other similar establishment providing food or refreshments wherein floor shows or other forms of entertainment by persons [is] provided for guests after 11:00 p.m.~~

Club, private: Shall pertain to and include those associations and organizations of a civic, fraternal or social character, not operated or maintained for profit, and not consisting of residential facilities. The term "private club" shall not include casinos, night clubs, or other institutions operated as a business.

Commercial recreation: A facility providing activities or other recreational uses, either indoor or outdoor, operated as a business and open to the general public for a fee.

~~Commercial co-venturer: Any person who, for profit, regularly and primarily is engaged in trade or commerce other than in connection with solicitation of contributions and who conducts a charitable sales promotion or a sponsor sales promotion.~~

~~Commercial vehicles: Any bus, step van, truck, trailer, utility trailer, truck tractor, tow truck or wrecker, agricultural, construction or industrial equipment or any vehicles designed, intended or used for transportation of people, goods or things for profit, or any vehicle displaying commercial lettering. The terms shall include but shall not necessarily be limited to a pick-up truck with altered cargo box, or from which the cargo box has been removed. Any vehicle with tools, building materials, merchandise or outfitted with emergency flashing or rotating lights visible from the street or from abutting residential property shall be deemed a commercial vehicle. Any vehicle designed, intended or used for transportation of people, goods or things other than private passenger vehicles and trailers for private non-profit transport of goods and boats.~~

Commissary. A commissary is a public food service establishment licensed by the Division of Hotels and Restaurants or permitted by the Department of Agriculture and Consumer Services that is utilized by a Mobile Food Dispensing Vehicle (MFDV) operator for the purpose of providing support services that are not available on an MFDV that is not self-sufficient. Support services include: obtaining potable water; disposing of wastewater and solid waste; cleaning and sanitizing utensils and equipment; storing food, single-service items and other supplies; and preparing food.

Community residential home: A dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice or the Department of Children and Families or licensed Agency for Health Care Administration.

Community residential home, Type 1: A dwelling unit that provides a living environment for homes of six (6) or fewer residents which otherwise meet the definition of a community residential home shall be deemed a single-family unit and a noncommercial, residential use. Homes of six (6) or fewer residents which otherwise meet the definition of a community residential home shall be allowed in single-family or multifamily zoning districts without approval by the City, provided that such homes are not located within a radius of one thousand (1,000) feet of another Type 1 home or within a radius of one thousand two hundred (1,200) feet of another Type 2 home. Such homes with six (6) or fewer residents are not required to comply with the notification provisions of Chapter 419, Florida Statutes as may be amended from time to time; provided that, before licensure, the sponsoring agency provides the City with the most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the City in which the proposed site is to be located in order to show that there is not another Type 1 home within a radius of one thousand (1,000) feet and not another Type 2 home within a radius of one thousand two hundred (1,200) feet of the proposed home. At the time of home occupancy, the sponsoring agency must notify the City that the home is licensed by the licensing entity. For purposes of City land use and zoning determinations, this definition does not affect the legal nonconforming use status of any community residential home lawfully permitted and operating as of July 1, 2016.

Community residential home, Type 2: A dwelling unit meeting the definition of community residential home which provides a living environment for seven (7) to fourteen (14) unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of residents. Type 2 homes shall not be located within one thousand (1,000) feet of another Type 1 home and within one thousand two hundred (1,200) feet of another Type 2 home. For purposes of City land use and zoning determinations, this definition does not affect the legal nonconforming use status of any community residential home lawfully permitted and operating as of July 1, 2016.

Convenience store: The term "convenience store" means any place of business having four thousand (4,000) gross square feet or less of space that is engaged in the retail sale of groceries, which may include the sale of prepared foods, and/or gasoline and/or services, and is regularly open for business at any time between the hours of 10:00 p.m. and 5:00 a.m. and is attended during such hours by one (1) or more employees. The term "convenience store" does not include restaurants.

~~No convenience store will be located within one thousand (1,000) feet of another such store, measured from front door to front door of said establishment by airline measurement route, within or without the corporate limits of the City of Margate.~~

Courtyard: Outdoor space that is confined by building walls, sometimes between multiple developments.

Courtyard building: A building that occupies the boundaries of its lot while internally defining one or more private patios.

Coverage: ~~That per centage of the plot area~~The area of a lot covered or occupied by buildings or ~~roofed portions of structures. Shuffleboard courts, swimming pools, barbecue pits, terraces and other appurtenances not roofed over shall not be included in computing "coverage".~~

Detoxification: A service involving subacute care that is provided on an inpatient or outpatient basis to assist individuals to withdraw from the physiological and psychological effects of substance abuse and who meet the placement criteria provided in Chapter ~~396~~397, Florida Statutes as may be amended from time to time.

Detoxification facility: A facility licensed to provide detoxification services under Chapter 397, Florida Statutes as may be amended from time to time.

Drive-in restaurant or refreshment stand: ~~Any place or premises used for the sale, dispensing or serving of food, refreshments or beverages to patrons who enter the premises in automobiles and receive service in automobiles, or for consumption of food, refreshments or beverages in automobiles.~~

Dollar store. A store selling household goods that has two or more of the following characteristics: use of pricing information in its name such as "dollar," "ninety-nine," "cents," or "five;" selling personal care products labeled and originally marketed for sale in a different country than the United States; selling damaged or overstock products; or the majority of inventory is offered for sale for a price of less than ten dollars (\$10.00) (2023 CPI) in or equivalent CPI in current year.

Driveway: A private surface-way which provides a primary means of access to off-street parking or loading spaces.

Dwelling: Any building, or part thereof, occupied in whole or in part, as the residence or living quarters of one (1) or more persons, permanently or temporarily, continuously or transiently.

Multiple unit dwelling: A ~~plot~~lot containing three (3) or more one-family dwelling units.

One-family dwelling unit: A ~~plot~~lot containing a dwelling unit occupied by one (1) family.

Two-family dwelling unit: A ~~plot~~lot containing two (2) one-family dwelling units.

Dwelling unit: ~~A space, area or portion of a building designed for and occupied by one (1) family as a dwelling, with cooking facilities for the exclusive use of such family.~~

Dwelling unit - Any habitable room or group of habitable rooms located within a dwelling and forming a single habitable unit for occupation by only one (1) family with facilities used, or intended to be used, for living, sleeping, cooking, and eating, with or without sanitary facilities.

Economic base-expanding activity: ~~In the context of the City of Margate, economic base-expanding uses include those which export goods and services outside of Margate so as to import additional capital for the support of local jobs and business expansion.~~

Edgeyard building: ~~A building that occupies the center of its lot with setbacks on all sides.~~

Elevation: An architectural drawing that represents a structure as being projected geometrically on a vertical plane parallel to one of its sides.

Enforcing official: Shall mean the officers and employees of the department, bureau or agency of the City of Margate to whom the duty of enforcing the terms of this resolution is assigned under the resolution.

Entrance, principal: The main point of pedestrian access into a building.

Erected: The word "erected" includes built, constructed, reconstructed, moved upon or any physical operations on the premises required for building. Excavation, fill, drainage and the like shall be considered a part of erection.

~~*Established grade:* The average elevation of the public sidewalks around or abutting a plot, or in the absence of sidewalks, the average elevation of the public streets abutting the plot.~~

Family: For the purposes of this zoning ordinance, a family shall be defined as one (1) person, or a group of two (2) or more persons living together and interrelated by bonds of consanguinity, marriage or legal adoption, or a group of no more than three (3) unrelated persons, occupying the whole or part of a dwelling as a separate housekeeping unit with a single set of culinary facilities within a dedicated space. The persons thus constituting a family may also include gratuitous guests and domestic servants. Any person under the age of eighteen (18) years whose legal custody has been awarded to the state department of health and rehabilitative services or to a child-placing agency licensed by the department, or who is otherwise considered to be a foster child under the laws of the state, and who is placed in foster care with a family, shall be deemed to be related to and a member of the family for the purposes of this chapter. Nothing herein shall be construed to include any roomer or boarder as a member of a family. This definition shall not supersede state or federal regulations regarding families and/or the use of real property within a residential district for community residential facilities.

Family care facilities: A facility which provides residence, supervision, and support in a family setting to eight (8) or fewer unrelated individuals who are handicapped, aged, disabled, or in need of adult supervision.

~~*Filling station:* Any area of land, including structures or parts of structures thereon, that is used for the supply of gasoline or other fuels for motor vehicles at retail sale.~~

Floor area: Where a specified minimum "floor area" is required in the zoning ordinance for a dwelling, "floor area" shall mean the total gross area within the external perimeter of the exterior enclosing walls, including Florida rooms, sun rooms and utility rooms which are fully enclosed and directly accessible from the interior of the dwelling but excluding other utility rooms, unenclosed porches, terraces, breezeways, and carports or garages.

Frontage of a building: Shall mean the side or wall of a building approximately parallel and nearest to a street.

Frontage of property: Shall mean the ~~plot~~ line which abuts a street or separates the ~~plot~~ from a street.

Fully shielded: A fixture constructed and installed in such a manner that all light emitted by it, either directly from the lamp (bulb) or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal plane. This can be determined by a field test or visual assessment of an operating sample.

~~*Gallery:* A type of building frontage wherein the facade is aligned close to the frontage line with an attached cantilevered covering or a lightweight colonnade overlapping the sidewalk.~~

~~*Garage, community:* A building or part thereof, used for indoor parking of private automobiles.~~

Garage, repair: A building, or part thereof, where vehicles are received and a fee is paid for repairs to any part of the vehicle, but shall not include wholesale rebuilding of parts, and paint and body works.

Glare: Brightness in the field of view that is sufficiently greater than the amount to which the eye is adapted, causing annoyance, discomfort, or loss of visual performance and visibility.

Go-cart: A four-wheel vehicle, designed for a single rider, having a one or two (2) cylinder internal combustion engine.

Grade: The natural elevation of the ground, established relative to the required base floor elevation for the applicable coastal flood zone designated by the current Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRMs), or in the extreme cases of varied elevations within the same site, grade shall be established by the city building department.

Grade, finished: The finished elevation of a site after all fill, land balancing or site preparations have been completed. The finished grade shall be the elevation from which all structural heights are measured.

Green building: A building that emphasizes state-of-the-art strategies for sustainable site development, water savings, energy efficiency, materials selection and indoor environmental quality and is identified as meeting verifiable green building standards.

Greenway: An open-space corridor in largely natural conditions which may include trails for bicycles and pedestrians.

Hazardous substances: Any substance or material which, by reason of its toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental or deleterious to the health or safety of any person handling or using or otherwise dealing with such material or substance.

Height of building: The vertical distance from the established grade at the center of the front of the building to the highest point of the roof surface for a flat roof, to the deck line for a mansard roof and to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

Home occupation: Any use conducted entirely within a dwelling for financial gain ~~and carried on by persons residing in the dwelling unit~~, which use is clearly incidental and subordinate to the use of the dwelling for residential purposes and does not change the character thereof.

Horizontal mixed-use: A mix of uses where ~~by~~ different uses are adjacent to each other within the same ~~plot~~lot or development. Nonresidential uses shall occupy a minimum of 15 percent, with such percentage calculated based upon the ratio of total gross ground floor area of all proposed buildings within the project. The nonresidential uses may consist of office or retail and service uses, or a combination thereof.

Hospital: A hospital licensed under Chapter 395, F.S., and Part II of Chapter 408, Florida Statutes as may be amended from time to time.

Hotel: A building, or part thereof, in which sleeping accommodations are offered to the public, with no cooking facilities for use by the occupants, and in which there may be a public dining room for the convenience of the guests. Access to the sleeping rooms shall be through an inside lobby or office.

Industrially-zoned property: Shall mean any land or water area whose zoning district classifications is M-1 or M-1A under this ordinance.

Inflammable liquid: Any liquid which under operating conditions gives off vapor which, when mixed with air, is combustible and explosive.

Impervious area: A surface area of land that does not allow for any penetration of water to the subsurface area.

Inoperative vehicle: Any wrecked or partially dismantled vehicle which is parked or stored for longer than forty-eight (48) hours without having all wheels mounted, or which is in a condition of substantial disrepair, or which is parked or stored without having all tires inflated. It shall also mean a vehicle which does not have affixed a current automobile license tag.

Junk yard: Place, structure or lot where junk, waste, discarded, salvaged, or similar materials such as old metals, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, etc., are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, used lumber yards, housewrecking yards and yards or place for storage or handling of salvaged house wrecking and structural steel materials. This definition shall not include pawnshops and establishments for the sale, purchase, or storage of usable second-hand cars, salvaged machinery, used furniture, radios, stoves, refrigerators or similar household goods and appliances. Nor shall it apply to the processing of used, discarded or salvaged materials as part of manufacturing operations.

Kennel: The term kennel shall be construed to include any establishment for the raising, training, boarding or selling of dogs, cats, birds, mice, rats, or other small animals for hire or profit, or where more than four dogs or

cats are harbored or kept over four (4) months of age. "Kennel" shall not include any humane society, animal protection agency, veterinarian clinic, or hobby breeder. Kennel shall also include any person or establishment that intentionally or un-intentionally causes or allows the breeding or studing of a cat or dog of three (3) or more litters of dogs or cats per household or premises during a consecutive twelve-month period whether or not such animals were made available for sale, adoption or other placement.

Land platted: Any land recorded by plat in the Broward County circuit court clerk's office.

Land unplatted: Any land or part thereof, not recorded by plat in the Broward County circuit court clerk's office.

~~*Layer:* A range of depth of a lot within which certain elements are permitted.~~

Light manufacturing: Products from aluminum, brass, bronze, copper, steel or other metal or from cloth, canvas, leather, paper, rubber, shell, plastic, wood or other materials, such as electronic devices, food products, chewing gum, syrup, fruit juices, extracts, drugs or medicines, electrical fixtures, hardware and cutlery, musical instruments, and optical devices.

Light trespass: Light produced by a lighting fixture that illuminates a surface beyond the boundaries of the property on which it is located.

Limited access self-service storage facility: A multistoried self-service facility with limited access points from the exterior to interior halls that serve the individual bays.

Liner building: A building, usually shallow in depth, specifically designed to mask a parking lot, parking garage or blank wall from a frontage.

Live-work unit: A dwelling unit that is also the primary place of work, which place of work is located on the ground floor for the occupant of the unit.

~~*Lodging house:* A building, or part thereof, other than a motel or hotel, where sleeping accommodations are provided for hire more or less transiently without provisions for cooking by guests or for meals for guests.~~

Long-term care facility: A nursing home facility, assisted living facility, adult family-care home, or any other similar residential adult care facility that provides rehabilitative, restorative, and/or ongoing skilled nursing care to patients or residents in need of assistance with activities of daily living.

~~*Lot:* A parcel or tract of land designated and identified as a single unit of area in a subdivision plat officially recorded in the Broward County circuit court clerk's office. Land occupied or to be occupied by a building or use, and their accessory buildings and accessory use, together with such yards and open spaces as are required by this ordinance. A "lot" may consist of one (1) or more, or portions of a platted lot and/or unplatted land.~~

~~*Lot, corner:* A "corner lot" is a lot of which at least two (2) adjacent sides abut for their full length upon streets, provided that such two (2) sides intersect at an interior angle of not more than one hundred thirty-five (135) degrees. Where a lot is on a curve, if tangents through the intersections of the lot lines with the street lines make an interior angle of not more than one hundred thirty-five (135) degrees, such a lot is a "corner lot". In the case of a "corner lot" with a curved street line, the corner shall be considered to be that point on the street line nearest to the point of intersection of the tangents herein described.~~

~~*Lot depth:* The mean horizontal distance between the front and rear lot lines.~~

~~*Lot, interior:* A lot other than a corner lot.~~

~~*Lot line, front:* The line dividing a lot from a street or base building line, whichever will result in a lesser depth of lot. On a corner lot the shorter of the two (2) "front lot lines" as above defined shall be considered to be the "front lot line" for the purposes of determining required lot width and required front yard depth. On a corner lot where both "front lot lines" as above defined are equal length, both such lines shall be considered to be "front lot lines" for the purpose of determining required street yard depth.~~

On through lots both "front lot lines" as above defined shall be considered to be "front lot lines" for the purpose of determining required yards.

Lot line, rear: The lot line opposite and most distant from the front lot line. In the case of a triangular or gore-shaped wherein the two (2) side lot lines converge in the rear, the "rear lot line" shall be considered to be a line ten (10) feet in length within the lot parallel to and at the minimum distance from the front lot line.

Lot line, side: Any lot line other than a front or rear lot line. A "side lot line" separating a lot from a street is called a "side street lot line". A "side lot line" separating a lot from another lot or lots is called an "interior" or "side lot line."

Lot line, street or alley: A lot line separating the lot from a street or alley. Lot, reversed corner: A corner lot the side street line of which is substantially a continuation of the front lot line of first lot to its rear.

Lot, through: A lot abutting on two (2) streets, not at their intersection, if any which may be either a corner or interior lot.

Lot width: The horizontal distance between the side lot lines at the depth of the required front yard.

Machine: Any contrivance which serves to regulate the effect of a given force or to produce or change motion.

Medical office: An office providing services to the public by physicians, dentists, surgeons, chiropractors, osteopaths, physical therapists, nurses, acupuncturists, podiatrists, optometrists, psychiatrists, (who are also known as health care practitioners) or others who are duly licensed to practice their respective professions in the State of Florida, as well as others, including but not limited to technicians and assistants, who are acting under the supervision and control of a licensed health care practitioner.

Mixed-use: Multiple functions within the same building through superimposition or adjacency, or in multiple buildings within the same ~~area-lot~~ by adjacency.

Motel: A building or part thereof, in which sleeping, and/or living accommodations are offered to the public primarily on a short term or transient basis, with access to the individual units from the exterior of the building and parking facilities for use of guests near their quarters.

Nonconforming structure: A structure or portion thereof, existing at the effective date of this ordinance, or any amendment thereto; which was occupied, designed, erected, intended, or structurally altered for use not permitted at its location by the provisions of this ordinance for a new use, and/or which does not conform to all of the regulations applicable to the district in which it is located.

Nonconforming use: The use of a structure or premises, existing at the effective date of this ordinance, or any amendment thereto, for any purpose not permitted for a new use in the district in which it is located.

Nuisance lighting: Includes, but is not limited to glare, light trespass, and skyglow.

~~Nursery school: A place for the care and instruction of children.~~

Nursing home facility: Any licensed facility which provides nursing services as defined in Part I of Chapter 464, Florida Statutes as may be amended from time to time.

Occupied: The word "occupied" includes arranged, designed, built, altered, converted, rented or leased, or intended to be occupied.

Office: Premises available for the transaction of general business of a clerical or administrative nature, but specifically excluding entertainment, retail, wholesale, artisanal, warehousing, repair, and manufacturing uses.

Open space: An outdoor area dedicated for public use.

Ordinance: The zoning code of the City of Margate and any amendments thereto.

Package store: A business establishment licensed to sell liquor in containers for consumption off the premises, including, but not limited to, any business with a 3APS alcohol license.

Payday loans: A non-chartered financial institution that offers deferred deposit transaction services, check cashing services or loans for payment of a percentage fee. The term "non-chartered financial institution" shall include, but is not limited to deferred deposit transaction (payday loan) business that makes loans upon assignment of wages received, check cashing businesses that charge a percentage fee for cashing a check or negotiable instrument, or motor vehicle title lenders who offer short-term loan secured by the title to motor vehicles. This definition does not include non-profit financial institutions or retail sellers engaged primarily in the business of selling consumer goods to retail buyers, that cash checks or issue money orders as a service to its customers that is incidental to its main purpose or business.

Pain management clinic: Any clinic, facility, or office that is required to be registered with the Florida Department of Health pursuant to F.S. § 458.3265 or 459.0137, as ~~amended~~ may be amended from time to time.

Parking: The term "parking" shall mean the temporary, transient storage of private passenger ~~automobiles~~ vehicles used for personal transportation, while their operators are engaged in other activities. It shall not include storage of new or used ~~cars-vehicles~~ for sale, service, rental, or any other purpose other than specified above. "Parking" as defined herein shall apply only to open-air storage of ~~automobiles~~vehicles.

Parking structure: A building containing two or more stories of parking facilities. Parking structures within the TOC boundary that are located on an established build-to line shall have liner buildings at the first story.

Passage: A pedestrian connector passing between buildings, providing shortcuts through long blocks and connecting rear parking areas to building frontages.

Path: A pedestrian way traversing a park or courtyard, with landscape matching the contiguous open space. Paths should connect directly with the urban sidewalk network.

Patio: An unenclosed, finished outdoor surface area, adjacent to or apart from a building, not containing accommodation for vehicles.

Pedestrian zone: An aesthetic buffer designed to help visually soften the hardscape of urban development while also providing for pedestrian travel and improved site connectivity.

Performance standards: Criteria for permitting and controlling various uses and activities within the City in order to limit negative impacts and maintain the character of the City of Margate in accordance with the goals and objectives of the comprehensive plan of the City of Margate.

Person: The word "person" includes association, firm, co-partnership, or corporation.

Personal care services: An establishment (not having as its primary function the sale of retail goods) primarily engaged in providing appearance care and/or beauty services to individual consumers such as beauty salons, ear piercing and spas.

Pervious area: A surface area of land that allows passage of air and water to the subsurface area. An adjective describing a type of surface or material which allows the penetration of water. including, but not limited to grass, mulch, and stone. Pavers (excluding those specifically designed and constructed to be pervious) and Limestone gravel and pavers are not considered as pervious surface. Pavers and turfblock that are designed to be pervious with an underground drainage system may be counted as 50% pervious.

Pet store or pet shop: A retail establishment open to the public and engaging in the business of offering for sale and/or selling animals at retail.

Place of Assembly: an establishment providing a place for persons to gather together for a common purpose in a meeting, recreational, religious or social facility. This definition shall include, but is not limited to auditoriums, private clubs and lodges, community centers, clubhouses, theaters, and places of worship or other facilities that are used for prayer and assembly by persons of similar beliefs.

Planter: The element of the public streetscape which accommodates street trees. Planters may be continuous or individual.

Plazas: Large outdoor spaces that extend the public realm from the street or sidewalk to the main entry of an adjacent building.

