

1 CITY OF MARGATE, FLORIDA

2
3 ORDINANCE NO. _____
4
5

6 AN ORDINANCE OF THE CITY OF MARGATE, FLORIDA, AMENDING
7 CHAPTER 1, "GENERAL PROVISIONS" OF THE CITY OF MARGATE
8 CODE OF ORDINANCES; CLARIFYING THE AUTHORITY AND
9 PROCEDURES TO ENFORCE THE CITY CODE; AMENDING CODE
10 ENFORCEMENT PENALTIES; PROVIDING FOR CODIFICATION;
11 PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY;
12 PROVIDING FOR AN EFFECTIVE DATE.
13

14 WHEREAS, Florida Statutes Section 162.03 provides that a
15 municipality may, by ordinance, adopt an alternate code
16 enforcement system that gives special magistrates the
17 authority to hold hearings and assess fines against violators
18 of the respective county or municipal codes and ordinances;
19 and

20 WHEREAS, the City Commission desires to improve
21 enforcement and processing of municipal violations through
22 greater utilization of civil citations and the special
23 magistrate process.

24 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF
25 THE CITY OF MARGATE, FLORIDA THAT:

26 Section 1. The foregoing "WHEREAS" clauses are
27 hereby ratified and confirmed as being true and correct, and
28 are hereby incorporated herein and made a part hereof.

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1 **Section 2.** The Code of Ordinances of the City of
2 Margate Florida, Chapter 1 - GENERAL PROVISIONS, Section 1-8
3 Penalties, is hereby amended to read as follows:

4 **Sec. 1-8. Penalties.**

5 **(a) *General penalty.***

6 (1)Unless otherwise specifically authorized and
7 provided for by this Code, a person convicted of
8 violating any provision of this Code may be
9 sentenced to pay a fine, not to exceed \$500, and may
10 be sentenced to a definite term of imprisonment, not
11 to exceed 60 days, as authorized by section 162.22,
12 Florida Statutes. Nothing contained herein shall
13 prohibit the City from enforcing its Code by any
14 other means. The City's administrative remedies to
15 enforce the Code are cumulative to all others and
16 shall not be deemed to be prerequisites to filing
17 suit for the enforcement of any section of this
18 Code.

19 ~~The violation of or failure to comply with any~~
20 ~~provision of this Code shall constitute an offense~~
21 ~~against the City and any person convicted shall be~~

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1 ~~sentenced to a fine not to exceed five hundred~~
2 ~~dollars (\$500.00) and may be sentenced to a definite~~
3 ~~term of imprisonment not to exceed sixty (60) days,~~
4 ~~as provided for in section 162.22 of the Florida~~
5 ~~Statutes, as amended.~~

6 (2) Any condition caused or permitted to exist in
7 violation of any of the provisions of this Code or
8 any ordinance of the City shall be deemed a public
9 nuisance and shall be subject to abatement by the
10 City.

11 (3) Each and every act, action or thing done in
12 violation of the provisions of this Code or an
13 ordinance of the City shall be construed, deemed and
14 taken as a separate and distinct violation of such
15 provisions of this Code; and in every event that a
16 violation of this Code or any of the provisions
17 hereof shall continue, each day of such continuance
18 shall be deemed, construed and taken as a separate
19 and distinct violation of the provisions of this
20 Code that such condition so allowed to continue
21 shall violate.

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1 **(b) ~~Civil code enforcement~~ Code enforcement special magistrate**

2 (1)The City adopts an alternative code enforcement system
3 pursuant to sections 162.03(2) and 162.13, Florida
4 Statutes, authorizing a special magistrate to hold
5 hearings and assess fines and enforcement costs against
6 violators of all City codes.

7 (2) Intent. It is the intent of this section to promote,
8 protect, and improve the health, safety, and welfare of
9 the citizens of the City by authorizing the creation of
10 the position of special magistrate for code enforcement
11 proceedings with the authority to impose administrative
12 fines and other noncriminal penalties, to provide an
13 equitable, expeditious, effective, and inexpensive method
14 of enforcing any codes and ordinances in force in the city
15 where a pending or repeat violation exists.

16 (3) Jurisdiction. The jurisdiction of the special
17 magistrate appointed by the City Commission to hear cases
18 brought by code officers shall include violations of any
19 City ordinance or the City Code and any County code or
20 state statute incorporated into the City Code by reference

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1 or by operation of law, occurring within the City of
2 Margate.