~~*Plot:* Land occupied or to be occupied by a building or use, and their accessory buildings and accessory use, together with such yards and open spaces as are required by this ordinance. A "plot" may consist of one (1) or more, or portions of a platted lot and/or unplatted land.~~

~~*Plot, corner:* A "corner plot" is a plot of which at least two (2) adjacent sides abut for their full length upon streets, provided that such two (2) sides intersect at an interior angle of not more than one hundred thirty five (135) degrees. Where a plot is on a curve, if tangents through the intersections of the lot lines with the street lines make an interior angle of not more than one hundred thirty five (135) degrees, such a plot is a "corner plot". In the case of a "corner plot" with a curved street line, the corner shall be considered to be that point on the street line nearest to the point of intersection of the tangents herein described.~~

~~*Plot depth:* The mean horizontal distance between the front and rear plot lines.~~

~~*Plot, interior:* A plot other than a corner plot.~~

~~*Plot, key:* The first plot to the rear of a reversed corner plot whether or not separated by an alley therefrom.~~

~~*Plot line, front:* The line dividing a plot from a street or base building line, whichever will result in a lesser depth of plot. On a corner plot the shorter of the two (2) "front plot lines" as above defined shall be considered to be the "front plot line" for the purposes of determining required plot width and required front yard depth. On a corner plot where both "front plot lines" as above defined are equal or within five (5) feet of the same length, both such lines shall be considered to be "front plot lines" for the purpose of determining required street yard depth.~~

~~On through lots both "front plot lines" as above defined shall be considered to be "front plot lines" for the purpose of determining required yards.~~

~~*Plot line, rear:* The plot line opposite and most distant from the front plot line. In the case of a triangular or gore-shaped wherein the two (2) side plot lines converge in the rear, the "rear plot line" shall be considered to be a line ten (10) feet in length within the plot parallel to and at the minimum distance from the front plot line.~~

~~*Plot line, side:* Any plot line other than a front or rear plot line. A "side plot line" separating a plot from a street is called a "side street plot line". A "side plot line" separating a plot from another plot or plots is called an "interior" or "side plot line."~~

~~*Plot line, street or alley:* A plot line separating the plot from a street or alley.~~

~~*Plot, reversed corner:* A corner plot the side street line of which is substantially a continuation of the front plot line of first plot to its rear.~~

~~*Plot, through:* A plot abutting on two (2) streets, not at their intersection, if any which may be either a corner or interior plot.~~

~~*Plot width:* The horizontal distance between the side plot lines at the depth of the required front yard.~~

Porch: A roofed-over space attached to the outside of an exterior wall of a building, which has no enclosure other than the exterior walls of such building. Open mesh screening shall not be considered an enclosure.

Poultry: Any chickens, turkeys, ducks, geese, peafowl or guinea fowl.

Poultry market: A commercial establishment or place where live poultry or fowls are kept and prepared for sale, including killing or cleaning.

Principal building: ~~Syn.~~ See Principal structure.

Principal structure: A structure, the use of which is the principal or primary use of the land. A principal structure may consist of a building or an unmanned or uninhabited structure such as a communication tower,

utility substation, parking facility or other similar construction. There may be more than one (1) principal structure on a parcel.

~~*Rearyard building:* A building that occupies the full frontage line, leaving the rear of the lot as the sole yard.~~

Recovery residence: A residential dwelling unit, the community housing component of a licensed day or night treatment facility with community housing, or other form of group housing, that is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free and drug-free living environment. The number of unrelated residents and distance requirements set forth by Type 1 and Type 2 community residential homes shall apply to these facilities.

Recreational vehicle (RV): Any vehicle constructed so as to permit occupancy thereof as sleeping or living quarters, used as a conveyance on highways and streets, and propelled by its own motive power.

Recreational vehicle (RV) lot structure: A fully enclosed accessory structure located on an RV site within an approved RV park. This definition shall not include tiki huts, ~~chiki chickee~~ huts, or any other thatched roof structure.

Recreational vehicle (RV) park: A place set aside and offered by a person or public body, for either direct or indirect remuneration of the owners, lessor or operator of such place, for the parking and accommodation of five (5) or more recreational vehicles (as defined in F.S. § 320.01(1)(b)).

Recreational vehicle (RV) site: The lot within a recreational vehicle park delineated for individual recreational vehicle occupancy. The site typically includes a pad on which the recreational vehicle is parked, a driveway, utility connections and open space area. An RV site may also include a patio area, RV lot structure, and decorative features including, but not limited to, tables, lampposts and grills.

Redevelop: To demolish a principal building or structure of a site and construct a new principal building or structure; or to expand an existing principal building or structure 50% or more as defined as a substantial improvement by FEMA. beyond twenty-five (25) per cent percent of the gross area or size.

Remodeling, redecorating or refinishing: Any change, removal, replacement, or addition to walls, floors, ceilings and roof surfaces or coverings which do not support any beam, ceiling, floor load, bearing partition, columns, exterior walls, stairways, roofs or other structural elements of a building or a structure.

Residentially zoned property: Any land or water area that has a residential zoning district classification. ~~of R-1, R-1A, R-1B, R-1C, R-1D, R-2, R-3, R-3A, R-3U, PRC, PUD RVRP, or T-1.~~

Resource recovery facility. Any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

Restaurant: A building or room, not operated as a dining room in connection with a hotel, where food is prepared and served for pay for consumption on the premises.

Restaurant with automobile service: Any restaurant where provision is made on the premises for serving of food, refreshments, or beverages to customers in automobiles or for pick-up service via an automobile drive-thru.

Restaurant, take-out: A restaurant where provision is made solely for the selling, dispensing, or serving of food, refreshments, or beverages to customers for consumption in other than a completely enclosed building on the premises.

Retail: The selling of merchandise to end users, usually in small quantities and not intended for resale. Retail establishments shall have merchandise available for purchase for walk-in clientele, and shall have all sales transactions take place on site. Internet and other off-premises transactions shall not be considered retail, but may be permitted as an accessory use to retail.

Roof line: The overall ridge line of the structure which does not include cupolas, elevator towers, clock towers or other features that are permitted to exceed maximum height of the building. In the case of flat roofs, it is the uppermost line of the roof of a building.

Rooftop photovoltaic solar system: A system which uses one (1) or more photovoltaic panels installed on the surface of a roof, parallel to a sloped roof or surface- or rack-mounted on a flat roof, to convert sunlight into electricity.

Rowhouse: A single-family dwelling that shares a common wall with another of the same type and occupies the full frontage line. (Syn: Townhouse.)

School: Facilities of public or private, primary or secondary schools, vocational and technical schools and colleges and universities licensed by the Florida Department of Education. This shall not include home schools, nor day care centers.

Service contractors: These include air conditioning service and installation, carpet installers, glass and mirror installers, carpet cleaners, exterminators, lawn care companies, and other similar businesses performing work off-premises. This definition specifically excludes automotive and personal services.

~~***Setback:** The minimum distance between the street line, or base building line, and the front line or side line of the building or any projection thereof, excluding projections specifically permitted.*~~

~~***Setback:** A space on a lot with a structure or use, open and unobstructed from the ground to the sky except by structural encroachments specifically permitted in this Code. "Setback" measurements shall be the minimum horizontal distances. "Setbacks" shall extend and be measured inward from the respective lot line.*~~

~~***Setback, front:** A setback extending across the full width of the lot between the front lot line and the nearest line of the main use or main building on the lot.*~~

~~***Setback, rear:** A setback extending across the full width of the lot between the rear lot line and the nearest line of the main building.*~~

~~***Setback, side:** A setback extending from the front setback to the rear setback the depth of a lot, between the side lot line and the nearest line of any building or use of the lot. The width of a "side setback" shall be the shortest distance between the side lot line and the nearest use or building on the lot.*~~

~~***Setback, street side:** A setback extending the depth of a lot, between the nearest line of any building or use of the lot and a side lot line that is adjacent to a right-of-way.*~~

Shed: A permanent, simple roofed structure, typically made of wood or metal with four (4) sides enclosed, that is permanently affixed to the ground, meets all Florida Building Code regulations, is not equipped with plumbing, and is used for the primary purpose of additional storage space. ~~and shall comply with the requirements of accessory structures~~

~~***Shopping center:** A group of commercial predominately retail or service establishments planned, developed, managed, and operated as a unit and which utilize a common parking area.*~~

Sidewalk: That portion of the street intended for use by pedestrians between the curblines, or the lateral lines of a roadway, and the adjacent property lines.

~~***Sideward building:** A building that occupies one (1) side of the lot with a setback to the other side.*~~

Skyglow: The adverse effect of brightening of the night sky due to man-made lighting.

~~***Social Centers:** A facility used as a place of meeting, recreation, or social activity and not operated for profit and in which neither alcoholic beverages or meals are normally dispensed or consumed.*~~

~~***Solid Waste.** Refuse, garbage, or sludge that has been discarded, recycled or abandoned as a byproduct material that occurs as a result of processing or manufacturing. Does not include the primary products of a production process.*~~

~~***Solid waste disposal facility.** Any facility, location, or installation used for incinerating, composting, chemical oxidizing, sanitary landfilling or other means of disposing, storing, or processing of solid wastes*~~

Special exception use: ~~A use that would generally not be appropriate in the zoning district, which may be authorized by the planning and zoning board if specific provisions and controls are applied.~~ Special exception uses may be deemed appropriate to provide a complete distribution of ~~commercial~~ uses within the city, but because of their operational characteristics or area requirements need to be given individual consideration with respect to their location, access and relationship to adjacent properties and public rights-of-way, and ~~the use conformity conforms~~ with the city's ~~goals, objectives and policies within the current and future redevelopment efforts comprehensive plan.~~

Spot Zoning: ~~A property or group of properties having specific zoning designations applied to them that differ from the zoning designations surrounding them.~~

Stoop: ~~Frontage wherein the facade is aligned close to the frontage line with the lower story elevated at least eighteen (18) inches from the sidewalk to establish a sense of transition from public to private realm, and may be elevated sufficiently to secure privacy for the windows.~~

Storage of vehicle(s): ~~The parking or keeping on real property of a vehicle(s) which does not have affixed a current automobile license tag immediately for more than five (5) calendar days, unless same is within a completely enclosed structure. Storage includes inoperative vehicles and abandoned vehicles parked for more than seventy-two (72) consecutive hours, or vehicles that have been repossessed or are otherwise awaiting shipping.~~

Story: A habitable level within a building.

Street: A public thoroughfare ~~twenty-two (22) feet or more in width~~ which affords principal means of access to abutting property.

Street line: ~~Shall mean the right-of-way line of a street or the base building line, whichever will provide for a greater width of street.~~

Streetscape: The urban element that establishes the major part of the public realm. The streetscape is composed of roads (travel lanes for vehicles and bicycles, parking lanes for cars, urban greenways and sidewalks or paths for pedestrians) as well as the visible private frontages (building facades and elevations, porches, yards, decorative fences, awnings, etc.), and the amenities of the public frontages (street trees and plantings, benches, streetlights, etc.).

Streetscreen or streetwall: ~~A freestanding wall built along the frontage line, or coplanar with the facade, often for the purpose of masking a parking lot from the thoroughfare. Streetscreens should be between three and one-half (3½) and eight (8) feet in height and constructed of a material matching the adjacent building facade. The streetscreen may be a hedge or decorative fence. Streetscreens shall have openings no larger than is necessary to allow automobile and pedestrian access. In addition, all streetscreens over four (4) feet high should be thirty (30) per cent permeable or articulated to avoid blank walls.~~

Structural alteration: Any ~~chargechange~~, except for repair or replacement, in supporting members of a building or structure, such as bearing walls, columns, beams or girders.

Structure: ~~Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground. Means anything constructed, installed, or portable, the use of which requires a location on a parcel of land. It includes a movable building which can be used for housing, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes driveways, roads, walkways, paths, fences, swimming pools, tennis courts, poles, pipelines, transmission lines, tracks, signs, cisterns, sewage treatment plants, sheds, docks, mooring area and other accessory construction.~~

Tattooing: Any method of placing permanent designs, letters, scrolls, figures or symbols upon or under the skin with ink or any other substance, by the aid of needles or any other instrument designed to touch or puncture the skin, resulting in either the coloration of the skin, or the production of scars or scarring, including permanent and semi-permanent makeup such as microblading.

Tent: Any ~~temporary, structure or partial~~ enclosure, free-standing or attached to a structure, the roof of which and/or one-half or more of the sides, are of silk, cotton, canvas, fabric or a light material.

~~**Tourist camp or park:** Any plot of ground upon which three (3) or more single family camp cottages or tents are located or maintained for the accommodation of transients whether or not a charge is made.~~

~~**Tourist court:** A group of attached or detached dwellings which are provided primarily for transient guests, including auto courts, motels and motor lodges.~~

~~**Tourist home:** A building or part thereof, other than a motel or hotel, where sleeping accommodations are provided for transient guests, with or without meals, and which also serves as a residence of the operator.~~

~~**Townhouse:** Syn. Rowhouse: A single-family dwelling unit not exceeding three (3) stories in height constructed in a group of three (3) two or more attached units with property lines separating such units in which each unit extends from foundation to roof and with a yard or public way on not less than two (2) sides.~~

Trailer: An open vehicular structure constructed for the storage or conveyance of boats, vehicles, swamp buggies, tools, equipment or machinery, and so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets propelled or drawn by other motive power. This definition shall include automobile trailers, trailer coaches and house trailers.

~~**Transition line:** A horizontal line spanning the full width of a facade, expressed by a material change or by a continuous horizontal articulation such as a cornice or a balcony.~~

~~**Transit-oriented development (TOD):** Development that combines a pedestrian-friendly environment with retail or entertainment ground floor uses, and located within one-quarter (1/4) mile sidewalk route to a transit station or transit stop. Specifically, a TOD provides continuous, shaded sidewalks with street furniture and minimal driveway interruptions, and nearly continuous shop frontage.~~

Transit station: A transit stop incorporated into a principal building which provides an air-conditioned seating area with electronic bus/LRT location information.

Transit stop: A designated location that allows a bus/LRT to stop and load or unload passengers.

Urban greenway: A multipurpose path accommodating bicycle and pedestrian traffic along major arterial roadways providing for a minimum clear zone from obstructions, and meeting or exceeding minimum landscaping requirements.

~~**Urban grid or modified grid:** Maximum block face of seven hundred (700) feet and maximum perimeter of two thousand (2,000) linear feet (approximately three (3) acres). A maximum block face of eight hundred (800) feet and a maximum perimeter of up to three thousand (3,000) allowed for blocks with parking structures. Rear alleys or mid-block alleys required where feasible. The average block face in the TOC district is five hundred (500) feet.~~

~~**Use:** Any purpose for which buildings or other structures or land may be arranged, designed, intended, maintained, or occupied; or any occupation, business, activity or operation carried on or intended to be carried on in a building or other structure or on land. The purpose for which land or a structure thereon is designed, arranged or intended, to be occupied or utilized, or for which it is occupied or maintained.~~

~~**Use, first permitted in "X" district:** A use which in the sequence of successively less restricted districts occurs as a permitted use for the first time in the "X" district.~~

~~**Use, nonresidential:** A use permitted in a specific residential zoning district, which is not residential in character, such as recreation or governmental buildings, cemetery, crematory, mausoleum, library, art gallery, museum, educational, recreational or social center, church nursery school, child care center, public, private, or parochial schools, hospital, sanitarium, convalescent home, orphanage, institution for the aged, indigent or infirm, community garage, private club, lodge, fraternity, sorority, philanthropic or eleemosynary institutions, medical or dental office or clinic, college or university.~~

Use of land: Includes use of water surface and land under water to the extent covered by zoning districts, and over which the City of Margate has jurisdiction.

Use, principal or main: The primary use of the ~~plot~~lot as distinguished from secondary or accessory uses. There may be more than one (1) "principal or main use" on a ~~plot~~lot.

~~*Use, residential:* A use for living and sleeping of persons not institutional in character, such as a one-family, two-family or multiple dwelling, rooming house, hotel, motel, tourist home, lodging house, boarding house, villas, bungalow courts.~~

~~*Utilities:* All lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and includes facilities for the generation of electricity.~~

~~*Variance:* A modification of, or deviation from, the regulation of the zoning ordinance which is authorized and approved by the board of adjustment after it finds that the literal application of the provision of the zoning ordinance would cause unnecessary hardship or practical difficulty in the use or development of a specific plot or building.~~

~~*The procedure where the strict application of the provision of the zoning regulations relating to area, duration, height, setback or yard requirements may be modified in a particular instance when certain criteria based on substantial competent evidence are met. Variances relating to use, including separation requirements, are not included in this definition and are prohibited.*~~

Vehicle: Any automobile, truck bus, boat or trailer, motorcycle, motor scooter or similar type vehicle, full track, half-track, recreational vehicle, swamp buggy or any apparatus self-propelled that is used for the transportation or any person or persons.

Vehicle dealership: An establishment primarily for the sale of new vehicles that include as incidental accessory uses, the sale of used vehicles, service and repair of vehicles, and sale of parts within a site area that includes:

- (1) An enclosed showroom for merchandise;
- (2) Outdoor display and storage of vehicle inventory;
- (3) Service and repair facilities within a fully enclosed building; and
- (4) Parts sales occurring within a fully enclosed building.

~~*Vehicle fuel station:* Any area of land, including structures or parts of structures thereon, that is used for the supply of gasoline or other fuels, including electricity, for motor vehicles at retail sale.~~

Vehicle sales agency: An establishment licensed to sell any of the following: New and/or used automobiles, commercial vehicles, truck, trailer, boats, motorcycles, and recreational vehicles. Automobile dealership, as defined in this section, may also be permitted under this use.

Vending machine: Any machine or container, manual or automated, and designed for the convenient storage and dispensing of merchandise for retail sale; including, but not limited to, soda vending machines, food vending machines, ice chests, video rental machines, and water dispensing/vending machines.

~~*Vertical mixed-use:* Means a project that includes one (1) or more buildings of at least two stories, with nonresidential uses occupying a minimum of 15 percent of the ground floor, with such percentage calculated based upon the ratio of total gross ground floor area of all proposed buildings within the project. The nonresidential uses may consist of office or retail and service uses, or a combination thereof. Residential uses shall occupy the remainder of the space within vertical mixed-use buildings.~~

Walkway cafe: A portion of a restaurant or eating establishment that is unenclosed, which is located outside of and adjacent to the principal building on a private sidewalk, and which provides a sit-down area for food and/or beverage consumption.

Waterway: A stream, canal or body of water, dedicated to public use, publicly owned, or used and available for public travel by boats, not including privately owned bodies of water or drainage ditches.

Wholesale: The selling of goods, products, or materials to retail, manufacturing, or repair establishments, usually in bulk quantities, and intended for resale, refinement, or use for repair.

~~*Yard:* A space on the same plot with a structure or use, open and unobstructed from the ground to the sky except by encroachments specifically permitted in the zoning ordinance. "Yard" measurements shall be the minimum horizontal distances. "Yards" shall extend and be measured inward from the respective plot line.~~

~~*Yard, corner:* In a single family dwelling district, a corner yard shall be the area formed by the intersection of the front and street side property lines and the extensions of the front facade and the street side facade of the residence. In all other districts, a corner yard shall be the triangular area formed by the chord connecting thirty-five (35) feet from the intersection of right-of-way lines or tangent extensions thereof.~~

~~*Yard, front:* A yard extending across the full width of the plot between the front plot line and the nearest line of the main use or main building on the plot.~~

~~*Yard, rear:* A yard extending across the full width of the plot between the rear plot line and the nearest line of the main building.~~

~~*Yard, required:* Shall mean the minimum yard required by the zoning ordinance. Any yard space supplied in excess of the minimum amount specified shall not be deemed to be a "required yard".~~

~~*Yard, side:* A yard extending from the front yard to the rear yard, between the side plot line and the nearest line of any building or use of the plot. The width of a "side yard" shall be the shortest distance between the side plot line and the nearest use or building on the plot.~~

~~*Zoning board:* The "zoning board" of the City of Margate.~~

Zoning certificate: A document issued by the enforcing official authorizing buildings, structures or uses consistent with the terms of the zoning ordinance and for the purpose of carrying out and enforcing its provisions.

ARTICLE III. GENERAL PROVISIONS

Section 3.1. ~~Conflicting regulations~~ General rules of interpretation .

~~(A) —Wherever any provision of this ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this ordinance shall govern.~~

~~(B) —Wherever any provision of this ordinance conflicts with any other provision of this ordinance, the ordinance provision that imposes more stringent requirements, regulations, restrictions or limitations shall govern.~~

(A) Interpretation.

(1) In the interpretation and application of the ULDC all standards, criteria and requirements shall be liberally construed in favor of the purposes and goals of the City of Margate and deemed neither to limit nor repeal any other lawful regulatory powers of the city.

(2) Where this Code conflicts with or overlaps other regulations, whichever imposes the more stringent restrictions shall prevail.

(3) In the event that any question arises concerning the application of regulations, performance standards, definitions, development criteria or any other provision of this ULDC, the director of development services shall be responsible for interpretation. The director shall rely upon the policies adopted or amended in the comprehensive plan in making any such interpretation.

(B) Abrogation. This ULDC is not intended to repeal, abrogate or interfere with any existing easements, covenants or deed restrictions duly recorded in the public records of Broward County. The ULDC is not intended to repeal any lawful approval by official city action of any site plan planned unit development or subdivision.

Section 3.2. Scope.

No building or structure, or part thereof, shall hereafter be erected, constructed, reconstructed, or altered and maintained, and no existing use, new or change of use of any building, structure, or land or part thereof shall be made or continued, except in conformity with the provisions of this ordinance.

(Ord. No. 1500.00, § 3.2, 10-25-1967)

Section 3.3. Representations in granting of permits.

Any representation made before any city board, any administrative board, or the city commission in the application for a variance, special exception, conditional use or request for any other permit shall be deemed a condition of the granting of the permit. Should any representation be false or should said representation not be continued as represented, same shall be deemed a violation of the permit and a violation of this section.

Section 3.4. Reserved.

Section 3.5. Uncompleted structures.

No building or structure not completed in substantial conformity with places and specifications upon which the building permit for its construction was issued, shall be maintained, or be permitted to remain, unfinished for more than six (6) months after active construction operations have been suspended or abandoned.

(Ord. No. 1500.00, § 3.5, 10-25-1967)

Section 3.6. Time limit.

Where ~~the~~the ~~B~~B-board of ~~adjustments~~Adjustments has approved or granted a special exception or variance pursuant to the terms of the zoning ordinance, such approval or grant shall become null and void unless a permit pursuant thereto is issued within ~~one hundred eighty (180) calendar days~~one year of the date of such action by the ~~B~~Board of ~~A~~Adjustment.

(Ord. No. 1500.00, § 3.6, 10-25-1967; Ord. No. 1500.207, § 1, 6-17-1981)

Section 3.7. Errors and violations.

(A) The issuance or granting of a permit or approval of plans and/or specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this ordinance. No permit presuming to give the authority to violate or cancel the provisions of this ordinance shall be valid except insofar as the work or use which it authorizes is lawful.

-
- (B) The issuance of a permit upon plans and specifications shall not prevent the enforcing officer from thereafter requiring the correction of errors in said plans and specifications or from preventing building operations being carried on thereunder when in violation of this ordinance, or any regulations of the City of Margate.

Section 3.8. Existing platted lots.

Where such conditions exist in present platted and recorded areas that strict conformance with ~~plot~~lot width, depth, or area or yard requirements cause unnecessary difficulty in the practical utilization of a corner or an interior ~~plot~~lot, the board of adjustment may make such alterations or deviations in the application of these requirements, as will in its judgments, permit the reasonable development and use of a specified ~~plot~~lot in such a manner as to carry out the spirit and purpose of this ordinance.

Section 3.9. Prohibited residences.

- (A) No boat, ~~or~~ vessel, automobile or other vehicle shall be used or maintained for sleeping or living purposes or as a place of residence within the city.
- (B) No tent shall be erected, used or maintained for living quarters except for permitted camping or recreational activities.
- (C) No trailer, camper, recreational vehicle RV or mobile home shall be used or maintained for living quarters as a residence unless same are validly in or a part of any properly zoned trailer-mobile home park or area designated for camping or recreational activities such residential use, and only if such vehicle is permanently connected to local utilities.

It shall be determined that a camper, recreational vehicle, or trailer is being used as a residence if it is observed to have water, sewer, or electric services connected, slides extended, or stabilized.

However, Class A recreational vehicles may be utilized as living quarters on property where sales of lots are being promoted for a recreational vehicle park during the time that a comp plan or zoning is validly pending before the City Commission for said recreational vehicle park. No more than twenty (20) recreational vehicles may be parked on the property. No one vehicle may be parked for more than one (1) twenty-four hour period.

- (D) The city manager may, upon receipt of a written request, exempt trailers, campers or mobile homes utilized for habitation where it has been determined that same is necessary for the preservation of life, health or public safety, at the site of any single-family residence determined to be uninhabitable or in conjunction with any circus, carnival or temporary amusement center if said circus, carnival or temporary amusement center is properly permitted and the habitation to be utilized therein does not endanger the health or safety of the individuals residing therein. Only one (1) trailer, camper or mobile home shall be permitted on a single-family residential property, and must be located on the same property as that residence deemed uninhabitable. Such exemption shall be valid for a period not to exceed six (6) months. However, one (1) extension for an additional six (6) months may be sought via written request to the city manager. Upon approval of this exemption, all necessary permits shall be obtained from the Margate Building Department.

- (E) Temporary shelter exception. Pursuant to F.S. 166.0335, following the declaration of a state of emergency issued by the Governor for a natural emergency as defined in F.S.252.34(8) as may be amended from time to time during which a permanent residential structure was damaged and rendered uninhabitable, one (1) temporary shelter may be installed on a residential property for up to 36 months after the date of the declaration or until a certificate of occupancy is issued on the permanent residential structure on the property, whichever occurs first, if all of the following circumstances apply:

(1) The resident makes a good faith effort to rebuild or renovate the damaged permanent residential structure, including, but not limited to, applying for a building permit, submitting a plan or design to the municipality, or obtaining a construction loan.

(2) The temporary shelter is connected to water and electric utilities and does not present a threat to health and human safety.

(3) The resident lives in the temporary structure.

- (EF) These provisions shall not apply to recreational vehicles within areas zoned RVRP Recreational Vehicle Resort Park District.

Section 3.10. Abandoned vehicles.

- (A) *Abandoned or inoperative vehicles; storage of vehicles; unlawful.* It is hereby declared unlawful and a nuisance to the general public to leave any abandoned or inoperative vehicle, as defined in Section 2.2 or 40.16 of the Zoning Code of the City of Margate, or any parts thereof, in the public streets, alleys, or rights-of-way or upon any private property. It is hereby prohibited for any owner or person in control of any vehicle or part thereof to leave same abandoned or inoperative upon the public streets, alleys, or rights-of-way or upon any other public or private property within the City of Margate, or for the owner or person in control of any such vehicle or the owner, occupant, tenant, lessee, person in control, or person in possession of any property to permit or suffer the same to be stored on any privately owned property, unless said vehicle is stored inside a completely enclosed structure or a designated storage area. Any such designated storage area shall be in a B-3, TOC-C, or M-1 district, and enclosed by a eight seven(8)-foot concrete block wall stuccoed or precast concrete wall on any side visible from areas outside of the property where it is situated. No storage area or wall surrounding same shall be located in a required setback area.

- (1) The above prohibition shall not apply to motor vehicles which are offered for sale in a lot or space specifically designated and zoned for the sale of new or used vehicles where adequate space has been provided for same and a Local Business Tax Receipt has been issued by the City of Margate.
- (2) The above prohibition shall not apply to motor vehicles which are parked on private property zoned for vehicle repair while said vehicles are temporarily and actively being repaired by a business or concern which has been issued a Local Business Tax Receipt by the City of Margate provided they are in an area not visible from any roadways classified by Broward County Metropolitan Organization's Broward Highway Functional Classifications Map as arterial roadways.

- (B) *Removal; notice to owner.*

- (1) Whenever a police officer or code enforcement officer of the City of Margate shall ascertain that an inoperative vehicle or an unlawfully stored vehicle, as provided in the zoning code, is present on public or private property, he/she-they shall cause a notice to be placed upon or immediately adjacent to such vehicle. Such notice shall be substantially in the following form:

TO THE OWNER OR PERSON RESPONSIBLE: This vehicle located at (briefly describe location) is improperly stored and must be removed within five (5) working-business days. You have the right to a hearing before the City Manager or his-their designee for the purpose of showing cause why this vehicle should not be removed or disposed of. You must request a hearing not later than five (5) working-business days from this date. If you do not request a hearing within such time or if you do not show good cause, the City will remove and dispose of the vehicle. You, as owner or the person responsible for the vehicle, will be liable for the cost of removal and disposition.

Dated this ____ day of _____, 20____. Signed (set forth name, title, address and telephone number of officer.)

- (2) The City Manager or his-their designee shall hold an informal hearing at the request of any person or entity claiming an interest in the posted vehicle within five (5) working-business days following the request, or at such later date as the City Manager or his-their designee shall determine, and where such request for a hearing has been received by the City within five (5) working-business days following

the posting of notice, the vehicle shall not be removed by the City prior to the expiration of two (2) ~~working-business~~ days immediately following the hearing if the vehicle is determined to be inoperative. The purpose of such hearing is to provide an opportunity for the owner, or person or entity responsible for the vehicle to demonstrate that, in fact, the subject vehicle is not inoperative or unlawfully stored. Failure to request a hearing or failure to attend a scheduled hearing shall constitute a waiver of the right to a hearing and consent to the removal and disposition of the vehicle as inoperative. If a hearing is waived or if it is determined at or following a hearing that the subject vehicle is an operative vehicle, following a two (2) day period as above provided, the vehicle shall be removed by the City as soon as practicable, and shall be destroyed or otherwise disposed of.

- (3) Where a police officer or code enforcement officer of the City of Margate has cause to place a notice, as provided in subsection (A) above, on a vehicle and the vehicle has been removed and thereafter the vehicle reappears either as an inoperative vehicle or unlawfully stored vehicle within a three-month period, he/she shall cause a notice to be placed upon or immediately adjacent to such vehicle. Such notice shall be substantially in the following form:

TO THE OWNER OR PERSON RESPONSIBLE: This vehicle located at (briefly describe location) is improperly stored and must be removed within twelve (12) hours. You have the right to a hearing before the City ~~M~~anager or ~~his-their~~ designee for the purpose of showing cause why this vehicle should not be removed or disposed of. You must request a hearing not later than twelve (12) hours from this date and time. If you do not request a hearing within such time or if you do not show good cause, the City will remove and dispose of the vehicle. You, as owner or the person responsible for the vehicle, will be liable for the cost of removal and disposition.

Dated this ____ day of _____, 20 _____. Signed (set forth name, title, address and telephone number of officer.)

The City Manager or ~~his-their~~ designee shall hold an informal hearing at the request of any person or entity claiming an interest in the posted vehicle within two (2) ~~working-business~~ days following the request, or at such later date as the City Manager or ~~his-their~~ designee shall determine. The purpose of such hearing is to provide an opportunity for the owner, or person or entity responsible for the vehicle to demonstrate that, in fact, the subject vehicle is not inoperative or unlawfully stored. Failure to request a hearing or failure to attend a scheduled hearing shall constitute a waiver of the right to a hearing and consent to the removal and disposition of the vehicle as inoperative. If a hearing is waived or if it is determined at or following a hearing that the subject vehicle is an operative vehicle, the vehicle shall be removed by the City as soon as practicable, and shall be destroyed or otherwise disposed of.

- (4) In respect to any vehicle removed and disposed of by the City, an administrative charge of ~~twenty-five dollars~~ (\$25.00) shall be made, in addition to any cost actually incurred by the City, which charge shall be payable by the registered owner of the vehicle or any other person responsible for the vehicle. A bill shall be sent to such person's last known address by certified mail, return receipt requested, and any charge remaining unpaid after thirty (30) ~~calendar~~ days from receipt of the bill shall constitute a debt subject to collection by legal process. In addition, such unpaid charges shall constitute a lien against the private real property from which the vehicle was removed upon ten (10) ~~calendar~~ days' notice to the owner of said property to pay the bill for removal of the vehicle. The liens provided herein shall be prior to all other liens on such lands liened except for those for state, county, municipal or other governmental taxes. That upon an action for foreclosure, the City shall receive all costs including reasonable attorney's fees.

Interest from the date of removal shall be calculated and charged at the rate provided for in F.S. § 170.09, as amended.

Section 3.11. Subdivision resurvey required.

After **[insert adoption date]** ~~No~~ When any ~~lot~~ tract, or other parcel of land, however designated, which is part of a subdivision recorded in the official records of Broward County after May 30, 1955, and which has been approved by the ~~City~~ ~~Commission~~ of the City of Margate ~~may be~~ ~~is~~ further subdivided or resubdivided without approval of a subdivision resurvey for the purpose of development. A development permit shall not be issued on any property that has been further subdivided or resubdivided without the City Commission's approval. In no instance shall approval be granted to a parcel that does not comply with all minimum Code requirements due to an unauthorized subdivision or resubdivision by sale or deed transfer of any type. ~~The~~ following requirements shall be met for the approval of a subdivision resurvey prior to the issuance of a development permit:

- (1) A survey of the subject property, containing all of the applicable information required by Section 31-18 of this Code, shall be prepared by a registered engineer or surveyor.
- (2) The proposed parcel(s) shall meet the requirements of Section 31-19(A) through (E) and Section 5.5 – Irregular lots, as may be applicable and the minimum lot size required by the zoning district in which the parcel is located. of this Code as determined by the city commission.
- (3) Any land within the parcel that is necessary to comply with the Margate trafficways plan shall be conveyed to the public by deed or grant of easement.
- (4) The developer shall submit to the city clerk a performance bond for subdivision improvements and inspection fees as required by Section 16.3 of this appendix.
- (5) The developer shall file a reproducible copy of the instrument with the city clerk with payment of filing fee of ~~one hundred dollars (\$100.00)~~ as specified in the Fee Schedule adopted by Resolution of the City Commission of the City of Margate and all recording fees.
- ~~(6) — An Engineering Permit is required if new water and sanitary service connections will be provided.~~

The above requirements shall not apply in cases where part of one (1) single-family lot is added to another in order to increase a building site, provided no parcel remains which has less width or depth or contains less area than the minimum established for the district in which it is located.

Section 3.12. Double frontage.

Where a ~~plot~~lot is bounded on two (2) opposite sides by streets, front yards, when required, shall be provided on both streets and accessory buildings or structure shall not be located in either front yard. A setback on a one or two family residential property that faces a road right-of-way that is not entitled to legal access shall be considered the rear yard.

Section 3.13. Use of premises without buildings.

Where a ~~plot~~lot is to be occupied for a permitted use without buildings, the side yards and front yard required for such ~~plot~~lot shall be provided and maintained unless otherwise stipulated in this ordinance, except that side yards and rear yards shall not be required on ~~plot~~lots used for private garden purposes without buildings or structures nor on ~~plot~~lots used for public recreational areas.

Section 3.14. Construction of swimming pools, fences, walls, fences and/or hedges.

~~The following shall govern with regard to the construction of fences, walls and/or hedges within the City of Margate:~~

~~(A) Swimming Pools. All swimming pools in all districts shall be constructed in accordance with the following regulations with the exception of any standards approved with a Planned Unit Development or in the Planned Residential Community District.~~

- ~~(1) Swimming pools enclosed only with eOpen mesh screening may be placed in a required side or rear yard subject to the limitations below, but shall not be placed in a required front or street side yard. A screen enclosure is permitted according to these regulations whether or not it is being used to screen a swimming pool.~~
- ~~(2) Any screen enclosure part of a pool which has a is covered by a roof or enclosed by side walls over five (5) feet in height shall be subject to the limitations on location of a building and shall not be placed in any required yard.~~
- ~~(3) Swimming pools shall not be located less than seven and one-half (7½) feet from any side and five (5) feet from rear plotlot line, measured from the pool structure, providing that no pool or pool enclosure shall be placed within a utility or drainage easement, or closer than five (5) feet to any waterway or seawall, canal retaining wall, or waterway if no such retaining wall exists.~~
- ~~(4) No swimming pool final inspection and approval shall be given by the building department unless there has been erected a safety barrier as hereinafter provided. No pool shall be filled with water unless a final inspection has been made and approved, except for testing purposes as may be approved by the building department.~~
- ~~(5) —~~
- ~~(4) All pools shall be surrounded by a The safety barrierbarrier that shall take the form of one (1) of the following: A screened-in patio, or an approved wall or fence materiala wooden fence, a wire fence, a rock wall, a concrete block wall, or other suitable materials.~~
- ~~(6)(5) The safety barrier shall be erected either around the swimming pool or around the premises on which the swimming pool is erected, provided the minimum setbacks as required in this section are met. In either event, it shall enclose the area entirely, prohibiting unrestrained admittance to the enclosed area. Barriers on a frontage abutting a navigable waterway shall be in compliance with the Florida Building Code as may be amended periodically.~~
- ~~(7)(6) Gates shall will be equipped with a positive lock so that they shall automatically be in a closed and fastened position at all times, and said lock will be at a minimum height per the Florida Building Code as may be amended periodically.~~
- ~~(8)(7) Before any work is commenced, permits shall be secured for all swimming pools and for the safety barriers. Plans shall contain all details necessary to show compliance with the terms and conditions of this ordinance. No swimming pool permit shall be issued unless, simultaneously therewith, a permit is secured for the erection of the required safety barrier. If the premises are already enclosed, as hereinbefore provided, permit for the safety barrier shall not be required, if, upon inspection of the premises, the existing barrier and gates are proven to be satisfactory. All swimming pools in existence on the effective date of this section must conform to the provisions hereof within one (1) year.~~
- ~~(9)(8) It shall be the responsibility of the owner and/or occupant of the premises upon which the swimming pool has been constructed or is hereafter erected to install and maintain and keep in proper and safe condition with the safety barrier required and erected in accordance with this section.~~
- ~~(10) All wood, plastic or vinyl enclosures shall conform to the wind code requirements of the Florida Building Code.~~
- ~~(11) Sheet metal of any kind is prohibited for use as an enclosure.~~

~~(12)(9)~~—Swimming pools constructed above ground ~~in excess of forty-eight (48) inches in height~~ shall conform to all ordinances governing in-ground swimming pools.

~~(13) Swimming pools in ground exceeding eight thousand (8,000) gallons shall have a dry well and/or storm drain to be drained into if not located on or near a canal.~~

~~(B) *Walls and fences.* All walls and fences shall be constructed in accordance with the following regulations with the exception of any standards or deviations approved with a Planned Unit Development or required by the Planned Residential Community (PRC) District development standards. For the purposes of this section any property containing a mixed-use (horizontal or vertical) shall follow the standards for nonresidential properties.~~

~~(1) *Permitted materials.* Aluminum, chain link, concrete block covered with stucco or pre-cast concrete, molded polyethylene composite, polyvinyl chloride (PVC), weather proofed wood, or other material deemed similar by the Development Services Director. Barbed, razor or similar type wire, broken glass, plywood and sheet metal are prohibited.~~

~~a. *Chain link exception.* Chain link or other similar style fences shall not be permitted within the Corridor, Gateway, and City Center zoning districts, except when used on a temporary basis to secure an active construction site.~~

~~c. *Finished side.* All fences shall have the finished side facing the outside of the property, with the exception that interior fences abutting properties where an existing fence or wall prevents the erection of the fence, in those cases the finished side may face in to the subject property.~~

~~d. *Gate operation.* Gates must operate entirely on the property in which they are installed unless there is an easement that allows access to the adjoining property. Gates are prohibited from operating on any right-of-way.~~

~~e. *Setback from a right-of-way or access easement.* When any property is developed after the date of the adoption of this Code, any perimeter fence or wall of a development shall be setback a minimum of five (5) feet from any adjacent right-of-way or access easement in an area that is under unified control and ownership. Lots within an existing residential subdivision are exempt from this requirement.~~

~~f. *Easements.*~~

~~i. When a wall or fence is proposed to be installed in a recorded utility easement the property owner shall provide a notarized affidavit acknowledging that the utility provider will not be responsible in any way for repairs to, or replacement of, any portion of it and that any removal and replacement of this construction necessary for the use of this easement will be done at the property owner's expense. Further understanding that the owner will assume full responsibility for any damage incurred to the utility facilities during the construction.~~

~~ii. When a wall or fence is proposed to be installed in a recorded drainage, canal or lake maintenance easement the property owner shall obtain written permission from the applicable easement holder to install the wall or fence.~~

~~h. *Subdivision or common development walls or fences.* All subdivision or common development walls and fences shall be constructed in a uniform design, material, pattern and color throughout the length of the same development.~~

~~i. Where one (1) or more lots or lots directly abut the public right-of-way, a uniform plan or design for a wall or fence shall be submitted at the time that a site plan is considered, and the area in which is it placed shall be under unified control and ownership.~~

ii. A subsequent development which abuts the same right-of-way which is unseparated by an intersecting street shall conform to the uniform plan for the wall or fence which had been previously submitted to the development review committee. No certificate of occupancy shall be issued prior to the completion of that portion of the wall or fence which has been approved for the lot where development is to take place.

- Aluminum picket with decorative concrete posts
- Concrete block with stucco
- Molded Polyethylene Composite
- Pre-cast concrete
- PVC
- A combination of the above

iii. Walls and solid fences for a common subdivision or development shall be provided where the backyard abuts the public right-of-way or access easement, setback a minimum of five (5) feet, and the area in which it is placed shall be under unified control and ownership. Walls and fences shall be constructed only where approved by the development review committee.

iv. Existing subdivisions where one (1) or more lots or lots directly abut the public right-of-way, only white PVC fencing may be installed along those lot lines that directly abut the public right-of-way.

.i All walls and fences shall be maintained in a state of good repair, free of any breaks, discolorations and graffiti and in a safe condition. All wood fences shall have weatherproofing.

(2) *Locations.* All walls and fences shall only be installed in the following locations:

a. *Single-family attached and detached dwellings.*

i. May be installed along any side and rear lot line.

ii. *Front yards.* Prohibited in front yards. For the purposes of this section, the front yard of a home is considered to be the yard where the home has its primary entrance.

- On an irregularly shaped lot, a wall or fence may extend off the front corners of a house so that the wall or fence intersects with the side property line at a 90 degree angle, and in no instance shall it extend further than the wall of the house closest to the front property line.
- In the case of a corner lot, where the primary entrance is angled and faces both streets, the side of the home with the primary driveway shall be considered the front yard.

iii. *Front yard exception.* Walls or fences may be located in a front yard lots on a cul-de-sacs that terminate adjacent to roadways classified by Broward County Trafficways Plan Map as arterial roadways.

iv. *Knee walls or planters boxes exception.* Knee walls or planters boxes not to exceed two and one half (2 ½) feet in height may be constructed to encroach a maximum of five (5) feet in to a front setback.

b. *Multiple family dwellings.*

i. May be installed along any side and rear lot line.

ii. Front yards. May be installed with at least 90 percent see through visibility.

c. Nonresidential properties.

i. May be installed along any side and rear lot line.

d. Outdoor recreational areas and parks.

i. Within the setbacks allowed by the zoning district of the property.

ii. Exceptions. Any property owned or operated by the City of Margate or City of Margate CRA is exempt from these provisions.

(3). Heights. All walls and fences shall be measured from the grade of the property in which they are located and only installed to the following maximum height limits:

a. Single-family attached and detached dwellings.

i. Six (6) feet.

ii. Nonresidential use exception. A property developed with a permitted residential use may install a wall or fence to a height not to exceed eight (8) feet along any side or rear property line that is adjacent to or separated by a canal right-of-way less than 80 feet in width, or an alley from a nonresidential use.

b. Multiple family dwellings.

i. Four (4) feet in front yards.

ii. Six (6) feet all other allowed locations.

iii. Nonresidential use exception. A property developed with a permitted residential use may install a wall or fence to a height not to exceed eight (8) feet along any side or rear property line that is adjacent to or separated by a canal right-of-way less than 80 feet in width, or an alley from a nonresidential use.

c. Nonresidential properties.

i. Eight (8) feet.

ii. Required walls. When a nonresidential property is developed, redeveloped , or undergoes a substantial improvement as defined by FEMA regulations, that directly abuts or is separated by a canal right-of-way less than 80 feet in width, or an alley with a permitted residential use, concrete block covered with stucco or pre-cast concrete, eight (8) feet in height shall be installed along any side and/ or rear property line facing or abutting the residential use.

iii. Connectivity. No fence or wall shall be erected within the Corridor, Gateway, and City Center district that isolates any property, or otherwise inhibits connectivity and the availability of shared parking, with the exception of residential-only developments.