3 (4) Definitions. For the purpose of this section, the
4 following definitions shall apply unless the context
5 clearly indicates or requires a different meaning:

6 City shall mean the City of Margate, Florida.

7 City Attorney shall mean the Office of the City
8 Attorney of the City of Margate, Florida.

9 City Commission shall mean the legislative body of the
10 City.

11 Clerk shall mean ~~the Clerk to the Special Magistrate~~
12 ~~who prepares the docket, "clerks" the Special~~
13 ~~Magistrate hearings, drafts orders, records liens and~~
14 ~~releases of liens, and other related duties as~~
15 ~~assigned by his or her supervisor.~~

16 Code shall mean the Margate City Code and all codes
17 and state statutes incorporated into the Margate City
18 Code by reference or by operation of law, occurring
19 within the City.

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1 Code officer shall mean any employee or other agent of
2 the City designated by law or ordinance, whose duties
3 are to ensure compliance with City codes, ordinances,
4 the Florida Building Code or Fire Prevention Code, and
5 to present code violations to the special magistrate.

6 Owner shall mean the person or persons reflected as
7 the property owner in the most recently certified real
8 property ad valorem tax rolls of Broward County, or
9 other official documentation contained within the
10 public records of the City, Broward County, or the
11 state. Additionally, in the case of multiple or joint
12 ownership, notice to one (1) owner shall be considered
13 notice to all multiple or joint owners.

14 Person shall mean individuals, firms, associations,
15 joint adventures, partnerships, estates, trusts,
16 business trusts, syndicates, fiduciaries,
17 corporations, and all other groups or combinations.

18 Repeat violation Shall mean a violation of an
19 ordinance or Code provision by a person who has been
20 previously found by the Special Magistrate to have
21 violated or who has admitted violating the same

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1 provision within 5 years prior to the violation,
2 notwithstanding the violations occur at different
3 locations.

4 Special magistrate shall mean any special magistrate
5 appointed by the City Commission to preside over code
6 enforcement cases.

7 Violator shall mean the person(s) that the City deems
8 responsible for the ordinance or code violation which,
9 in the appropriate circumstances, shall be the
10 perpetrator of the violation, the owner of the real
11 property or personal property, or person legally
12 responsible for the property upon which the violation
13 occurred, or any or all of the foregoing, or as
14 otherwise provided in the specific code section
15 violated. The term "violation" shall specifically
16 include a property owner, when an ordinance violation
17 exists on, or emanates from, the owner's property, but
18 is caused or allowed to be caused by tenant(s) at said
19 property.

20 (5) Establishing a special magistrate.

21 The qualifications and appointment of the special

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1 magistrate shall be as follows:

2 a. The special magistrate shall be appointed by the
3 City Commission and shall serve with
4 compensation as established by the City
5 Commission upon appointment. The City Commission
6 may appoint one (1) or more special magistrates.

7 b. The special magistrate shall possess an
8 outstanding reputation for civic pride,
9 interest, integrity, responsibility, and
10 business or professional ability. The special
11 magistrate shall be a member of the state bar in
12 good standing for a minimum of five (5) years or
13 a retired judge of one of the courts of the
14 state.

15 (6) Powers of the special magistrate.

16 The special magistrate shall have the power to:

17 a. Adopt rules for the conduct of its hearings.

18 b. Subpoena alleged violators and witnesses to its
19 hearings. Subpoenas may be served by the sheriff of
20 the county or police department of the municipality.

21 c. Subpoena evidence to its hearings.

22 d. Take testimony under oath.

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1 e. Issue orders having the force of law to command
2 whatever steps are necessary to bring a violation
3 into compliance.

4 The City Commission may adopt by resolution such
5 procedures and fee schedule as are deemed necessary and
6 appropriate for the special magistrate to carry out
7 their function as set forth in this subsection.

8 (7) Code prosecutor duties.

9 a. The office of the City Attorney shall represent the
10 interests of the City and act as code prosecutor when
11 the violator is represented by counsel, as deemed
12 necessary.

13 b. The code prosecutor, or designee, shall, in each
14 violation, have professional discretion, including but
15 not limited to the right to negotiate a plea with the
16 violator, and present that plea to the special
17 magistrate for approval, to recommend the disposition of
18 a case to the special magistrate, and to decline to
19 prosecute a case, similar to the discretion exercised by
20 the City prosecutor for criminal municipal violations.

21 (8) Conducting hearings.