(4) Vacant land or abandoned developed properties. Vacant land or abandoned developed properties may be secured with a fence constructed in the following manner along all property lines:

a. Split rail fence constructed out of wood or polyvinyl chloride (PVC)

i. White in color

ii. No more than three (3) horizontal members

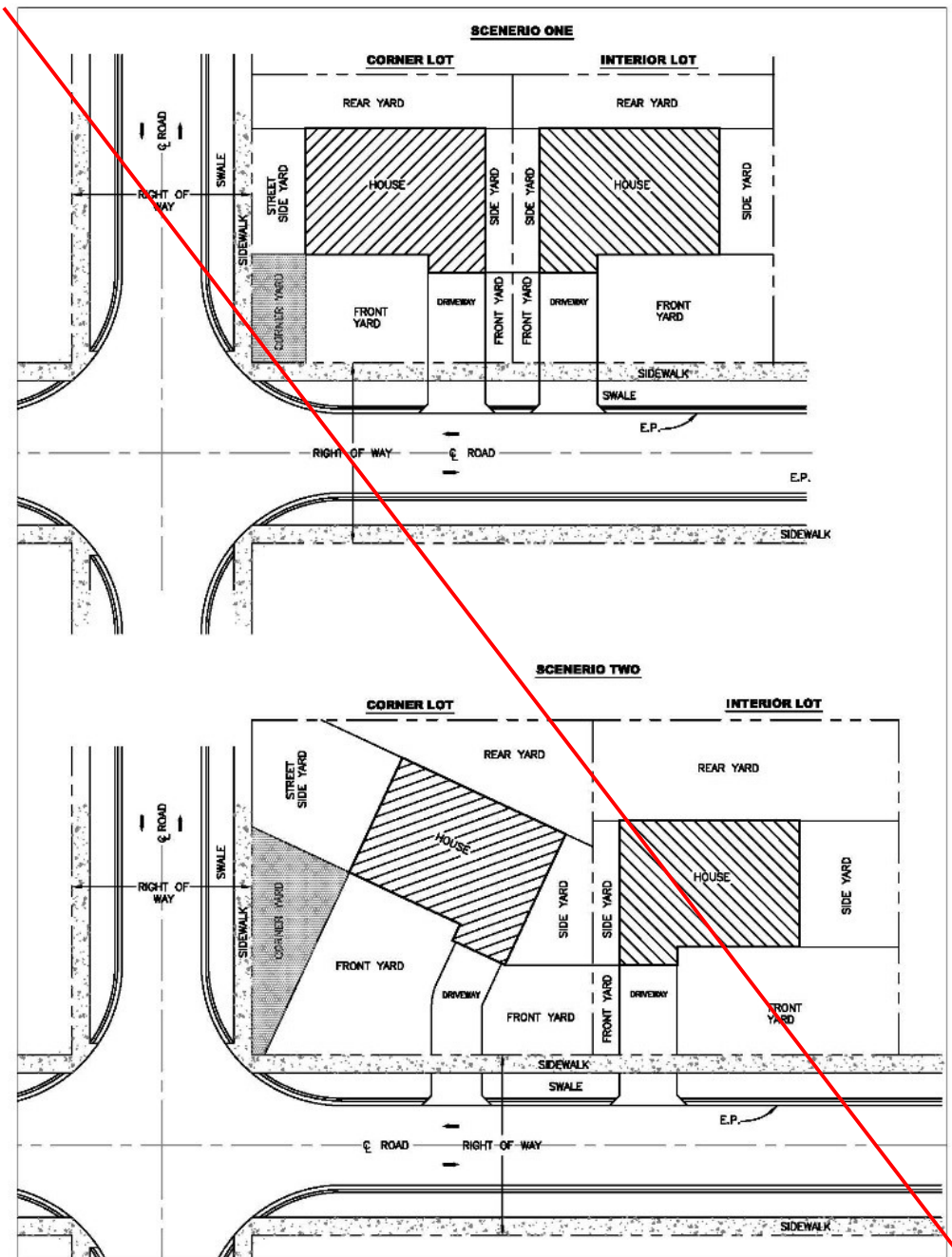
iii. No more than four (4) feet in height above ground level or the level of an existing berm.

b. At driveways, end posts or bollards shall be installed and connected with chain or wire provided any legal access to another property is not blocked.

i. Bollards are to be painted white or safety yellow

~~(14) (A) For all plots of one family and two family dwellings, no fences or walls shall be erected or maintained within any front and corner yards. For all plots of single family detached dwellings and duplex detached dwellings, a fence may be erected and maintained as required by code along any side and rear plot lines or within the required yard setbacks to a height not exceeding six (6) feet. For corner lots defined per section 2.2 as having two front yards, the front yard abutting the rear yard shall be treated as a street side yard for the purposes of erecting a fence.~~

Figure 1:



- (1) In side yards not at the corner and rear yards abutting nonresidential property or abutting a right-of-way greater than one hundred (100) feet in width, hedges may be maintained to a height not exceeding ten (10) feet above the established grade.

(C) Hedges and / or shrubs. Hedges and/or shrubs may be planted and maintained in the following manner unless otherwise prohibited by this Code:

(1) Not to exceed six (6) feet in height along any lot line that is not a front or corner yard.

a. Multiple family dwellings. Not to exceed four (4) feet in height in front yards and corner yards unless at least 90 percent opacity (see-through visibility) is provided.

b. Abutting nonresidential property or abutting a right-of-way greater than 100 feet in width exception. In side yards (not corner yards) and rear yards not to exceed 10 feet.

(2) Shall be placed no closer than two (2) feet within the lot line and shall be maintained no further than the lot line.

(3) Easements.

a. When a hedge or shrub is proposed to be installed in a recorded utility easement the property owner shall provide a notarized affidavit acknowledging that the utility provider will not be responsible in any way for repairs to, or replacement of, any portion of it and that any removal and replacement of this construction necessary for the use of this easement will be done at the property owner's expense. Further understanding that the owner will assume full responsibility for any damage incurred to the utility facilities during the construction.

b. When a hedge or a shrub is proposed to be installed in a recorded drainage, canal or lake maintenance easement the property owner shall obtain permission from the applicable provider to install the wall or fence.

~~(B) For all plots of single-family detached dwellings and duplex detached dwellings, hedges and/or shrubs may be planted and maintained along any plot line or within the required yard setbacks to a height not exceeding six (6) feet above the established grade except as follows:~~

~~(1) In side yards not at the corner and rear yards abutting nonresidential property or abutting a right-of-way greater than one hundred (100) feet in width, hedges may be maintained to a height not exceeding ten (10) feet above the established grade.~~

~~(15) For all plots of multiple dwellings, fences, walls and hedges in front and corner yards shall not exceed a height of four (4) feet above the established grade. Any such structure or planting shall provide at least ninety (90) per cent see-through visibility. In side and rear yards, fences, walls and hedges may be erected and maintained to a height not exceeding six (6) feet above the established grade. In yards abutting nonresidential property or abutting a right-of-way greater than one hundred (100) feet in width, hedges may be maintained to a height not exceeding nine (9) feet above the established grade.~~

~~(16) In commercial, mixed use, and industrial districts, no fence or wall shall be erected or maintained in any front yard, except when used on a temporary basis to secure an active construction site. Otherwise, fences and walls may be erected to a height not exceeding seven (7) feet above the established grade. Where nonresidential property directly abuts a residential parcel, only decorative masonry walls shall be permitted on the nonresidential parcel along the common property line. Chain link or other similar style fences shall not be permitted within any TOC zoning district, except when used on a temporary basis to secure an active construction site. No fence or wall shall be erected within any TOC zoning district that isolates any property, or otherwise inhibits connectivity and the availability of shared parking, with the exception of residential-only developments.~~

~~(17) Fences and walls shall be erected up to the plot line. Hedges shall be placed no closer than two (2) feet within the plot line and shall be maintained no further than the plot line. Construction or planting of fences, walls or hedges within any easement of record shall be permitted only when written permission is granted by the applicable departments and/or utility companies. All fences and walls~~

~~shall be installed so that the structural side of the fence or wall shall face or be visible from the owner's side. Barbed, razor or similar type wire and broken glass is prohibited in all zoning districts.~~

~~(18) All walls, fences, barriers, or barricades constructed pursuant to this ordinance or presently existing shall be maintained by the owner of the property in which said walls, fences, barriers or barricades are situate. Walls, fences, barriers or barricades shall be maintained in a state of repair, free of any breaks, discolorations and graffiti and in a safe condition.~~

~~(19) All subdivision or common development walls, fences, barriers or barricades shall be constructed in a uniform design, material, pattern and color throughout the length of the same development. Where one (1) or more lots or plots directly abut the public right of way, a uniform plan or design for a wall, fence, barrier or barricade shall be submitted at the time that a site plan for the lot or plot is considered.~~

~~A subsequent development which abuts the same right of way which is unseparated by an intersecting street shall conform to the uniform plan for the wall, fence, barrier or barricade which had been previously submitted to the development review committee. No certificate of occupancy shall be issued prior to the completion of that portion of the wall, fence, barrier or barricade which has been approved for the lot or plot where development is to take place.~~

~~The only types of walls, fences, barriers or barricades which may be approved by the development review committee for the above referenced development shall include:~~

- ~~a. — A wood fence;~~
- ~~b. — A stuccoed wall; or~~
- ~~c. — A combination of the above.~~

~~Walls, fences, barriers or barricade for a common subdivision or development shall be provided where the backyard abuts the public right of way. Walls, fences, barriers or barricades for yards shall be constructed only where approved by the development review committee.~~

~~(20) Notwithstanding the above requirements, pursuant to section 31-19, the planning and zoning board may require fences and walls for screening purposes of a height, location and type as may be necessary on new subdivisions and resubdivisions of existing ones.~~

Section 3.15. Reserved.

Section 3.16. Nuisance.

No person, firm or corporation shall maintain or continue to allow and maintain in any district provided in this ordinance anything which shall in any way be offensive or obnoxious by reason of the emission of odors, gases, dust, smoke, vibration, glare, or noise (including the barking or howling of dogs, or any noise or odors emanating from any animal). Nor shall anything be constructed or maintained that would in any way constitute an eyesore or nuisance to adjacent property owners or residents or the general community and any such conditions allowed to be maintained or constructed are hereby declared a nuisance to the general public.

Section 3.17. Storage on residential property.

No land which is zoned in a residential district shall be used for the storage of any equipment, machines, equipment or machine parts, building materials or construction equipment except when incidental to constructive operations for which a building permit is in effect. However, debris resulting from preparing the ground for building and/or building construction shall be removed and disposed of each week.

Section 3.18. Filling Vehicle fuel stations, location regulations and construction requirements; penalty for violation.

- ~~(A) Distances. No plot or [of] ground shall be used for a filling station which is within one thousand (1,000) feet, by direct or airline measurement, of any other plot presently occupied as a filling station.~~
- ~~(B) Location of Fuel Pumps. Fuel pumps at filling stations shall not be located closer than seventeen (17) feet from any street right-of-way line and not less than twelve (12) feet from any property line; except that no fuel pump shall be located within sixty (60) feet of any residentially-zoned property.~~
- ~~(C) Driveways. There shall be no more than two (2) driveways for entrance and exit to any filling station for each one hundred (100) feet or major fraction thereof of frontage on any street. Said driveway shall not exceed forty two (42) feet in width on the said lands, and there shall be a minimum of ten (10) feet of landscaped area between driveways. No driveway shall be located less than ten (10) feet from any property line. No driveway to a filling station shall connect to a local or collector street with a right-of-way width of sixty (60) feet or less.~~
- ~~(D) Vehicles Operation. No public street, alley or sidewalk shall be used for the storage or parking of motor vehicles in connection with the activities of a filling station or repair facility. Short term off-street parking of a private motor vehicle by owners or operators of a filling station or repair facility shall be permitted.~~
- ~~(E) Lighting Fixtures. Lighting fixtures for illumination of filling stations shall be designed and arranged in order to prevent a direct glare in and upon any residential property.~~
- ~~(F) Protective Wall. There shall be a masonry wall or masonry fence of good quality and decorative design which shall effectively screen against direct view on all property lines of any land area occupied or used as a filling station. Such wall or fence shall be no less than three (3) feet six (6) inches in height, and no more than five (5) feet, and shall be continuous; except that on an alley there may be an opening of three (3) feet kept closed by a substantial gate. Walls or fences shall not be required where the abutting property is not residentially zoned; provided, however, that the proper waste receptacles are maintained, concealing refuse and rubbish from public view.~~
- ~~(G) Conditional Use. Reserved.~~
- ~~(H) Penalty for Violation. Upon conviction of a violation of the provisions of this section, such violator may be fined not to exceed five hundred dollars (\$500.00) or imprisonment not to exceed ninety (90) calendar days, or both such fine and imprisonment. Each day that a violation of this section is permitted to exist shall constitute a separate offense.~~

(A) Purpose. The following regulations shall apply to facilities which dispense automobile fuel, contain vehicle charging stations, oil, or lubricants to the general public. These regulations are supplemental and in addition to other requirements of the applicable zoning district. In the case of a conflict, the regulations contained herein shall apply.

(B) Distance separation. All minimum separation distances shall be measured in the shortest airline distance between nearest property lines.

(1) No vehicle fuel station shall be located within 1,000 feet of any other vehicle fuel station.

(2) No vehicle fuel station shall be located within 100 feet of any residential use.

(C) Size of lot.

(1) Minimum width: 100 feet.

(2) Minimum depth: 125 feet.

(D) Location of fuel dispensers, canopies and other structures.

- (1) Distance from right-of-way for fuel dispenser: Minimum of 35 feet.
- (2) Fuel dispenser distance from property line: Minimum of 15 feet.
- (3) Fuel dispenser distance from property access point: Minimum of 50 feet.
- (4) Distance from right-of-way for canopies: Minimum of 25 feet
- (5) All fuel dispensers shall be covered by a canopy.
- (6) All fuel dispensers shall have hoses long enough to dispense on either side of a vehicle.

(E) Building site coverage, pavement and green space.

- (1) Minimum of 25 percent landscaped or pervious area.
- (2) Along a road right-of-way: A landscaped strip at least 25 feet in depth.
- (3) All impervious area, not used as building foundation, shall be concrete. Asphalt shall not be permitted.
- (4) Pavement markings in thermoplastic shall be provided to direct the flow of vehicles throughout the site.

(F) Access.

- (1) No driveway to a vehicle fueling station may connect to a local road unless the property has both ingress and egress access to an arterial or collector roadway as shown on the Broward County Trafficways Plan.
- (2) Maximum width of curbcut: 36 feet.
- (3) Minimum width of aisle: 24 feet.

(G) Lighting. All lights and lighting shall be so designed and arranged as to not cause a direct glare onto an adjacent right-of-way or property.

(H) Storage of flammable liquids.

- (1) All gasoline, benzene, diesel fuel, naphtha or other volatile flammable liquids stores incidental to the operation of a service station, shall be kept in underground tanks.
- (2) All vents associated with the storage of flammable liquids shall be screened.

(I) Outdoor display. No outdoor stacking of any product other than propane is permitted.

Section 3.19. Self-service storage.

- (A) Where any structure or site was lawfully developed for the use of self-service storage, said use may continue as originally permitted, subject to the limitations of Article XXXI of this Code (Appendix), and the following:
- (1) Self-service storage shall not be a part of any structure devoted to any other permitted use; and
 - (2) Individual storage units or private postal boxes in a self-service storage shall not be considered a premises for the purpose of assigning a legal address in order to obtain a local business tax receipt to do business.

Section 3.20. Sheds, storage buildings, and temporary storage containers in residential areas.

(a) *Sheds and storage buildings.*

- (1) Twenty-four-inch side and rear setbacks. Structures shall not be permitted in any front or street side yard, ~~or recorded easement.~~
- (2) All ~~single-family and duplex~~ residential ~~plot~~lots shall be limited to two (2) sheds and/or storage buildings ~~per unit~~ not to exceed a cumulative maximum size of ~~one hundred forty-four (144)~~ square feet ~~per unit~~.
- ~~(3) All multi-family residential developments shall be limited to two (2) sheds and/or storage buildings not to exceed a cumulative maximum size of 800 square feet, and no single shed and/or storage building shall exceed a dimension of 40 feet in length and 10 feet in width.~~
- ~~(3)(4)~~ Not to exceed eight and one-half (8½) feet in height.
- ~~(4)(5)~~ All sheds require a building permit from the Margate Building Department and shall be subject to the requirements of the most recently adopted version of the Florida Building Code at the time of permitting.
- ~~(5) Sheds and storage buildings are considered as accessory structures.~~

(b) *Temporary storage containers.* The following regulations are applicable to temporary storage containers:

- (1) Shall only be permitted in front yards, on a paved driveway, permitted by the ~~Margate Building~~ Department ~~of Building and Code Services~~. Any vehicle(s) normally parked at a residence which may become displaced due to a permitted temporary storage container shall find another means to be lawfully parked.
- (2) Shall not be placed on any portion of any street, sidewalk, or swale.
- (3) Single-family detached dwellings, duplex dwellings, villas, and townhouses shall be limited to a maximum of one (1) temporary storage container at a given residence at any time.
- (4) In order to be granted a permit, residents who live within a homeowner's association or condo association must submit written approval of the portable storage container from their association.
- (5) The temporary storage container must be removed within ~~seventy-two (72)~~ hours of ~~BCEOC~~ Department of Building and Code Services having declared the threat of landfall of a hurricane or immediately upon the issuance of a flood warning notification.
- (6) The temporary storage container is permitted twice a year only and shall remain a maximum of ~~fifteen (15)~~ calendar days per application.

Section 3.21. Home occupations.

- (A) Home occupations, where permitted, shall be subject to following conditions and use standards:
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- (1) ~~Only a legal resident of the subject dwelling of a home occupation shall be permitted to be an owner or employee of said home occupation.~~ The employees of the business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two (2) employees or independent contractors who do not reside at the residential dwelling may work at the business. The business may have additional remote employees that do not work at the residential dwelling.
 - (2) Any home occupation shall be incidental and subordinate to the use of the dwelling for residential purposes, and shall not change the character of the dwelling.
 - (3) The home occupation shall not occupy more than ~~twenty-five (25) per cent~~ percent of the floor area of the dwelling.
 - (4) There shall be no advertising display.
 - (5) There shall be no outdoor storage or display of any materials, products, or equipment associated with the home occupation.
 - (6) The home occupation shall not involve the use of any accessory building or yard space, or activity outside of the main building not normally associated with a residential use.
 - (7) There shall not be conducted on the premises the business of selling stock of merchandise, supplies, or products, however orders previously made by telephone, internet, or at a sales party may be filled on the premises. That is, the direct sale of products off display shelves or racks is not allowed.
 - (8) ~~The home occupation shall not generate or attract more than three (3) vehicular or pedestrian trips per day to the subject dwelling.~~ The need for parking generated by the business may not be greater in volume than would normally be expected at a similar residence where no business is conducted.
 - (9) The home occupation shall not cause any external effect, such as increased noise, excessive lighting, or offensive odor, which is incompatible with the characteristics of a residential zone.
 - (10) Cottage food operations, as defined in F.S. §-500.03, are permitted as a valid home occupation when operated in accordance with F.S. §-500.80 and the preceding provisions.
 - (11) As viewed from the street, the use of the residential property shall be consistent with the uses of the residential areas that surround the property. External modifications made to a residential dwelling to accommodate a home-based business must conform to the residential character and architectural aesthetics of the neighborhood.

Section 3.22. Alcoholic beverages.

- (I) *Definitions.*
 - (A) The terms, words and phrases used in this chapter shall be defined as those words, terms and phrases are defined in the alcoholic beverage law of the State of Florida, known as Chapters 561, 562, 563, 564, 565, 567 and 568, Florida Statutes, as ~~amended~~ may be amended from time to time.
 - (B) The term "license" as used in this chapter shall be defined as the city approval as is required by the rules and regulations of the state beverage department.
 - (II) *State beverage law adopted by reference; enforcement authority of city police.*
 - (A) The provisions of Chapters 561, 562, 563, 564, 565, 567, and 568, Florida Statutes as may be amended from time to time, relating to alcoholic beverages, except those sections thereof which are by their nature inapplicable to municipalities, are hereby adopted as a part of this Code as fully as if set forth herein in full.
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- (B) The city police department shall be charged with the duty of enforcing the provisions hereof and shall be vested with such power and authority as necessary in enforcing the beverage laws of the city and state in carrying out their duties hereunder.
- (III) *Public consumption, possession, prohibited.*
- (A) (1) It shall be unlawful for any person to drink or consume alcoholic beverages, or have in his/her possession any open container containing alcoholic beverages, including liquor, beer, or wine, in any commercial establishment as defined by state law, on any public street, in any public park, in any public or quasi-public parking lot, or in any other public place, unless such place is licensed by the State of Florida for the sale of alcoholic beverages.
- (2) For temporary City or Community Redevelopment Agency events, temporary uses, or outdoor promotional events approved by the City Commission or Development Services Department in accordance with the criteria contained in Section 3.24, outdoor sales and/or consumption of alcoholic beverages shall be permitted where:
- (a) The sale and/or consumption of alcoholic beverages in a designated outdoor area is approved by the City Commission or the Development Services Department; and
- (b) A license from the State of Florida for such temporary event has been obtained.
- (3) This section shall not be construed to permit drinking or consumption of any of the beverages listed herein in public parking lots or in any other public place wherein adjacent stores may be licensed by the City for the sale of alcoholic beverages.
- (B) For this section, the definition of quasi-public shall be that private property where a private owner permits the general and common use of a street or way by the public such as parking lots, shopping centers, and those areas where the public is deemed to be invited. Quasi-public shall also include those portions of private property which are parking lots, streets, or common areas of apartment buildings, condominiums, mobile home parks, and like organizations, where the private owner or organization in control of said areas has requested from the City in writing that this section be enforced.
- (C) Those outdoor portions of any established golf course of which access is limited to only patrons who have paid the appropriate admission fees shall be considered private property and therefore exempt from the prohibitions of this section. The sale and consumption of alcoholic beverages shall be permitted in these areas upon approval of the City Commission.
- (IV) *Exemption of vendors, etc., from city alcoholic beverage license tax.* All vendors, distributors, manufacturers, [and] exporters of alcoholic beverages, as well as clubs and caterers, shall be exempt from the payment of a City alcoholic beverage license tax; provided, this exemption shall not affect the levy of any Local Business Tax Receipt or other City license authorized by state law.
- (V) *Authority of administration.* The Director of Development Services, or designee, is hereby authorized and directed to execute approvals for applicants for various types of beverage licenses pursuant to the provisions of this section.
- (VI) *Reserved.*
- (VII) *Reserved.*
- (VIII) *Distance restrictions.* The City does not require a minimum separation from establishments licensed to sell or serve alcohol.
- (IX) *Reserved.*
- (X) *Persons to whom sale prohibited.* No person licensed under the provisions of this section or of state law shall give, sell, deliver, serve or permit to be served any alcoholic beverages or liquors, including wines or beers, as follows:
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- (1) To any person less than ~~twenty-one (21)~~ years of age, actually or apparently.
- (2) To any person who is intoxicated.
- (XI) *Hours.*
- (A) *Generally.* No vendor of alcoholic beverages shall sell or offer for sale or deliver or serve or permit to be consumed upon the premises of such vendor any alcoholic beverage of any kind regardless of alcoholic content during the hours specified herein.
- (1) *Sales or services for on-premises consumption:* The sale or serving of alcoholic beverages for consumption on the premises shall be unlawful between the hours of 2:00 a.m. and 8:00 a.m. Monday through Saturday, and between the hours of 2:00 a.m. and 11:00 a.m. on Sundays, unless a special permit for extended hours has been issued by the City.
- (a) As an exception to the above limitations of hours, the sale or serving of alcoholic beverages for consumption on the premises shall be permitted between 2:00 a.m. and 4:00 a.m. on the following specified dates of any given year without the need of acquiring a special permit for extended hours permit:
- (i) January 1.
 - (ii) March 18.
 - (iii) May 6.
 - (iv) July 5.
 - (v) December 25.
 - (vi) December 26.
- (b) No person, vendor or distributor of any place of business licensed under the provisions of this section or by the State of Florida, or any employee thereof, shall permit any person who is not a proprietor, licensed vendor or employee thereof to remain on the licensed premises beyond the legally authorized closing hour; provided however, if said premises are divided so that the portion of said premises where alcoholic beverages are kept, stored or dispensed is segregated by partition and locked doors after the legal hour, then such prohibition shall not apply.
- (2) *Sales for off-premises consumption:* The sale of alcoholic beverages for consumption off the premises, including delivery service, shall be unlawful between the hours of 12:00 midnight and 7:00 a.m., seven days a week.
- (B) *Special permits for extended hours.* The privilege to sell, serve or permit the consumption of alcoholic beverages at any commercial establishment between the hours of 2:00 a.m. and 4:00 a.m. is hereby declared to be a privilege subject to termination by the City Manager, and no person may reasonably rely on the continuance of said privilege. Any establishment which has not been granted or been approved for renewal of an extended hours permit by the City Manager may not operate beyond the hours provided in subsection (A) above. Any person or business entity which sells or serves alcoholic beverages for consumption on the premises may apply for a special permit for extended hours.
- Presumption. The presence of any alcoholic beverage not within an unopened container, along with individuals who are not employees, within an establishment serving alcoholic beverages after closing hour shall be presumed the unlawful sale or service of alcoholic beverages after permitted hours.
- (1) *Vendors.* A special permit granted to a vendor of alcoholic beverages shall permit said vendor to sell, serve and allow consumption of alcoholic beverages on the premises.
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The hours of sale of alcoholic beverages consumed or served on the premises where a state liquor license for consumption on the premises has been approved, if a special permit pursuant to this section has been approved, are as follows:

- (a) Tier 1 Special permit for extended hours for weekends only:
 - (i) From 2:00 a.m. until 4:00 a.m. on Saturday and Sunday;
- (b) Tier 2 Special permit for extended hours seven (7) days a week:
 - (i) From 2:00 a.m. until 4:00 a.m., Monday through Sunday;

Extended hours shall not be permitted for sale at retail as package goods or for any other reason than consumption on the premises.

- (C) *Approval process and criteria for special permit for extended hours permit.* The following criteria for granting, applying and renewing a special permit for extended hours:

- (1) *Criteria for granting.* Each special permit for extended hours shall expire on September 30 of each year or upon the change in ownership or location of any permitted establishment. All applications shall be filed with the Development Services Department, on forms provided by same.

All applications for transfer of ownership or location shall be deemed initial applications. However, applications for transfer of ownership or locations shall be automatically approved for a temporary period of ~~thirty-five (35)~~ days from the date of either the initial opening of an establishment serving alcoholic beverages or date transfer of ownership or location occurs.

At the end of the ~~thirty-five (35)~~ days proceeding, establishments shall be prohibited from serving alcoholic beverages except by permission of the City Manager pursuant to subsections (XI)(B).

The City Manager may grant or deny such special permits for extended hours.

The criteria which the City Manager shall consider in making a decision whether to grant or deny a special permit for extended hours to an applicant shall be as follows:

- (a) The amount of parking demands created by the establishment being considered, especially with regard to the adverse impact on adjacent residential areas or any illegal or hazardous parking.
- (b) The amount and degree of law and code enforcement activities being generated by the establishment being considered, both inside and outside the location, with emphasis on vandalism, noise, vehicular use by patrons and illegal activity of any kind by employees (including municipal violations), patrons and others associated with the establishment during and immediately after the hours of operation.
- (c) The adverse effect, if any, that the establishment will have on the neighboring properties, especially with respect to the effects of noise, parking, glare from headlights or exterior lighting on neighborhood residential properties.
- (d) That an establishment be wholly enclosed, soundproofed and air conditioned, and any windows, doors or other openings kept closed except for normal and emergency ingress and egress, in order that noise and music emanating therefrom will not disturb the peace and quiet of the neighborhood.
 - (i) As an exception to this criteria, approved walkway cafes are not required to be fully enclosed.
- (e) Those criteria specified in the City Code.

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- (f) Conformance with property maintenance standards and municipal codes directly related to the establishment requesting extended hours.
- (2) *Applications.* Any person, vendor or place of business which has been regularly licensed by the State of Florida to sell and dispense alcoholic beverages may apply for a special permit for extended hours. Any person, vendor or place of business desiring a special permit for extended hours shall file with the Development Services Department an electronic or printed application forms provided by the City. Such application, among other things, shall state the location where such business is to be conducted; the name of the applicant together with the names of the individuals operating a business under their own or under a trade name; the names of all the officers or members of the firms engaged in any such business; the names of all individuals or business entities owning five (5) ~~per cent~~percent or more of the assets of a business (excluding publicly owned corporations); the type of business license issued by the State of Florida and the number thereof. The applicant shall also furnish such other information as may be deemed reasonable by the City and shall pay the application fee, established by resolution of the City Commission. No application may be deemed completed until the requirements of this paragraph are met.

The Police Department shall review and forward each completed application to the City Manager with a recommendation based on the criteria provided above. The City Manager may require, as a condition of the privilege of extending hours of operation, compliance with any reasonable conditions deemed by the City Manager to be necessary to mitigate or eliminate the adverse effects of such extended hours. These conditions may include, without being limited to, provision by the owner or operator of the premises to provide at ~~his~~their expense additional off-street parking, security personnel, off-duty police personnel, screening and buffering from nearby properties. The City Manager may also require a cash bond in an amount ~~he/she~~they deems appropriate. The maximum bond amount that can be levied shall be established by resolution of the City Commission. No bond as provided herein will be forfeited unless the City Manager has determined that the conditions which have been required have not been performed.

The granting of a special permit to a particular licensee has been and continues to be a privilege subject to modification or termination by the City Manager each year at renewal time, and no person may reasonably rely on a continuation of that privilege.

The licensee shall be deemed the owner of an establishment for which application has been made and any transfer of ownership or location shall necessitate a new application to be made pursuant to this section. Should an establishment owned by an entity transfer five (5) ~~per cent~~percent or more of its assets, said transfer shall be deemed to be a transfer of ownership, pursuant to this section.

- (3) *Renewals.* The renewal of any special permit shall be determined by the City Manager in the manner specified in subsection (2) above. Applications shall be received by July 15 of each year. Completed applications for renewal which are not received by the Development Services Department by July 15 of each year shall be subject to a late fee, established by resolution of the City Commission.

If prior to renewal time the city administration determines that any licensee has either violated a condition of renewal or is operating in a manner harmful to the public health, safety or welfare based upon the criteria specified in subsection (2) above, the City Manager may revoke the special permit issued. Written notice of the charges against the licensee shall be sent to the special permit holder. The permit holder shall have not more than 30 calendar days to send a written response those charges.

After consideration of the matter and allowing the licensee to respond to charges, the City Manager may revoke, modify or condition the special permit. The criteria to be used by the City Manager in such matters shall be the criteria specified in subsection (2) above. Should the license

or privilege be revoked, conditioned or modified, the licensee may seek review of such action, after three (3) months, before the City Manager. The City Manager may then modify or refuse to modify his/her action. Only one (1) such review shall be given within a twelve-month period.

No person, vendor or distributor of any place of business licensed under the provisions of this section or by the State of Florida, or any employee thereof, shall permit any person who is not a proprietor, licensed vendor or employee thereof to remain on the licensed premises beyond the legally authorized closing hour; provided however, if said premises are divided so that the portion of said premises where alcoholic beverages are kept, stored or dispensed is segregated by partition and locked doors after the legal hour, then such prohibition shall not apply.

(XII) *Reserved.*

(XIII) *Violations declared, prohibited; penalty.* It shall be unlawful for any person, firm or corporation to violate any of the provisions of this section or the state beverage laws incorporated herein; and said violation is declared to be a misdemeanor of the second degree, punishable as otherwise provided in the Florida Statutes.

(XIV) *Right of commission to recommend revocation and suspension of state licenses to state beverage department.* The City Commission retains the right to recommend to the state beverage department the revocation or suspension of any license upon cause appearing to the violation by any licensee of any of the laws of the State of Florida or of the United States or of any of the provisions of this section or ordinances of the City or of his maintaining a nuisance or unsanitary premises, disorderly conduct on the premises where such beverage business is conducted, or permitting loud and boisterous noises to be made or loud and disturbing music to be played on said premises.

(XV) *Exceptions to section provisions.* The following exceptions are made from the terms of this section or subsections as referred to:

- (1) Vendors holding licenses for off-premises sales of beer or malt beverages, wine, fortified wine or beverages made of fresh fruits, berries or grapes, either by natural fermentation or by natural fermentation with brandy added, including all sparkling wines, champagnes, combinations of the aforesaid beverages, vermouths and like products, shall not be subject to the distance restrictions contained in subsection (VIII) of this section.

The exemption from distance regulations granted by this subsection shall not, however, permit the issuance of alcoholic beverage licenses to those persons or places or establishments excepted, where said establishment is located in a zoning district as defined in the zoning classification ordinances of the city, unless said establishment qualifies as a previously existing nonconforming use in that district.

(XVI) *[Bottle clubs].* Bottle clubs, as defined in Florida Statute 561.01 as may be amended from time to time, are prohibited within the City of Margate.

(XVII) *Prohibition of minors.*

- (1) Definitions.

Establishment whose primary business is the sale and consumption of alcoholic beverages: A business where consumption of alcoholic beverages on the premises is permitted and where the sale of alcoholic beverages amounts to fifty (50) ~~per cent~~percent or more of the gross receipts of the business in any given month.

Adult: An individual over the age of ~~twenty-one~~(21) years.

Minor: An individual under the age of ~~twenty-one~~(21) years.

- (2) Minors unaccompanied by an adult are prohibited from entering establishments whose primary business is the sale and consumption of alcoholic beverages.

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- (3) In establishments whose primary business is not for the sale and consumption of alcoholic beverages, but where an area has been set aside or separated for the sale of alcoholic beverages, minors are prohibited from entering said area unless accompanied by an adult.

(XVIII) *Nuisance abatement related to establishments serving alcoholic beverages.*

- (1) Any place or premises serving alcoholic beverages pursuant to this chapter [appendix] may be declared to be a public nuisance, and such nuisance may be abated pursuant to the procedures provided in this section. The violations constituting a nuisance are as follows:
- (a) On more than two (2) occasions within a six-month period as a site of a violation of F.S. § 796.07;
 - (b) On more than two (2) occasions within a six-month period as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
 - (c) On one (1) occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one (1) occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
 - (d) By a criminal street gang for the purpose of conducting a pattern of criminal street gang activity as defined by [F.S.] § 874.03; or
 - (e) On more than two (2) occasions within a six-month period as the site of a violation of F.S. § 812.019 relating to dealing in stolen property.
- (2) An administrative board composed of the City Commission is hereby empowered to hear complaints regarding nuisances described in subsection (1). The administration of the City may bring a complaint before the City Commission after giving not less than three (3) calendar days' written notice of such complaint to the owner of the place or premises at ~~his or her~~their last known address. After the hearing, in which the Commission may consider any evidence, including evidence of the general reputation of the place or premises, and at which the owner of the premises or place shall have an opportunity to present evidence in his or her defense, the Commission may declare the place or premises to be a public nuisance as described in subsection (1).
- (3) If the City Commission declares the place or premises to be a public nuisance, it may enter an order requiring the owner of such place or premises to adopt such procedures as may be appropriate under the circumstances to abate any such nuisance, or it may enter an order immediately prohibiting:
- (a) The maintaining of the nuisance;
 - (b) The operating or maintaining of the place or premises, including the closure of the place or premises; or any part thereof; or
 - (c) The conduct, operation or maintenance of any business or activity on the premises which is conducive to such nuisance.
- (4) An order entered under subsection (3) shall expire after one (1) year or at such earlier time as is stated in the order.
- (5) An order entered under subsection (3) may be enforced pursuant to the procedure contained in F.S. § 120.69. However, no other section of F.S. chapter 120 shall be applicable.
- (6) The ~~C~~eity may bring a complaint under F.S. § 60.05 seeking temporary and permanent injunctive relief against any nuisance described in subsection (1).
- (7) As used in this subsection (XVIII), the term "controlled substance" includes any substance sold in lieu of a controlled substance in violation of F.S. § 817.563, or any imitation controlled substance defined in F.S. § 817.564.
- (8) The City Commission, upon a hearing and appropriate finding, may provide:
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- (a) For imposition of a fine on the establishment or place declared a nuisance, not to exceed ~~two hundred fifty dollars (\$250.00)~~ per day;
 - (b) Reasonable costs, including reasonable attorney's fees associated with investigations and hearings for public nuisances;
 - (c) Continuing jurisdiction for a period of one (1) year over any place or premises that has been declared to be a public nuisance;
 - (d) Fines for recurring violations may be made up to and including ~~five hundred dollars (\$500.00)~~ per day.

Orders of the Commission pursuant to this section shall be reduced to writing. The City Clerk, upon the order of the City Commission, shall record a certified copy of the order of the City Commission with the public records of Broward County. Recorded orders on public nuisances shall become liens against the real property that is subject to the order. Upon order of the City Commission, the lien may be foreclosed subject to a lien with recoverable costs including reasonable attorneys' fees associated with the recording of orders and foreclosure.

Section 3.23. Wireless communications facilities.

3.23.1. *Intent.* The goals of this article [section] are to:

1. Minimize the impacts of wireless communication facilities on surrounding land uses by establishing standards for location, structural integrity, and compatibility;
2. Avoid potential injury to persons and properties from tower failure and debris hazards through structural standards and setback requirements;
3. Preserve the scenic and visual character of the geographic area by encouraging the location, design and architectural treatment of wireless communication facilities to avoid the disruption of the natural and built environment, and to ensure harmony and compatibility with surrounding land use patterns;
4. Facilitate the provision of wireless communication services to residents, businesses, and visitors;
5. Provide a uniform and comprehensive framework for evaluating proposals for wireless communication facilities;
6. Encourage builders and tenants of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
7. Encourage the location and collocation of telecommunication equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional antenna support structures;
8. Accommodate the growing need and demand for telecommunication services;
9. Encourage coordination between suppliers and providers of telecommunication services;
10. Establish predictable and balanced codes governing the construction and location of wireless communications facilities, within the confines of permissible local regulations;
11. Establish review procedures to ensure that applications for wireless communications facilities are reviewed and acted upon within a reasonable period of time and in accordance with F.S. § 365.172;
12. Respond to the policies embodied in the Telecommunications Act of 1996, if applicable, in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting personal wireless services;
13. Encourage the use of public lands, buildings, and structures as locations for wireless communications infrastructure demonstrating concealed technologies and revenue generating methodologies;

3.23.2. *Definitions.* The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned: Any tower without any mounted transmitting and/or receiving antennas in continued use for a period of ~~one hundred eighty (180)~~ days or more.

Alternative structure: A structure that is not primarily constructed for the purpose of supporting antennas but on which one (1) or more antennas may be mounted. Alternative structures include, but are not limited to, buildings, water tanks, light stanchions, billboards, church steeples and electric power transmission towers.

Amateur radio tower: Any tower used for amateur radio transmissions consistent with the "Complete FCC U.S. Amateur Part 97 Rules and Regulations" for amateur radio facilities.

Ancillary structure: For the purposes of this section, any form of development associated with a wireless communications facility, including, but not limited to: foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports; however, specifically excluding equipment cabinets.

Antenna: Any apparatus designed for the transmitting and/or receiving of electromagnetic waves, including, but not limited to: telephonic, radio or television communications. Types of elements include, but are not limited to: omnidirectional (whip) antennas, sectionalized (panel) antennas, multi- or single-bay (FM and TV), yagi, or parabolic (dish) antennas.

Antenna array: A single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.

Antenna element: Any antenna or antenna array.

ASR: The antenna structure registration number as required by the FAA and FCC.

Antenna support facility: A vertical projection composed of metal or other material with or without a foundation that is designed for the express purpose of accommodating antennas at a desired height. Antenna support structures do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than ~~twenty (20)~~ feet. Types of support structures include the following: guy, lattice and monopole structures.

Base station: The electronic equipment utilized by the telecommunication provider(s) for the transmission and reception of radio signals.

Breakpoint technology: The engineering design of a monopole wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least five (5) per cent more susceptible to failure than any other point along the monopole so that in the event of a structural failure of the monopole, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the monopole.

Collocation: The practice of installing and operating multiple wireless service providers, and/or radio common carrier licensees on the same antenna support structure or attached wireless communication facility using different and separate antenna, feed lines and radio frequency generating equipment.

Combined antenna: An antenna or an antenna array designed and utilized to provide services for more than one (1) wireless provider, or a single wireless provider utilizing more than one (1) frequency band or spectrum, for the same or similar type of services.

Concealed: A tower, ancillary structure, or equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building (s) and uses on a site. There are two (2) types of concealed facilities: (1) antenna attachments and (2) freestanding.

1. Examples of concealed attached facilities include, but are not limited to, the following: painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure.

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2. Freestanding concealed towers usually have a secondary, obvious function which may be, but is not limited to, the following: church steeple, windmill, bell tower, clock tower, light standard, flagpole with or without a flag, or tree.

DRC: The City of Margate Development Review Committee.

Equipment compound: The fenced area surrounding the ground-based communication facility including the areas inside or under the following: an antenna support structure's framework and ancillary structures such as equipment necessary to operate the antenna on the tower that is above the base flood elevation including: cabinets, shelters, pedestals, and other similar structures.

Equipment cabinet: Any structure above the base flood elevation including cabinets, shelters, pedestals, and other similar structures. Equipment cabinets are used exclusively to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

Extraordinary conditions: Subsequent to a hurricane, flood, or other natural hazard or subsequent to a defective finding on a previous inspection.

FAA: The Federal Aviation Administration.

FCC: The Federal Communications Commission.

Feed lines: Cables used as the interconnecting media between the transmission and/or receiving base station and the antenna.

Flagpole concealed facility: A concealed facility which has a federal, state or local jurisdiction flag attached to it as part of the concealment efforts.

Flush-mounted: Any antenna or antenna array attached directly to the face of the support structure or building such that no portion of the antenna extends above the height of the support structure or building. Where a maximum flush-mounting distance is given, that distance shall be measured from the outside edge of the support structure or building to the inside edge of the antenna.

Guyed tower: A style of antenna support structure consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.

Geographic search ring: An area designated by a wireless provider or operator for a new base station, produced in accordance with generally accepted principles of wireless engineering.

Handoff candidate: A wireless communication facility that receives call transference from another wireless facility, usually located in an adjacent first "tier" surrounding the initial wireless communications facility.

Lattice structure: A tapered style of antenna support structure that consists of vertical and horizontal supports with multiple legs and cross-bracing, and metal crossed diagonal strips or rods to support antennas.

Least visually obtrusive profile: The design of a telecommunication facility intended to present a visual profile that is the minimum profile necessary for the facility to properly function.

Wireless master plan: A plan developed for the City of Margate by the city's telecommunications consultant intended to enforce the planning and zoning issues of the city while complying with all applicable laws, rules, and mandates of all governing bodies.

Microcell facility: A wireless communications facility consisting of an antenna (as defined above) and related equipment which is located either on a tower or affixed to a structure in some fashion for the provision of wireless services.

Microwave dish antenna: A dish-like antenna used to link wireless service sites together by wireless transmission of voice or data.

Mitigation: A modification of an existing antenna support structure to increase the height or to improve its integrity, by replacing or removing one (1) or several antenna support structure(s) located in proximity to a proposed new antenna support structure in order to encourage compliance with this section or improve aesthetics or functionality of the overall wireless network.

Monopole structure: A style of freestanding antenna support structure consisting of a single shaft usually composed of two (2) or more hollow sections that are in turn attached to a foundation. This type of antenna support structure is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof.

Monopole tower: A tower consisting of a single pole or spire self-supported by a permanent foundation, constructed without guy wires and ground anchors.

Nonconcealed: A wireless communication facility that is readily identifiable as such and can be either freestanding or attached.

Panel antenna: A grouping of antennas designed for signal gain.

Personal wireless service: Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Telecommunications Act of 1996.

Public safety communications equipment: All communications equipment utilized by a public entity for the purpose of ensuring the safety of the citizens of the city and operating within the frequency range of 150 MHz, 450 MHz, 700 MHz and 1,000 MHz and any future spectrum allocations at the direction of the FCC.

Radio frequency emissions: Any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, antenna support structure, building, or other vertical projection.

Replacement: The removal of an existing tower for purposes of erecting a new tower of nearly equal dimensions usually for the purposes of improving structural integrity.

Roofline: The overall ridge line of the structure which does not include cupolas, elevator towers, clock towers or other features that are permitted to exceed the maximum height of the building.

Satellite earth station: A single or group of parabolic (or dish) antennas mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration. A satellite earth station may include the associated separate equipment cabinets necessary for the transmission or reception of wireless communications signals with satellites.

Self-support lattice tower: A tapered structure broad at the base and more narrow at the top consisting of cross-members and diagonal bracing and without guyed support.

Structure: Anything constructed or erected, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground, including advertising signs.

Tower: Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of a tower or towers, an antenna or group of antennas, transmission cables, and equipment cabinets, and may include an antenna support structure.

Tower base: The foundation, usually concrete, on which the tower and other support equipment are situated. For measurement calculations, the tower base is that point on the foundation reached by dropping a perpendicular line from the geometric center of the tower.

Tower height: The vertical distance measured from the grade line to the highest point of the tower, including any antenna, lighting, lightning protection or other equipment affixed thereto.

Tower site: The land area that contains, or will contain, a proposed tower, support structures and other related buildings and improvements.

Waiver: A modification of the terms of this section where, owing to conditions peculiar to the property, a literal enforcement of this section would result in an unnecessary hardship. A waiver shall be reviewed and issued by the city commission.

Wireless broadband facility: A subtype of wireless communications facility that is an unstaffed location for the wireless transmission and/or reception of broadband data services exclusively, usually consisting of a tower, an antenna or group of antennas, transmission cables, and equipment cabinets, and may include an antenna support structure.

Wireless communications facility: A staffed or unstaffed location for the wireless transmission and/or reception of voice/data services, including new, mitigated, or existing towers, antenna support structures, public antenna support structures, replacement antenna support structures, collocation on existing antenna support structures, attached wireless communications facilities, concealed wireless communication facilities, and nonconcealed wireless communication facilities. Antenna support structures do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than ~~twenty~~ (20) feet. Types of support structures include, but are not limited to, guyed, lattice, monopole, and other similar type towers, utility distribution poles, and water tanks.

Whip antenna: A cylindrical antenna that transmits and/or receives signals in ~~three hundred sixty~~ (360) degrees.

3.23.3. *Tower siting in certain zoning districts.* Freestanding towers shall be located in the following order of hierarchy:

- (1) City-owned property.
- (2) Utilities U-1 district.
- (3) Light industrial M-1 district.
- (4) Industrial park M-1A district.
- (5) Liberal business B-3 district.
- (6) Community business B-2 district.
- (7) ~~Transit oriented corridor TOC-C~~ eCorridor.
- (8) ~~Transit oriented corridor TOC-G~~ gGateway.
- (9) Recreational S-1 district.
- (10) Open space S-2 district.
- (11) Community facility CF-1 district.
- (12) ~~Transit oriented corridor TOC-CC~~ eCity eCenter.
- (13) Conservation CON district.

City-owned property shall take preference over privately owned property. If the proposed site is other than city-owned property, the applicant shall provide an affidavit stating that there is a demonstrated need for the placement of the facility at that location and that there is not a technically suitable location available to accommodate the need on city-owned property.

- (a) *City-owned property.* Freestanding towers shall be deemed a permitted use on any city-owned property in accordance with an executed lease agreement acceptable to the city. The city shall have no obligation whatsoever to execute such lease even if the applicant can meet the criteria set forth herein.

The city may, as appropriate, to protect its property and the public interest establish additional requirements beyond the minimum requirements of a permit for city-owned property. Setback

and distance requirements in Appendix A of the City of Margate Code may be, modified to the extent necessary to provide for the public interest as determined by the city commission. This provision further does not preclude the city from issuing a letter of interest for the purposes of leasing sites on designated city property for the construction and installation of wireless communications facilities. For designated city-owned property, the city will encourage the installation of wireless communications facilities which have a minimal impact on the surrounding areas and are consistent with the development of the affected area.

- (b) *[Freestanding towers as permitted use.]* Freestanding towers shall be deemed a permitted use in light industrial M-1 and industrial park M-1A districts subject to DRC approval meeting the requirements of the minimum standards for development of towers as specified in this ordinance.
- (c) *[Freestanding towers—Conditional.]* Freestanding towers shall be deemed conditional within the following zoning districts:
 - Recreational S-1 district;
 - Open space S-2 district;
 - Liberal business B-3 district;
 - Community business B-2 district;
 - Community facility CF-1 district;
 - ~~Transit oriented corridor TOC-C-e~~Corridor;
 - ~~Transit oriented corridor TOC-G g~~Gateway;
 - ~~Transit oriented corridor TOC-C-e~~City eCenter.

Each conditional use pursuant to paragraph (c) above shall be reviewed by the DRC and approval of the city commission obtained to determine if said conditional use is appropriate in the area where same is to be placed, based upon the criteria set forth herein including, but not limited to, the aesthetics of the proposed facility in conjunction with its surrounding physical environment. The city commission shall make specific written findings of fact regarding the approval or denial of the conditional use.

- (d) Towers as part of existing utility poles shall be permitted as a conditional use pursuant to paragraph (c) in the Florida Power and Light easement, used for major electric transmission that traverses the city in a north-south corridor approximately ~~two hundred eighty-five (285)~~ feet wide. Said area is parallel to and east of Rock Island Road. No freestanding towers constructed exclusively as a wireless communications facility shall be permitted other than as provided in paragraphs (a), (b), and (c). No additional rights other than provided herein shall be deemed created by this designation.
- (e) *Prohibitions.* The location of a new tower on a property other than those specified on (a), (b), (c) or (d) shall be prohibited, except as may be granted a waiver by the city commission due to unnecessary hardship or extenuating circumstances, and after consideration of the aesthetics of the proposed facility in connection with its surrounding physical environment; in particular, the applicant must demonstrate:
 - 1. That special conditions and circumstances exist which, if there is a literal and strict enforcement of the provisions of this section 3.23, would constitute a hardship or practical difficulty in the use of the property involved; and
 - 2. Granting of the waiver will not be contrary to the public interest or the general purpose sought to be accomplished by this section 3.23. The city commission shall make specific

written findings of fact regarding the circumstances and conditions constituting said hardship or circumstances prior to granting or denying such waiver.

- (f) *Time limit on project completion.* Once a wireless communications facility is approved by the city a building permit shall be obtained within six (6) months.

3.23.4. *Minimum standards for development of new towers.* All new towers must meet the following minimum standards:

- (a) *Tower types.* To minimize adverse visual impacts, tower types shall be selected based upon the following hierarchy:

- (1) Concealed monopole;
- (2) Monopole;
- (3) Self-support/lattice tower;
- (4) Guyed tower.

The applicant shall be required to demonstrate, in a technical manner acceptable to the city commission, why each choice in the hierarchy cannot be used for the particular application in order to justify the selection of a tower type lower in the hierarchy.

- (b) *[Site development plan.]* Prior to the issuance of a building, electrical, engineering or a construction permit, a site development plan shall be presented to the DRC. Each application for a proposed tower shall include all requirements for site development plan approval as required in other sections of the City Code. To help ensure compatibility with surrounding land uses, each application for a proposed new tower shall include the following information:

1. A report and supporting technical data demonstrating that all antenna attachments and collocations including all potentially useable utility distribution towers and other elevated structures within the proposed service area, and alternative antenna configurations have been examined, and found unacceptable. The report shall include reasons existing facilities such as utility distribution and other elevated structures are not acceptable alternatives to a new freestanding tower. The report regarding the adequacy of alternative existing facilities or the mitigation of existing facilities to meet the applicant's need or the needs of service providers indicating that no existing wireless communications facility could accommodate the applicant's proposed facility shall consist of any of the following:
 - a. No existing wireless communications facility located within the geographic area meet the applicant's engineering requirements, and why.
 - b. Existing wireless communications facilities are not of sufficient height to meet the applicant's engineering requirements, and cannot be increased in height.
 - c. Existing wireless communications facilities do not have sufficient structural integrity to support the applicant's proposed telecommunications facilities and related equipment, and the existing facility cannot be sufficiently improved.
 - d. Other limiting factors that render existing wireless communications facilities unsuitable.
 2. Technical data included in the report shall include certification by a radio frequency engineer qualified to practice before the Federal Communications Commission or other qualified professional, which qualifications shall be included, regarding service gaps or service expansions that are addressed by the proposed tower, and accompanying maps and calculations demonstrating the need for the proposed tower.
 3. A map showing the designated search ring along with the exact location of the proposed wireless communications facility on a City of Margate zoning map.
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4. A radio frequency propagation ~~plot~~ indicating the coverage of existing wireless communications sites, coverage prediction, and design radius, together with a certification from the applicant's radio frequency (RF) engineer that the proposed facility's coverage or capacity potential cannot be achieved by any higher ranked alternative such as a concealed facility, attached facility, replacement facility, collocation, or new antenna support structure. NOTE: These documents are needed to justify a facility and to determine if the proposed location is the only or best one (1) in the designated geographic area of the proposed facility.
 5. An affidavit by a radio frequency engineer demonstrating compliance with subsection 3.23.3 (siting alternatives hierarchy). If a lower ranking alternative is proposed the affidavit must address why higher ranked options are not technically feasible, practical or justified given the location of the proposed wireless communications facility.
 6. One (1) original and two (2) paper copies plus one (1) digital copy in pdf format of a survey of the property completed by a registered professional surveyor, licensed in the State of Florida showing all existing uses, structures, and improvements.
 7. Three (3) sets (~~twenty-four-24~~ inch x ~~thirty-six-36~~ inch) of site plans, one (1) of which must be signed and sealed by a Florida registered Professional Engineer, plus one (1) digital copy in pdf format including antenna support structure elevations, landscape plans, maximum height of the proposed tower and antenna, including individual measurement of the tower base, the antenna support structure and lightning rod, structural designs that take into account the latest edition of the FBC, and preliminary grading plans, which may be included on site plans or separately submitted in equal quantities. The site plan shall identify adjacent land owners, land uses, height of principal building, size of lots, and existing zoning and land use designation.
 8. The site plan shall include deed book, and page and map book and page reference; name of project; scale, north arrow, vicinity map, zoning, watershed classification—per-cent coverage of lot to be impervious surface (if located in a designated watershed area; also delineate the location and classification of all major public or private streets and rights-of-way, driveways, public parking areas, pedestrian ways, trails and bikeways within ~~five hundred (500)~~ feet of property boundary, including zoning district boundaries, on a ~~twenty-four-24~~ inch x ~~thirty-six-36~~ inch sheet.
 9. Proof that a property and/or antenna support structure owner's agent has appropriate authorization to act upon the owner's behalf (if applicable). A signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards regarding interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the proposed wireless communications facility complies with FCC standards.
 10. A stamped or sealed structural analysis of the proposed antenna support structure prepared by a registered professional engineer licensed by the State of Florida indicating the proposed and future loading capacity of the antenna support structure is compliant with EIA/TIA 222G (as amended).
 11. The applicant shall provide a statement as to the potential visual and aesthetic impacts of the proposed tower and equipment on all adjacent residential zoning districts.
 12. All other documentation, evidence, or materials necessary to demonstrate compliance with the applicable approval criteria set forth in this ordinance.
 13. A written statement by a registered professional engineer licensed by the State of Florida specifying the design structural failure modes of the proposed facility.
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14. The applicant shall demonstrate that the following notice was mailed (via certified mail) to all other wireless service providers licensed to provide service within the city as indicated on the list of wireless service providers provided by the city:

"Pursuant to the requirements of Section 3.23, Appendix A, City of Margate Zoning Ordinance, we are hereby providing you with notice of our intent to meet with the City Staff in a pre-application conference to discuss the location of a freestanding wireless communications facility that would be located at _____ (physical address, latitude and longitude (NAD-83)). In general, we plan to construct a support structure of _____ feet in height for the purpose of providing _____ (type of wireless service). Please inform City staff if you have any desire for placing additional wireless facilities or equipment within 2 miles of our proposed facility. Please provide us with this information within twenty (20) business days after the date of this letter. Your cooperation is sincerely appreciated. Sincerely, (pre-application applicant, wireless provider)"

15. Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.
16. Prior to issuance of a building permit, proof of FAA compliance with subpart C of the Federal Aviation Regulations, part 77, and "Objects Affecting Navigable Airspace," if applicable.
17. A line of sight analysis which shall include the following information:
- An identification of significant existing natural and manmade features adjacent to the proposed tower location, to indicate those features that will provide buffering for adjacent properties and public rights-of-way;
 - An identification of specific points, measured ~~two-thousand (2,000)~~ feet north of the proposed tower, ~~one-thousand (1,000)~~ feet south of the proposed tower, and ~~five hundred (500)~~ feet east and west of the proposed tower from which the line of sight analysis is presented or the closest accessible public property from each of the above delineated points;
 - A graphic illustration of the visual impact of the proposed tower, at a scale that does not exceed five (5) degrees of horizontal distance, presented from specific points identified within the line of sight analysis;
- (c) *[Collocation.]* No new tower shall be built, constructed or erected in the city unless such tower is capable of accommodating, at a future date, additional wireless communications facilities owned by other persons and the tower owners agree to comply with subsection 3.23.N., existing towers. All new towers shall be designed and built to accommodate multiple users; at a minimum, monopole towers shall be able to accommodate two (2) users and at a minimum, self-support/lattice or guyed towers shall be able to accommodate three (3) users. As wireless technology advances, applicants may be required to construct facilities utilizing advancing technologies including, but not limited to, combined antennas when determined necessary for health, safety, welfare aesthetics, and compatible with providers technical, capacity and coverage requirements. The applicant shall state in any application for permit that it will, as a condition of issuance of the permit, accommodate antenna facilities of other providers, on a nondiscriminatory basis on terms which are reasonable in the industry unless the applicant can affirmatively demonstrate, based on verifiable objective data, why it cannot do so. Refusal to continually comply with this obligation shall be a violation of this section and shall be grounds for revoking applicant's permit.
- (d) *[Written statement required.]* In order to facilitate the regulation, placement, and construction of an antenna, and to ensure that all parties are complying to the fullest extent possible with the rules, regulations, and/or guidelines of the FCC, each owner of an antenna, antenna array or applicant for a new wireless communications facility or a collocation (in addition to the requirements of subsection 3.23.N.) shall agree in a written statement to the following:
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1. Compliance with "good engineering practices" as defined by the FCC in its rules and regulations.
 2. Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).
 3. In the case of an application for collocated wireless communications facilities, the applicant, together with the owner of the subject site, shall use their best efforts to provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with the city's public safety communications equipment and will implement appropriate technical measures, as described in antenna element replacements, to attempt to prevent such interference.
 4. Whenever the city has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one (1) or more antenna arrays, the following steps shall be taken:
 - a. The city shall provide notification to all wireless service providers operating in the city of possible interference with the public safety communications equipment, and upon such notifications, the owners shall use their best efforts to cooperate and coordinate with the city and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Best Practices Guide," released by the FCC in February 2001, including the "Good Engineering Practices," as may be amended or revised by the FCC from time to time.
 - b. If any equipment owner fails to cooperate with the city in complying with the owner's obligations under this section or if the FCC makes a determination of radio frequency interference with the city public safety communications equipment, the owner who failed to cooperate and/or the owner of the equipment which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the city for all costs associated with ascertaining and resolving the interference, including, but not limited to, any engineering studies obtained by the city to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "Best Practices Guide" within ~~twenty-four (24)~~ twenty hours of city's notification.
 - (e) *Access.* A parcel of land upon which a tower is located must provide access during normal business hours to at least one (1) paved vehicular parking space on site.
 - (f) *[Compliance with radio frequency emission standards.]* Each application for a wireless communications facility may be required to include a statement that there is no objection from other federal or state agencies that may regulate wireless communications facility siting, design and construction. All proposed wireless communication facilities shall comply with current radio frequency emissions standards of the FCC, or other legally regulating body.
 - (g) *[Waiver of requirements.]* Requirements in this section may be waived where it is determined that based upon site, location or facility, such waiver is in the best interest of the health, safety, welfare or aesthetics of the city and in the best interest of wireless communication service to the community.
 - (h) *Notice of public notification.* Notice of an application for a conditional use permit shall be sent via certified mail to all property owners within a ~~one-hundred-100~~ one-hundred foot radius of the affected property. The applicant shall pay ~~a fee of two hundred fifty dollars (\$250.00) as well as all of~~ the costs associated with the certified mailing.

3.23.5. *Height/setbacks and related location requirements.*

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- (a) The height of a tower shall not exceed ~~one hundred fifty (150)~~ feet not including nonstructural lightning rods and required safety lightning. Tower height shall be measured from the crown of the road of the nearest public street.
 - (b) Towers shall at a minimum conform with the setback established for the underlying zoning district; the minimum setback from water, sewer, fiber, and storm-water facilities shall be 10 feet. -
 - (c) Monopole, lattice or guyed towers shall not be permitted within two hundred (200) feet of any residential district or use.
 - (d) Monopole, lattice or guyed towers shall not be located within ~~seven hundred fifty (750)~~ feet of any existing monopole, lattice or guyed tower.
 - (e) All buildings and other structures to be located on the same property as a tower shall conform with the setbacks established for the underlying zoning district.
 - (f) The minimum tower separation distance shall be calculated and applied irrespective of city jurisdictional boundaries.
 - (g) The provisions of this section may be waived where it is determined that based upon site, location or facility, such waiver is in the best interest of the health, safety, welfare or aesthetics of the city or compliance with other regulations, and in the best interest of wireless communication service to the community provided that the proposed tower utilizes "breakpoint" technology at a height on the tower which is acceptable to the city.

3.23.6. *Buffering.*

- (a) An eight-foot-high fence or wall, as measured from the finished grade of the site, shall be required around the base of any tower and may be required around any accessory buildings or structures. In no case will barbed wire or razor wire fencing be permitted. Access to the tower shall be through a locked gate.
- (b) Landscaping, consistent with the requirements of chapter 23 of the City Code, shall be installed around the entire perimeter of any fence or wall. Additional landscaping may be required around the perimeter of a fence or wall and around any or all anchors or supports if deemed necessary to buffer adjacent properties. The city may require landscaping in excess of the requirements of the City Code in order to enhance compatibility with adjacent properties.
- (c) Landscaping consistent with perimeter and on-site requirements of chapter 23 of the City Code shall be installed around any accessory buildings or structures.

3.23.7. *High voltage, "no trespassing" and other warning signs.*

- (a) If high voltage is necessary for the operation of the wireless communications facility or any accessory structures, "HIGH VOLTAGE—DANGER" warning signs shall be permanently attached to the fence or wall and shall be placed no more than ~~forty (40)~~ feet apart.
 - (b) "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than ~~forty (40)~~ feet apart.
 - (c) The letters for the "HIGH VOLTAGE—DANGER" and "NO TRESPASSING" warning signs shall be at least six (6) inches in height. The two (2) warning signs may be combined into one (1) sign. The warning signs shall be installed at least five (5) feet above the finished grade of the fence.
 - (d) The warning signs may be attached to freestanding poles if the content of the signs may be obstructed by landscaping.
 - (e) Signs noting ASR number (if required) shall be attached to the tower structure in compliance with federal regulation.
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3.23.8. *Equipment storage.* Mobile or immobile equipment not used in direct support of a wireless communications facility shall not be stored or parked on the site of the wireless communications facility, unless repairs to the facility are being made. Portable emergency generators may be temporarily located at a wireless communications facility in the event of a power outage but must be removed upon resumption of power. Portable "crank-up" or otherwise mobile wireless communications facilities may not be located at a wireless communications facility.

3.23.9. *Removal of abandoned or unused facilities.* All abandoned or unused wireless communications facilities shall be removed by the tower owner/operator within ~~ninety (90)~~ days of the cessation of use. A tower shall be considered abandoned if use has been discontinued for ~~one hundred eighty (180)~~ consecutive days. Towers being utilized for other purposes, including but not limited to light standards and power poles, may be exempt from this provision where superseded by the requirements of other county, state or federal regulatory agencies.

3.23.10. *Signs and advertising.* The use of any portion of a tower for signs or advertising purposes, including company name, banners, streamers, etc., shall be strictly prohibited.

3.23.11. *Ancillary structures.* All ancillary structures shall meet all building design standards as listed in this Code and in accordance with the provisions of the South Florida Building Code, latest Broward County Edition. All accessory buildings or structures shall require a building permit.

Accessory structures shall be designed to resemble the basic design of the principal use or be designed to resemble the neighborhood's basic building design. In no case will metal exteriors be allowed for ancillary buildings.

3.23.12. *Colors-Aesthetic design.* Except where superseded by the requirements of other county, state, or federal regulatory agencies possessing jurisdiction over wireless communications facilities, towers shall be painted or constructed in neutral colors, and may include other decorative features designed to blend into the surrounding environment ~~and consistent with the adopted nonresidential color palette.~~

3.23.13. *Inspection report required.*

- (a) Wireless communication facility owners shall submit a report to the Department of Development Services certifying structural and electrical integrity once every two (2) years.
- (b) Inspections shall be conducted by an engineer licensed to practice in the State of Florida. Based upon the results of an inspection, the Director of the Department of Development Services may require repair or removal of a wireless communication facility.
- (c) The city may conduct periodic inspections with the cost of such inspection paid by the owner of the wireless communications facility to ensure structural and electrical integrity. The owner of the wireless communication facility may be required by the city to have more frequent inspections if there is evidence that the wireless communications facility has a safety problem or is exposed to extraordinary conditions.

3.23.14. *Existing towers.*

- (a) All wireless communications facilities that existed on July 2, 1997, (the effective date of this section) which did not meet the requirements of this section shall be considered legally nonconforming under this section and allowed to continue their legal usage as they existed at that time, with the exception of federal regulations relating to the health and safety of exposure levels as defined by the Occupational Safety and Health Act as amended and radio frequency (RF) exposure levels as defined by FCC regulations. Any modification of a legal nonconforming wireless communications facility (except as set forth in subsection (b) below) must be made by submittal of information required by subsection 3.23.4 and review and approval of the DRC. Further review and approval of the city commission is not required. New construction other than routine maintenance on an existing wireless communications facility shall comply with the requirements of this section.

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- (b) Notwithstanding the provisions of subsection (a) above, new or replacement antennas that do not cause an increase in the height or width of a tower or increase the size of the equipment compound may be placed on existing wireless communications facilities with sufficient loading capacity without review and approval of the DRC, but after review and approval by the director of development services, upon submittal of the following information:
1. A description of the proposed modifications to the antenna, including modifications to antenna element design, type and number, as well as changes in the number and/or size of any feed lines, from the base of the equipment cabinet to such antenna elements.
 2. A signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards relating to interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement or additional antenna(s) complies with FCC standards relating to human exposure to RF energy.
 3. A stamped or sealed structural analysis of the existing structure prepared by a registered professional engineer licensed by the State of Florida indicating that the existing antenna support structure as well as all existing and proposed appurtenances meets Florida Building Code (FBC) requirements (including wind loading) for the antenna support structure.
 4. Any replacement or addition that otherwise would be processed under this subsection (b) but which increases the height or width of the subject tower or increases the size of the applicable equipment compound shall require review in accordance with subsection 3.23.14(a) above.
- (c) Any owner upon whose parcel of land a tower is located, which contains additional capacity for installation or collocation of wireless communications facilities, shall allow other persons to install or collocate wireless communications facilities (including, but not limited to, wireless broadband facilities) on such a tower subject to reasonable terms and conditions negotiated between the parties.
- (d) An existing tower may be modified to accommodate collocation of additional wireless communications facilities as follows:
1. Application for a development permit shall be made to the DRC which shall have the authority to issue a development permit without further approval by the city commission.
 2. The total height of the modified tower and wireless communications facilities attached thereto shall not exceed the premodification height approved for that location.
 3. A tower that is being rebuilt to accommodate the collocation of additional wireless communications facilities may be moved on site subject to the setback requirements of the zoning district where the tower is located.
 4. The tower that is relocated on site shall continue to be measured from the original tower location for the purpose of calculating the separation distances between towers as provided herein.
 5. Additional antennas, communication dishes and similar receiving or transmission devices to an existing facility proposed for attachment to an existing tower, shall require review and approval by the director of development services as set forth in subsection (b) above. The application for approval to install additional antennas shall include all of the requirements specified in subsection (b) above. A visual impact analysis shall be included as part of the application for approval to install one (1) or more additional devices to an existing tower. Applicants must still meet all requirements of subsection (b) above, prior to construction.

3.23.15. Permit fees, application and inspection fees required.

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- (a) *Permit required.* No construction shall be started until a permit to construct has been granted by the city building department. At the time of filing the construction drawings and documents referred to herein, the developer or owner or applicant shall provide a detailed cost analysis of the cost of construction of the wireless communications facilities covered by this section. The applicant, developer, or owner shall pay the City of Margate permit fees in accordance with chapter 9, article II, Fees, section 9-21, Schedule of permit fees, of the City Code.

- (b) *Application fee required.* ~~A filing fee in the amount of four thousand dollars (\$4,000.00) shall be submitted to the DRC for any application made pursuant to this section 3.23. In addition, a biennial inspection fee of one thousand dollars (\$1,000.00) is due the city at the time of inspection.~~

A filing fee in the amount as specified in the Fee Schedule adopted by Resolution of the City Commission of the City of Margate, shall be submitted to the DRC for any application made pursuant to this section 3.23. In addition, a biennial inspection fee as specified in the Fee Schedule adopted by Resolution of the City Commission of the City of Margate, is due the city at the time of inspection.

3.23.16. *Maintenance.*

- (a) Providers shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
- (b) Providers shall install and maintain towers, wireless communications facilities, wires, cables, fixtures and other equipment in compliance with the requirements of the National Electric Safety Code and all FCC, state and local regulations, and in such manner that will not interfere with the use of other property.
- (c) All towers, wireless communications facilities and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person. Owners with flagpole concealed facilities shall, as part of maintenance required herein, repair or replace flags which comprise part of the concealment technology not less than every six (6) months and more often when such flags show visible signs of damage or wear. Failure to undertake such maintenance as required herein and by applicable federal law shall result in citation(s) of noncompliance.
- (d) All maintenance or construction on a tower, wireless communications facilities or antenna support structure shall be performed as provided by law.
- (e) All towers shall maintain compliance with current radio frequency emissions standards of the FCC.
- (f) In the event any portion of the use of the tower is discontinued by any provider, that provider shall provide written notice to the city of its intent to discontinue use and the date when the use shall be discontinued.

3.23.17. *Antennas not located on towers.*

- (a) *[Conditional uses.]* Concealed and nonconcealed rooftop or building-mounted antennas not exceeding twenty (20) feet above roofline and not exceeding ten (10) feet above maximum height of applicable zoning district shall be permitted as a conditional use only as an accessory use in the following districts:
1. City-owned property.
 2. Light industrial M-1 district.
 3. Industrial park M-1A district.
 4. Liberal business B-3 district.
 5. Community business district B-2 district.
 6. ~~Transit-oriented corridor TOC-C~~ Corridor district.

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7. ~~Transit oriented corridor TOC-G-g~~ Gateway district.
 8. Recreational S-1 district.
 9. Open space S-2 district.
 10. Community facility CF-2 district.
 11. Community facility CF-1 district.
 12. ~~Transit oriented corridor TOC-CC e~~ City center district.

The city commission shall make specific written findings of fact regarding the approval or denial of the conditional use.

- (b) *[City-owned property preferred location.]* City-owned property shall take preference over privately owned property. If the proposed site is other than city-owned property, the applicant shall provide an affidavit stating that there is a demonstrated need for the placement of the facility at that location and that there is not a technically suitable location available to accommodate the need.
 1. Concealed and nonconcealed rooftop or building-mounted antennas shall be deemed a permitted use on any city-owned alternative structures in accordance with an executed lease agreement acceptable to the city. The city shall have no obligation whatsoever to execute such lease even if the applicant can meet the criteria set forth herein. The city may, as appropriate, to protect its property and the public interest, establish additional requirements beyond the minimum requirements of a permit for city-owned alternative structures property. Setback and distance requirements in Appendix A of the City of Margate Code may be, modified to the extent necessary to provide for the public interest as determined by the city commission. This provision further does not preclude the city from issuing a letter of interest for the purposes of leasing sites on designated city property for the construction and installation of telecommunications facilities. For designated city-owned alternative structures, the city will encourage the installation of wireless communications facilities which have a minimal impact on the surrounding areas and are consistent with the development of the affected area.
- (c) *Minimum standards.* Buildings or rooftop antennas shall be subject to the following standards:
 1. No commercial advertising shall be allowed on an antenna;
 2. No signals, lights, or illumination shall be permitted on an antenna, unless required by the FCC or the FAA;
 3. Any related unmanned equipment building shall not contain more than ~~seven hundred fifty (750)~~ square feet of gross floor area or be more than ~~twelve (12)~~ feet in height;
 4. If the equipment building is located on the roof of the building, the area of the equipment building shall not occupy more than ~~twenty-five (25)~~ per-cent of the roof area;
 5. Each application shall contain a rendering or photograph of the antenna including, but not limited to, colors and screening devices. This shall be subject to administrative approval for consistency with the definition of concealed facility;
 6. Antennas shall only be permitted on buildings which are at least two (2) stories in height;
 7. Antennas may not exceed more than ten (10) feet above the highest point of a roof. Concealed antennas attached to but not above rooftop structures shall be exempt from this provision;
 8. Antennas and related equipment buildings shall be located or screened to minimize the visual impact of the antenna upon adjacent properties and shall be of the material or color which matches the exterior of the building or structure upon which it is situated;

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9. When located on building facade, building-mounted antennas shall be painted and texturized to match the existing building;
 10. Requirements in this section may be waived where it is determined that based upon site, location or facility, such waiver is in the best interest of the health, safety, welfare or aesthetics of the city and in the best interest of telecommunication service to the community. Applications entitled to the streamlined processes described in F.S. § 365.172(12) shall satisfy the requirements of subsection 3.23.24.
- (d) *Antenna types.* To minimize adverse visual impacts, antenna types shall be selected based upon the following hierarchy:
1. Panel;
 2. Dish;
 3. Whip.
- If a nonconcealed antenna(s) is proposed, the applicant shall be required to demonstrate why each choice in the hierarchy cannot be used for the particular application in order to justify the selection of an antenna type lower in the hierarchy. This does not preclude a combination of the various types of antennas.
- (e) *Antenna dimensions.* A statement shall be submitted, prepared by a professional registered engineer licensed to practice in the State of Florida, and competent to evaluate suitability of antennas types, to certify the need for required dimensions.
- (f) *Aircraft hazard.* Prior to the issuance of a building permit, the application shall provide evidence that the wireless communications towers or antennas are in compliance with (FAA) regulations. Where an antenna will not exceed the highest point of the existing structure upon which it is mounted, such evidence shall not be required.

3.23.18. Shared use of towers.

- (a) Notwithstanding any other provision of this article, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of facilities on existing or new towers shall be encouraged by:
1. Only issuing permits to approved shared facilities at locations where it appears there may be more demand for towers than the property can reasonably accommodate; or
 2. Giving preference to approved shared facilities over other facilities in authorizing use at particular locations.
 3. Participation in the wireless master plan as set forth in subsection 3.23.20 hereinbelow.
- (b) No development approval to develop, build, construct, or erect a tower pursuant to this section shall be granted to any person on the basis that it is economically unfeasible for such person to collocate or install its wireless communications facilities on a tower or antenna support structure owned by another person.
- (c) Collocation of wireless communications antennas by more than one (1) provider on existing or new towers shall take precedence over the construction of new single-use towers. Accordingly, each application for a tower shall include the following:
1. A written evaluation of the feasibility of sharing a tower, if appropriate towers are available. The evaluation shall analyze one (1) or more of the following factors:
 - a. Structural capacity of the towers;
 - b. Radio frequency interference;

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- c. Geographical search area requirements;
 - d. Mechanical or electrical incompatibility;
 - e. Inability or ability to locate equipment on the tower or towers;
 - f. Availability of towers for collocation;
 - g. Any restrictions or limitations of the FCC that would preclude the shared use of the tower;
 - h. Additional information requested by the city.
2. The city may deny an application if an available collocation is feasible and the application is not for such collocation.
 3. For any tower approved for shared use, the owner of the tower shall provide notice of the location of the tower.
 4. Requirements in this section may be waived where it is determined that based upon site, location, or facility, such waiver is in the best interest of the health, safety, welfare, or aesthetics of the city and in the best interest of wireless communication service to the community.
- (d) Applications under this subsection that are entitled to the streamlined processes described in F.S. § 365.172(12) shall meet all of the requirements set forth in subsection 3.23.24.

3.23.19. *Satellite earth station (SES).*

- (a) *[Compliance standards.]* Satellite earth stations which are larger than one (1) meter (39.37 inches), intended to receive signals from orbiting or geo-stationary satellites and other sources, or to link wireless service sites together by wireless transmission of voice or data shall comply with the following provisions.

~~(b)~~ (1) *Single- and two-family residential standards.*

1. Rooftop SESs are prohibited.
2. An SES shall be considered an accessory structure; however, an SES shall be permitted within five (5) feet of a side and/or rear property line.
3. No SES shall be permitted within any front, corner, or street side yards. For lots having more than one (1) street yard, an SES shall be located in a side yard which does not abut a public or private right-of-way.
4. No SES shall exceed ~~fifteen~~ (15) feet in height. No dish shall exceed ten (10) feet in diameter.
5. Any SES located in a rear yard is hereby required to provide a visual screen from neighboring properties and any adjacent rights-of-way. Said screen may take the form of a dense hedge that meets the planting requirements of subsection 23-5(A)(3), or an opaque fence made of wood or vinyl, or a masonry wall.
6. There shall be no more than one (1) antenna as described in paragraph (1) on any single- and two-family ~~plot~~lot.

~~(c)~~ (2) *Nonresidential and multifamily standards.*

1. All SESs shall be ground-mounted and located in the rear yard so as not to be visible from any public right-of-way.
2. An SES may not be located in the rear yard if the rear lot line abuts a public right-of-way, lands zoned residential or S-1.
3. All SES equipment permitted by this section is hereby required to provide a visual screen from neighboring properties and any adjacent rights-of-way. Said screen may take the form of a dense

hedge that meets the planting requirements of subsection 23-5(A)(3), or an opaque fence made of wood or vinyl, or a masonry wall. Said screen material shall be planted or installed within ten (10) feet of the SES.

4. No SES shall exceed ~~twenty (20)~~ feet in height measured from grade. No dish shall exceed ~~fifteen (15)~~ feet in diameter.
5. Nonresidential SES's may be considered for roof installation provided that application is made to the DRC as a conditional use and same shall be granted or denied by the city commission of the City of Margate. Roof-mounted SES's must be screened by parapets that appear to be an integral part of the building so that not more than ~~twenty-five (25)~~ per-cent of the antenna height is visible from grade level of adjacent property and adjacent public or private rights-of-way. The city commission shall make specific written findings of fact regarding the approval or denial of the conditional use.
6. All SES's shall not be light reflective. Dish antennas shall not have any sign copy on them nor shall they be illuminated.
7. Each person wishing to place SESs in nonresidential and multifamily zoned property shall make application to the DRC as a conditional use and same shall be granted or denied by the city commission of the City of Margate.
8. There shall be no more than one (1) antenna as described in paragraph (a) on any ~~plot~~lot. However, where business is licensed by the city as a dealer of electronic equipment [such business] may have two (2) antennas as described in paragraph (a) for their ~~plot~~lot.

3.23.20. *Wireless master plan.*

- (a) The city has developed and adopted a wireless master plan ("plan"). Except as specifically provided herein, the terms of this ordinance, and the requirements established thereby, shall be applicable to all antenna support facilities to be developed or collocated on city-owned sites.
- (b) If an applicant requests a permit to develop a site on city-owned property, the permit granted hereunder shall not become effective until the applicant and the city have executed a written agreement or lease setting forth the particular terms and provisions under which the permit to occupy and use the public lands of the jurisdiction will be granted.
- (c) No permit granted under this section shall convey any exclusive right, privilege, permit, or franchise to occupy or use the publicly owned sites of the jurisdiction for delivery of wireless communications services or any other purpose.
- (d) No permit granted under this section shall convey any right, title or interest in the public lands, but shall be deemed a permit only to use and occupy the public lands for the limited purposes and term stated in the agreement between the lessor and lessee. Further, no permit shall be construed as a conveyance of a title interest in the property.

3.23.21. *Payment to the City of Margate for towers and antennas.* All monies received for the leasing of property of the City of Margate for telecommunication towers and antennas shall be deposited in the parks and recreation trust fund as provided for in subsection 29-30.E.(4) of the Margate City Code.

3.23.22. *Wireless broadband facilities.*

- (a) *[Location hierarchy.]* Wireless broadband facilities ("WBF") shall be located in the same order of hierarchy provided in subsection 3.23.3. City-owned property shall take preference over privately owned property. If the proposed site is other than city-owned property, the applicant shall provide an affidavit stating that there is a demonstrated need for the placement of the facility at that location and that there is not a technically suitable location available to accommodate the need on city-owned property.

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- (b) *City-owned property.* Freestanding WBF shall be deemed a permitted use on any city-owned property in accordance with an executed lease agreement acceptable to the city. The city shall have no obligation whatsoever to execute such lease even if the applicant can meet the criteria set forth herein. The city may, as appropriate, to protect its property and the public interest establish additional requirements beyond the minimum requirements of a permit for city-owned property. Setback and distance requirements in Appendix A of the City of Margate Code may be modified to the extent necessary to provide for the public interest as determined by the city commission. This provision further does not preclude the city from issuing a letter of interest for the purposes of leasing sites on designated city property for the construction and installation of WBF. For designated city-owned property, the city will encourage the installation of WBF which have a minimal impact on the surrounding areas and are consistent with the development of the affected area.
- (c) *[Permitted use.]* Wireless broadband facilities shall be deemed a permitted use in light industrial M-1 and industrial park M-1A districts subject to DRC approval meeting the requirements of the minimum standards for development of WBF as specified in this section.

- (d) *[Conditional use.]* Wireless broadband facilities shall be deemed conditional within the following zoning districts:

Recreational S-1 district;

Open space S-2 district;

Liberal business B-3 district;

Community business B-2 district;

Community facility CF-1 district;

Community facility CF-2 district;

~~Transit oriented corridor TOC-C e~~Corridor;

~~Transit oriented corridor TOC-G g~~Gateway;

~~Transit oriented corridor TOC-CC e~~City ~~e~~Center.

Each conditional use pursuant to this paragraph (d) shall be reviewed by the DRC and approval of the city commission obtained to determine if said conditional use is appropriate in the area where same is to be placed, based upon the criteria set forth herein. The city commission shall make specific written findings of fact regarding the approval or denial of the conditional use.

- (e) *[As part of existing utility poles.]* WBF as part of existing utility poles shall be permitted as a conditional use pursuant to paragraph (d) in the Florida Power and Light easement used for major electric transmission that traverses the city in a north-south corridor approximately ~~two hundred eighty five~~ {285} feet wide. Said area is parallel to and east of Rock Island Road. No freestanding towers constructed exclusively as a wireless broadband facility shall be permitted other than as provided in paragraphs (b) , (c) , and (d). No additional rights other than provided herein shall be deemed created by this designation. The city commission shall make specific written findings of fact regarding the approval or denial of the conditional use.
- (f) *Prohibitions.* The location of a new WBF on a property other than those specified on (b), (c), (d) or (e) shall be prohibited, except as may be granted a waiver by the city commission due to unnecessary hardship or extenuating circumstances.
- (g) *[Application requirements.]* Each application for a proposed WBF shall include all requirements for site development plan approval as required in other sections of the City Code. To help ensure compatibility with surrounding land uses, each application for a proposed new tower shall also include the information required by subsection 3.23.4(b) above.
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3.23.23. *Exempt facilities.* The following items are exempt from the provisions of this ordinance; notwithstanding any other provisions:

- (a) Amateur radio towers less than ~~seventy-five (75)~~ feet in height;
- (b) Any tower less than ~~thirty-five (35)~~ feet in height; or
- (c) Wireless communications towers existing or permitted prior to the adoption of this section shall be allowed to continue to operate provided they meet the requirements set forth in Ordinance No. 1500.453 et seq. at the time of final inspection, or shall be required to be brought into current standards upon the final inspection of any modifications, additions or upgrades.
- (d) Satellite earth stations that are one (1) meter (39.37 inches) or less in diameter in all residential districts and two (2) meters or less in all other zoning districts.
- (e) A government-owned wireless communications facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the city designee; except that such facility must comply with all federal and state requirements. No wireless communications facility shall be exempt from the provisions of this division beyond the duration of the state of emergency.
- (f) A government-owned wireless communications facility erected for the exclusive purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.
- (g) A temporary, commercial wireless communications facility, upon the declaration of a state of emergency by federal, state, or local government, or determination of public necessity by the city and approved by the city; except that such facility must comply with all federal and state requirements. The wireless communications facility may be exempt from the provisions of this division up to three (3) months after the duration of the state of emergency.
- (h) A temporary, commercial wireless communications facility, for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to approval by the city, except that such facility must comply with all federal and state requirements. Said wireless communications facility may be exempt from the provisions of this division up to one (1) week after the duration of the special event.

3.23.24. *Streamlined process.*

- (a) Applications entitled to the streamlined processes described in F.S. § 365.172(12), shall meet all the following requirements: When applicable, the applicant shall submit an affidavit stating that the application is entitled to the streamlined processes and identifying the specific statutory basis for such entitlement.
- (b) A collocation application entitled to streamlined processing shall be reviewed by the city within ~~forty-five (45)~~ business days of a completed submission, (or within some other mutually agreed upon timeframe). The city shall notify an applicant within ~~twenty (20)~~ business days of initial submission if there are any deficiencies relating to the application materials, otherwise the initial submission shall be deemed complete.
- (c) Approval or denial of the application shall be administratively determined by city staff without the necessity of a public hearing, shall be in writing and shall be postmarked to the applicant by the forty-fifth business day from the date of receipt. Denials shall identify the deficiencies in the application which, if cured, would make the application complete.
- (d) Upon resubmitting of the revised site plan and paperwork the city shall follow the process identified in (a) and (b) above until all deficiencies identified are deemed cured.
- (e) If the city does not respond in writing to the applicant within the specified timeframe detailed above, then the application shall be deemed approved.

Section 3.24. Temporary use permits.

- (A) *Permit required:* All outdoor temporary uses which are provided in this section shall be ~~conducted or set up~~ or erected only after obtaining a Temporary Use Permit (TUP) and all necessary building permits. The TUP shall not commence until all necessary inspections are approved. This section shall not override and shall not be a substitute for any other section of this Code which requires another type of permit, certificate, or approval.
- (B) *Review and approval:* An application for a TUP shall be submitted and reviewed in conformance with the procedures contained in this section. Notice and public hearing requirements shall not apply to TUPs. The payment of an application fee, established by the City Commission, shall be included with the application for a TUP. All tax-exempt organizations that qualify under Section 501 of the Internal Revenue Code are exempt from payment of the fee, except for those with 501c4 tax exempt status. TUP applications shall be reviewed and approved by the Development Services Department or the City Commission, as provided for in subsections (1) and (2) below, who may impose reasonable conditions upon the TUP.
- (1) *Administrative approval:* The establishment of the following uses shall require a TUP issued by the Development Services Department, with review from other City departments as necessary.
- (a) Temporary sales offices and model homes established for the express purpose of marketing a real estate development project with final site plan and Broward County Plat approval. The model homes and sales offices shall be located on contiguous parcels or lots and limited to the property that is being marketed for sales.
 - (b) Seasonal sales lots offering products such as Christmas holiday or seasonal trees, pumpkins, or flowers; provided, however, that no TUP shall be issued for sales within public rights-of-way or for more than forty-five 45 days, unless the City Commission grants an extension. Firework and sparkler sales shall be subject to approval from the -Department of Environmental and Engineering Services, Development Services Department, Building-Department of Building and Code Services, and Margate Fire Rescue Department ~~and Police Department approval.~~
 - (c) The City Commission may grant an extension of time for any TUP by application submitted to the Development Services Department subject to payment of double the fee for the initial application as specified on the fee schedule.
 - ~~(ee)~~ Walkway or parking lot sales by businesses having a City-issued Local Business Tax Receipt, with all such activities located within the property of those businesses and not in any right-of-way.
 - ~~(d) Mobile food truck sales by properly licensed and inspected businesses as part of a special event or in conjunction with a business having a City-issued Local Business Tax Receipt on the same property.~~
 - (ef) Farmers' markets.
 - (fg) Community garage sales.
 - (gh) Promotional events for businesses and community facilities having a City-issued Local Business Tax Receipt, which anticipate having fewer than 500 attendees at any given time. All such activities shall be located within the property of those businesses and community facilities and not in any right-of-way.
 - (hi) Block parties in residential areas with an anticipated attendance greater than 75 people but fewer than 500 people. Block parties in residential areas with an anticipated attendance of 75 people or fewer are not required to apply for a TUP, but must notify the Police Department seven calendar days in advance.
 - (ij) Political, religious, or social gatherings which anticipate having fewer than 500 attendees at any given time.
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- (2) *City Commission approval:* Applications for the following types of TUPs shall be transmitted to the Development Services Department for review and input by various City departments. Subsequent to administrative review, the Development Services Department shall schedule the application for review by the City Commission. The City Commission may approve the application by resolution and may impose reasonable conditions as necessary to ensure public safety and welfare:
- (a) Carnivals, fairs, and circuses.
 - (b) Promotional events for businesses and community facilities which anticipate having 500 or more attendees at any given time.
 - (c) Fireworks displays and shows.
 - (d) Other temporary uses or structures which in the opinion of the Development Services Department may require City Commission review.
 - (e) Block parties in residential areas with an anticipated attendance of 500 or more people.
 - (f) Political, religious, or social gatherings which anticipate having 500 or more attendees at any given time.
- (C) *Maximum time limit:* A maximum time limit shall be established for all TUPs based on the minimum amount of time needed to conduct the permitted activity.
- (1) TUPs related to real estate development projects shall not be maintained longer than the time necessary to complete the construction of the project (issuance of the final certificate of occupancy).
 - (2) Seasonal sales shall be limited to ~~4530 consecutive~~ calendar days.
 - (3) Walkway or parking lot sales shall be limited to seven ~~consecutive~~ calendar days.
 - (4) TUPs for all other events shall not be maintained longer than a total of 21 ~~consecutive~~ calendar days, such that an event may utilize up to three calendar days for set-up prior to the commencement of an event, up to 15 calendar days to hold the event, and up to three calendar days after the close of an event for tear down and clean-up.
 - (5) As an exception to the above, the Development Services Department may grant an extension to a TUP of not more than seven consecutive calendar days for unforeseen circumstances, such as natural disturbances, but not including economic hardships.
 - (6) All events approved by TUP shall close by 10:00 p.m., unless approved for a later time by the City Commission.
- (D) *Revocation of permits:* Any temporary use or structure which becomes a nuisance violates the conditions of the permit, endangers the public health or safety or is in violation of this Code shall be immediately subject to revocation by the City Manager.
- (E) *Exemptions:* A TUP will not be required for:
- (1) Any use or structure that is part of a construction project by or for the City; however, a building permit shall be required.
 - (2) Any outdoor event organized, operated, and funded either by the City or CRA that is held upon any City or CRA owned land.
 - (3) All tax-exempt organizations that qualify under Section 501 of the Internal Revenue Code are exempt from payment of the fee, except for those with 501c4 tax exempt status.
 - (d4) A temporary use permit shall not be required for a person or entity having a facilities rental agreement with the Department of Parks and Recreation for a specific purpose.
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(F) *General criteria and limitations:*

- (1) The temporary use must be compatible with the surrounding land uses.
- (2) Parking: A parking problem must not be created. If off-site parking is to be utilized, permission must be in writing from the subject property owner who must demonstrate that the parking requirement of the temporary use does not cause the loss of legally required parking spaces for the site, and provides ADA accessible parking.
- (3) Amount of TUPs: Each property shall be limited to four temporary use permits within a calendar year. An applicant may not conduct two or more events consecutively at one time. An applicant may not receive a TUP on the same property more than once per 30-day time period.
- (4) Applicants for a TUP requiring administrative approval per Section 3.24(B)(1) shall file an application with the Development Services Department at least 30 calendar days prior to said event, together with an application fee. Any applicant applying for a TUP requiring City Commission approval per Section 3.24(B)(2) shall submit an application with the Development Services Department at least 90 calendar days prior to such event. The applicant, at a minimum, must submit the following with the application:
 - (a) A notarized affidavit from the owner of the land where the event is to be held which grants permission for the event;
 - (b) A detailed description of the event, including dates, hours of operation, provision of water and/or electric service, access to restrooms, and the provision of security;
 - (c) A site plan providing detailed information about the site and the surrounding area(s) to be impacted, including a diagram of the event set-up, cooking areas, tents, vendors, seating areas, shows, parking areas, restroom facilities, garbage collection, and where any other activities are to take place;
 - (d) A hold harmless agreement indemnifying the City of any liability;
 - (e) Proof of insurance, including a certificate that names the City of Margate as additional insured; and
 - (f) Temporary Use Permit ~~A~~application ~~F~~ees:
 - i. ~~TUPs which require City Commission approval: \$250.00~~
 - ii. ~~All others: \$75.00~~shall be provided upon submission of a complete application as specified in the Fee Schedule adopted by Resolution of the City Commission of the City of Margate.
- (5) Additional information related to and including, but not limited to, signage, parking, traffic circulation, building and fire prevention regulations, appropriate food vendor or catering licenses from the Florida Department of Business and Professional Regulations, where applicable, shall be provided to ensure that the Margate Code of Ordinances is implemented properly for temporary uses.

Section 3.25. Burden of proof.

Unless otherwise specifically provided for in this Code, the applicant or appellee for any conditional use permit, variance, special exception, appeal, waiver, land use plan amendment or other ~~quasi-judicial~~ determination shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined by the ~~city~~City ~~Ce~~ommission in any quasi-judicial matter before the ~~city~~City ~~Ce~~ommission or any ~~B~~board or ~~Ce~~ommittee of the ~~Ce~~ity.

(Ord. No. 1500.454, § 1, 9-17-1997)

Section 3.26. Margate Community Redevelopment Plan.

Within the Margate Community Redevelopment Agency special district, ~~in~~ consideration of any rezoning, variance, waiver, special exception, conditional use, land use plan amendment or other ~~quasi-judicial~~ determination affecting zoning, the goals and objectives of the Margate Community Redevelopment Plan shall also be ~~considered met~~.

(Ord. No. 1500.462, § 1, 2-17-1999)

Section 3.27. ~~{~~Quasi-judicial determinations.~~}~~

- (a) For all rezonings, variances, waivers, special exceptions, conditional uses, or other quasi-judicial determinations affecting zoning, or any quasi-judicial matter related to the Margate Comprehensive Plan, the applicant shall attend the scheduled quasi-judicial determination or be represented during same.
- (b) Failure to comply with subsection (a) may be grounds for denial for the above quasi-judicial determination.
- (c) The above statement shall be provided to each applicant for every quasi-judicial determination upon notice of the scheduled quasi-judicial hearing.

(Ord. No. 1500.502, § 1, 11-30-2004)

Section 3.28. Emergencies—Temporary exceptions.

This section shall apply during any emergency ~~eaffecting~~ affecting the health, safety and welfare of the citizens of the City of Margate, as declared by the President of the United States, the Governor of the State of Florida, the Broward County Commission or its designee, or the City Commission of the City of Margate, or any other lawful authority, as determined by the City Manager or Acting City Manager of the City of Margate.

- (1) During the existence of any declared emergency, the City Manager or Acting City Manager may grant temporary exceptions for nonconforming use of buildings or lands from the Zoning Code of the City of Margate upon a written finding of the following:
 - (a) A temporary exception is deemed in the best interest of the health, safety and welfare of the citizens of the City of Margate; and
 - (b) A temporary exception is necessitated by the declared emergency.

Any exception granted by the City Manager may be revoked by resolution of the City Commission. Any exception granted pursuant to this subsection may continue only for such time as the emergency condition declared legally exists.

- (2) During the existence of any declared emergency, or within six (6) months subsequent to any declared emergency, the City Commission of the City of Margate may grant temporary exceptions for nonconforming use of buildings or lands from the Zoning Code of the City of Margate upon a finding of the following:
 - (a) A temporary exception is deemed in the best interest of the health, safety and welfare of the citizens of the City of Margate; and
 - (b) A temporary exception is necessitated by the declared emergency.
- (3) The temporary exceptions granted pursuant to subsection (2) of this section may continue for such time as provided in the determination of the City Commission, up to ~~one hundred eighty (180)~~ calendar days from the declared emergency. A temporary exception may be renewed for an additional ~~one hundred eighty (180)~~ calendar days upon findings as provided in subsections (2)(a) and (b) above. In no

event may a temporary exception continue in excess of ~~three hundred sixty (360)~~ days from the date that an emergency has been declared.

- (4) No person who is granted an exception pursuant to this section shall have the right to the continuation of said exception in excess of the duration of the time specifically provided for in this section. No property right, vested right, or estoppel is created pursuant to this section as any exception created herein is based only upon necessity created by a declared emergency, and is subject to termination by the City Commission and the terms of this section.

Section 3.29. Rooftop photovoltaic solar systems.

- (A) *Intent.* The provisions contained herein are intended to promote the health, safety, and general welfare of the citizens by removing barriers to the installation of alternative energy systems and encourage the installation of rooftop photovoltaic solar systems [pursuant to the U.S. Department of Energy Rooftop Solar Challenge Agreement Number DE-EE0005701 ("Go SOLAR - Broward Rooftop Solar Challenge") on buildings and structures within municipal limits. The provisions and exceptions contained herein are limited to web based applications for pre-approved rooftop photovoltaic solar system installations that utilize the Go SOLAR Broward Rooftop Solar Challenge permitting process.]
- (B) *Permitted accessory equipment.* Rooftop photovoltaic solar systems shall be deemed permitted accessory equipment to structures in all zoning districts. Nothing contained in this appendix, including design standards or guidelines included or referenced herein, shall be deemed to prohibit the installation of rooftop photovoltaic solar systems as accessory equipment to conforming and nonconforming building, including buildings containing nonconforming uses.
- (C) *Permits.* Prior to the issuance of a permit, the property owner(s) must acknowledge, as part of the permit application, that:
- (1) If the property is located in a homeowner's association, condominium association, or otherwise subject to restrictive covenants, the property may be subject to additional regulations or requirements despite the issuance of a permit by the city, provided those same regulations or requirements do not infringe upon a property owner's rights as provided for in F.S. § 163.04; and
- (2) The issuing of said permit for a rooftop photovoltaic solar system does not create in the property owner(s), its, his, her, or their successors and assigns in title, or create in the property itself a right to remain free of shadows and/or obstructions to solar energy caused by development adjoining on other property or the growth of any trees or vegetation on other property or the right to prohibit the development on or growth of any trees or vegetation on another property.
- (D) *Tree maintenance and removal.* To the extent that the city has discretion regarding the removal or relocation of trees, solar access shall be a factor taken into consideration when determining whether and where trees may be removed or relocated. Tree pruning, relocation, or removal shall be conducted in accordance with the provisions of Chapter 23 of the Margate Code of Ordinances.
- (E) *Maintenance.* The rooftop photovoltaic solar system shall be properly maintained and be kept free from hazards, including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare.

Section 3.30. Reasonable accommodation procedures.

- (A1) This section implements the policy of the City of Margate for processing of requests for reasonable accommodation to its ordinances, rules, policies, and procedures for persons with disabilities as provided by the Federal Fair Housing Amendments Act (42 USC 3601 et seq.) (FHA) and ~~title~~ Title II of the Americans with Disabilities Act (42 USC 12131 et seq.) (ADA).

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- (1) For purposes of this section, a "disabled" individual or person is an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA- ~~("Applicant")~~. Any person who is disabled (or qualifying entities) may request a reasonable accommodation with respect to the City's land use or zoning laws, rules, policies, practices and/or procedures as provided by the FHA and the ADA pursuant to the procedures set out in this section.
- (2B) A request by an ~~A~~applicant for reasonable accommodation under this section shall be made in writing by completion of a reasonable accommodation request form, which form is maintained by (and shall be submitted to) the Development Services Department.
- (1) The reasonable accommodation form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall be substantially in the form set forth in subsection (10), below.
- (3C) Should the information provided by the ~~disabled individual~~Applicant to the City include medical information or records, including records indicating the medical condition, diagnosis or medical history of ~~the disabled individual~~Applicant, such individual may, at the time of submitting such medical information, request that the City, to the extent allowed by law, treat such medical information as confidential information of the ~~disabled individual~~Applicant.
- (1) The City shall thereafter endeavor to provide written notice to the ~~disabled individual~~Applicant and/or their representative, of any request received by the City for disclosure of the medical information or documentation which the ~~disabled individual~~Applicant has previously requested be treated as confidential by the City.
- (2) The City will cooperate with the ~~disabled individual~~Applicant, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but the City shall have no obligation to initiate, prosecute or pursue any such action, or to incur any legal or other expenses (whether by retention of outside counsel or allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the ~~disabled individual~~Applicant.
- (4D) The ~~city~~Ceity Mmanager, or ~~his/her~~their designee, shall have the authority to consider and act on requests for reasonable accommodation, after notice and public hearing to receive comments, input and information from the public (provided, however, the ~~city~~Ceity Mmanager or designee, shall not be required to render their decision at said public hearing).
- (1) When a reasonable accommodation request form has been completed and submitted to the Development Services Department, it will be referred to the ~~city~~Ceity Mmanager, or designee, for review and consideration.
- (2) The ~~city~~Ceity Mmanager, or designee, shall issue a written determination within ~~forty-five (45)~~ calendar days of the date of receipt of a completed application and may, in accordance with federal law,
- (1i) grant the accommodation request,
- (2ii) grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request, or
- (3iii) deny the request, in accordance with federal law.
- (iv) Any amendment made to the application shall result in a new 45 day review time period.
- (v) Any such denial shall be in writing and shall state the grounds therefore.
- (vi) All written determinations shall give notice of the right to appeal.
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- (E) The notice of determination shall be sent to the requesting party (i.e. ~~he-the Applicant~~~~disabled individual~~ or ~~his/her/their~~ representative) by certified mail, return receipt requested.
- (1) If reasonably necessary to reach a determination on the request for reasonable accommodation, the ~~city-Ceity M~~anager, or designee, may, prior to the end of said ~~45 forty-five~~-day period, request additional information from the ~~requesting-partyApplicant~~, specifying in sufficient detail what information is required.
- (i) The ~~requesting-partyApplicant~~ shall have ~~fifteen-(15)~~ calendar days after the date of the request for additional information to provide the requested information.
- (ii) In the event a request for any additional information is made provided, the ~~forty-five-~~45-day period to issue a written determination shall no longer be applicable, and the ~~city-Ceity M~~anager, or designee, shall issue a written determination within ~~thirty-(30)~~ calendar days after receipt of the additional information.
- (iii) If the requesting party fails to provide the requested additional information within said ~~fifteen15~~-day period, the ~~city-Ceity M~~anager, or designee, shall issue a written notice advising that the ~~requesting-partyApplicant~~ had failed to timely submit the additional information and therefore the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by the City with regard to said reasonable accommodation request shall be required.
- (5F) In determining whether the reasonable accommodation request shall be granted or denied, ~~the-requesting partyApplicant~~ shall be required to establish that they are protected under the FHA and/or ADA by demonstrating that they are handicapped or disabled, as defined in the FHA and/or ADA.
- (1) Although the definition of disability is subject to judicial interpretation, for purposes of this ordinance the disabled individual must show:
- (i) a physical or mental impairment which substantially limits one or more major life activities; or
- (ii) a record of having such impairment; or
- (iii) that they are regarded as having such impairment.
- (2) Next, the requesting party will have to demonstrate that the proposed accommodations being sought are reasonable and necessary to afford handicapped/disabled persons equal opportunity to use and enjoy housing. The foregoing (as interpreted by the courts) shall be the basis for a decision upon a reasonable accommodation request made by the ~~city-Ceity M~~anager, or designee, or by the ~~city-Ceity Ce~~ommission in the event of an appeal.
- (6G) Within ~~thirty-(30)~~ calendar days after the ~~city-Ceity M~~anager's, or designee's, determination on a reasonable accommodation request is mailed to the requesting party, such applicant may appeal the decision.
- (1) All appeals shall contain a statement containing sufficient detail of the grounds for the appeal. Appeals shall be to the ~~city-Ceity Ce~~ommission who shall, after public notice and a public hearing, render a determination as soon as reasonably practicable, but in no event later than ~~sixty-(60)~~ calendar days after an appeal has been filed.
- (7H) There shall be no fee imposed by the City in connection with a request for reasonable accommodation under this section or an appeal of a determination on such request to the City Commission, and the City shall have no obligation to pay a ~~requesting-party'sApplicant's~~ (or an appealing party's, as applicable) attorneys' fees or costs in connection with the request, or an appeal.
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(8I) While a application for reasonable accommodation, or appeal of a determination of same, is pending before the City, the City will not enforce the subject zoning ordinance, rules, policies, and procedures against the Applicant.

(9J) The following general provisions shall be applicable:

(a1) The City shall display a notice in the City's public notice bulletin board (and shall maintain copies available for review in the Development Services Department, the Building Department, and the City Clerk's Office), advising the public that disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.

(b2) ~~AAn disabled individual -Applicant~~ may apply for a reasonable accommodation on his/her/their own behalf or may be represented at all stages of the reasonable accommodation process by a person designated by the ~~disabled individual~~Applicant.

(e3) The City shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with ~~aan Applicant's -disabled person's~~ request for reasonable accommodation, including, without limitation, assistance with reading application questions, responding to questions, completing the form, filing an appeal, and appearing at a hearing, etc., to ensure the process is accessible.

(10K) Contents of a Reasonable Accommodation Request Form:

1. Name of Applicant: _____
Telephone Number: _____
2. Address: _____
3. Address of housing or other location at which accommodation is requested:
4. Describe qualifying disability or handicap:
5. Describe the accommodation and the specific regulation(s) and/or procedure(s) from which accommodation is sought:
6. Reasons the reasonable accommodation may be necessary for the individual with disabilities to use and enjoy housing or other service:
7. Name, address and telephone number of representative, if applicable.
8. Other information:
9. Signature of ~~Disabled Individual~~Applicant or Representative, if applicable, or Qualifying Entity:
_____ Date: _____

Section 3.31. Roof materials for residential zoning districts.

(A) Intent. The provisions contained herein are intended to maintain and improve property values and the appearance of properties through the installation of quality roofing materials.

(B) Scope. This Section shall be applicable to all residential zoning districts or developments, including R-1A, R-1B, R-2, R-3, R-3A, PRC, PUD, and RVRP.

(C) Minimum standards for roof materials.

a. New construction.

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- i. Asphalt shingle, and polyurethane foam on sloped roofs over any finished roofing material are not permitted.
 - ii. Roofs shall be constructed of solar roof tile, cement tile, clay tile, metal, wood shingle, or other non-asphaltic-based roof material.
 - iii. Single-family attached, semi-attached, and duplex dwellings - Roofing material shall be of the same profile, material, and color hue so as to function as a singular and integrated structure.
 - iv. Roofs of multifamily apartments and condominiums will be reviewed for coordination with the overall building design.

b. Existing construction.

- i. Replacement of existing roofs shall be of the current material or higher quality material (such as from shingle to clay tile or from 3-tab shingles to architectural shingles).
- ii. All replacement roof material shall be of the same profile, material, and color hue as the rest of the roof.
- iii. Single-family attached, semi-attached, and duplex dwellings - Roofing material shall be of the same profile, material, and color hue so as to function as a singular and integrated structure.
- iv. Exceptions to this subsection shall only be allowed with an Engineer's Letter stating it is not structurally possible for all or portions of an existing roof to utilize a particular roof material.

ARTICLE XXXI. NONCONFORMING USE AND STRUCTURES

Section 31.1. ~~Existing uses.~~ Purpose.

~~Any lawful use of land or structure existing at the effective date of this zoning code, or amendments thereto, and which by its terms has become a nonconforming use, is hereby declared not to be in violation at the effective date of this zoning code, or amendments thereto. Such a nonconforming use shall be subject to all the provisions of this article pertaining to its continuance, change and discontinuance.~~

It is the purpose of this article to provide for the regulations of nonconforming uses and structures which existed lawfully (whether by special exception, variance, or otherwise) on the effective date of passage or amendment of this Code and which fail to conform to any of the applicable regulations contained herein. Nonconforming uses are deemed to be: incompatible with and detrimental to permitted uses and structures in the zones in which they are located; the cause of disruption of the comprehensive land use patterns of the city; an inhibition of present and future development of nearby properties; conferring upon their owners and users an absolute franchise and hence a position of unfair advantage. A rigid control on expansion and the eventual elimination or reduction to conformity, as expeditiously as is reasonable, of nonconforming uses or structures is declared to be as much a subject of health, safety and welfare as is the prevention of the establishment of new uses that would violate the provisions of this Code.

Section 31.2. Nonconforming use—Extensions.

The nonconforming use of a building or structure may not be extended through any part of a building or structure not so used at the effective date of this zoning code, or amendments thereto. No nonconforming use shall be extended to occupy any land outside the building or structure, nor any additional building or structure on the same ~~plot~~lot, not used for such nonconforming use at the effective date of this zoning code, or amendments thereto. The nonconforming use of land shall not be extended to any additional land not so used at the effective date of this zoning code, or amendments thereto.

Section 31.3. Same—Repair, alteration, enlargement.

(A) No structure utilized for a nonconforming use shall be enlarged, extended, reconstructed or structurally altered, unless the use is changed to one which complies with the provisions of this zoning code, or amendments thereto. Repairs, maintenance and improvement may be carried out in any one (1) year in an amount not to exceed ~~twenty-five (25) per cent~~percent of the assessed value as determined by the Broward County Property Appraiser of the structure for that year. However, such work shall not increase the cubical content of the building or structure, nor the floor area devoted to the nonconforming use, nor increase the number of dwelling units. Nothing in this article shall prevent compliance with applicable laws or resolutions relative to the safety and sanitation of a building or structure occupied by a nonconforming use.

(B) Except as otherwise provided in this Code, a building or structure which was lawfully constructed prior to the effective date of this chapter, as amended, but which does not conform to the current requirements of this Code, such as, but not limited to, minimum yards, maximum building height, minimum floor area or maximum lot coverage, shall not be considered in conflict with this chapter provided that the use of such building or structure remains otherwise lawful, provided that:

(1) No such building or structure shall be enlarged upon or altered in any way that increases a nonconformity. Such building or structure or portion thereof may be altered to decrease its nonconformity except as may be hereafter provided. Such nonconforming buildings or structures shall not be used as a basis for adding other buildings, structures or uses prohibited elsewhere in the same district.

(2) Should such building or structure be destroyed by any means to an extent of more than 50 percent of its assessed value at the time of destruction, as determined by the Broward County Property Appraiser, it shall not be reconstructed except in conformity with the provisions of this Code.

(3) Should such structure or building be moved for any reason for any distance whatever, it shall thereafter conform to the property development regulations for the district in which it is located after it is moved.

Section 31.4. Reconstruction after catastrophe.

If any nonconforming structure, or building in which there is a nonconforming use, is damaged by fire, flood, explosion, collapse, wind, war, or other catastrophe to such extent that the cost of rebuilding, repair and reconstruction will exceed ~~seventy-five (75) per cent~~fifty (50) percent of the value of the building or structure as determined by the Broward County Property Appraiser for that year, it shall not be again used or reconstructed except in full conformity with the regulations of the district in which it is located.

Section 31.5. Change of nonconforming use.

- (A) In any residential district, a nonconforming use in a nonconforming building or structure shall be changed only to a conforming use.
- (B) In any residential district, a nonconforming use in a nonconforming building or structure shall be changed only to a use permitted in the particular residential district involved, except as provided in paragraph (C) below.
- (C) There may be a change of tenancy, ownership or management of a nonconforming use provided there is no change in the nature or character of such nonconforming use except as may be permitted by this zoning code, or amendments thereto.
- (D) In a nonresidential district, a nonconforming use in a nonconforming structure may not be replaced, except with a conforming use.
- (E) Any change of a nonconforming use of land shall be to a conforming use.

Section 31.6. Discontinuance or abandonment of a nonconforming use.

- (A) If for any reason a nonconforming use of land or portion thereof ceases or is discontinued for a period of more than ~~one hundred eighty (180) calendar~~ days, the land shall not thereafter be used for a nonconforming use, except for agriculture uses.
- (B) If for any reason the nonconforming use of a building or structure, or any portion of a building or structure ceases or is discontinued for a period of ~~one hundred eighty (180) calendar~~ days or more, the said building or structure shall not thereafter be used for a nonconforming use.
- (C) Any part or portion of a building, structure or land occupied by a nonconforming use, which use is abandoned for ~~one hundred eighty (180) calendar~~ days or more, shall not again be occupied or used for a nonconforming use.
- (D) Any part of a building, structure or land occupied by a nonconforming use which is changed to or occupied by a conforming use shall not thereafter be used or occupied by a nonconforming use.

Section 31.7. Discontinuance or abandonment of variances or waivers.

- (A) If for any reason a variance or waiver as to the use of land or any portion thereof does not commence, is not undertaken, ceases, is discontinued, or is abandoned for a period of more ~~one hundred eighty (180) calendar~~ days, the land or portion thereof shall not thereafter be used for said variance or waiver unless specifically outlined unless the contrary is specifically provided in the variance or waiver, or unless same has been considered anew and granted, pursuant to the Code of the City of Margate.
- (B) If for any reason a variance or waiver as to the use of a building or structure or any portion thereof does not commence, is not undertaken, ceases, is discontinued, or is abandoned for a period of more ~~one hundred eighty (180) calendar~~ days, the building or structure or any portion thereof shall not thereafter be used for said variance or waiver unless specifically outlined unless the contrary is specifically provided in the variance or unless same has been considered anew and granted, pursuant to the Code of the ~~C~~city.

~~Section 31.8. Nonconformity other than use.~~

~~The foregoing provisions of this article are intended to apply only to nonconforming uses, and are not intended to apply to buildings and structures, and their plots, existing at the effective date of this zoning code, or amendments thereto which do not meet the regulations of this zoning code, or amendments thereto for height, yards, plot size, plot area, coverage, separation or other similar dimensional requirements or limitations. Any~~

~~additions, extensions or alterations to such existing buildings or structures shall comply with all applicable provisions of this zoning code, or amendments thereto.~~

Section 31.9. Illegal use.

The casual, temporary or illegal use of land or a building or structure shall not be sufficient to establish the existence of a nonconforming use or to create any right in the continuance of such a use.

Section 31.10. District or regulation change.

The foregoing provisions of this article shall ~~also~~ apply to buildings, structures, land, premises or use which hereafter become nonconforming due to a change or a reclassification of district or become nonconforming due to a change in district regulations. Where a period of time is specified in this article for the removal or discontinuance of nonconforming buildings, structures or uses, said period shall be computed from the effective date of such reclassification or change of regulations.