22 a. The clerk shall set a time and date for the hearing

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1 and notify the alleged violator and the code officer.
2 The violator shall be given at least 7 working days'
3 written notification of the hearing. The conduct of the
4 hearing shall be consistent with section 162.07, Florida
5 Statutes.

6 b. A hearing date shall not be postponed or continued
7 unless a written request for continuance, showing good
8 cause for such continuance, is received by the clerk at
9 least 10 days prior to the hearing date.

10 c. Hearsay evidence may be accepted for the purpose of
11 supplementing or explaining any direct evidence, but
12 hearsay evidence shall not, in and of itself, be
13 considered sufficient to support a finding or decision
14 unless the evidence would be admissible over objections
15 in a civil action.

16 d. The alleged violator shall have the right to be
17 represented by an attorney; however, the alleged
18 violator or their attorney shall provide the office of
19 the City Attorney with written notice that an attorney
20 is representing the violator's interest at least 7
21 working days prior to the scheduled date of the hearing.

22 e. All testimony before the special magistrate shall

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1 be under oath and shall be recorded. The alleged
2 violation or the City may cause the proceedings to be
3 recorded by a certified court reporter or other
4 certified recording instrument; however, the City shall
5 be under no obligation to provide a certified court
6 reporter or other certified recording instrument but
7 rather, the City may use a recording device of its
8 choice to satisfy its obligation to record the meeting.

9 f. The burden of proof shall be with the code officer
10 to show by the greater weight of evidence that a code
11 violation exists and that the alleged violator committed
12 or was responsible for maintaining the violation.

13 g. A hearing may proceed in the absence of the
14 violation once the special magistrate has determined that
15 notice has been provided in accordance with section
16 162.12, F.S.

17 h. The special magistrate may, in his or her
18 discretion, postpone or continue a hearing.

19 i. All determinations of the special magistrate shall
20 be based upon competent substantial evidence.

21 j. Any evidence to be proffered at the hearing must be
22 submitted to the clerk at least 5 days before the

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1 hearing date.

2 k. At the conclusion of the hearing, the special
3 magistrate shall issue findings of fact, based on the
4 evidence of record and conclusions of law, and shall
5 issue an order affording the proper relief consistent
6 with powers granted herein.

7 l. To uphold the code officer's decision, the special
8 magistrate must find that a preponderance of the
9 evidence indicates that the named violator was
10 responsible for the violation as alleged by the civil
11 citation or notice of violation.

12 m. If the City prevails in a hearing based on the
13 issuance of a notice of violation, the special
14 magistrate's order may grant a reasonable time period
15 for the violator to correct the violation. The order
16 shall also impose an initial fine and a daily fine that
17 shall commence accruing if the violation is not timely
18 corrected. The daily fine shall continue to accrue
19 until the violation is corrected or a judgement is
20 rendered in a suit filed pursuant to section 162.09(3),
21 Florida Statutes, whichever comes first.

22 n. If the special magistrate's order includes a

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1 deadline to correct the violation, the Code Officer
2 shall issue an affidavit of noncompliance to the
3 violation if the violation continues to exist beyond that
4 deadline. The affidavit of noncompliance shall advise
5 the violator that the Code Officer has determined that
6 the violation was not timely corrected and, therefore,
7 daily fines shall begin to accrue in accordance with the
8 special magistrate's order. In addition, the affidavit
9 will explain the violator's right to appeal the Code
10 Officer's determination and advise that the daily fines
11 will begin to accrue without further notice if no appeal
12 is taken.

13 o. The scope of a special magistrate hearing on an
14 affidavit of noncompliance shall be strictly limited to
15 whether the violator corrected the violation and the
16 applicable daily fines based upon when the violation was
17 corrected.

18 p. An affidavit of compliance shall be issued to the
19 violation once the violation has been corrected.

20 (9) Notice.

21 All notices required by this section shall be provided in
22 accordance with section 162.12, Florida Statutes.

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1 **(c) Civil Citation Procedures.**

2 ~~(1) A person authorized by the City to issue citations shall~~
3 ~~be hereby authorized to issue a citation when he/she has~~
4 ~~reasonable cause to believe that a person has committed an~~
5 ~~act in violation of the Code of the City or County, or any~~
6 ~~ordinance duly adopted by the City or County, pursuant to the~~
7 ~~procedure provided in part 2 of Chapter 162 of the Florida~~
8 ~~Statutes as amended. Pursuant to F.S. 162.21(5), notice may~~
9 ~~be provided in any manner as set out in F.S. 162.12, as~~
10 amended. These civil citation procedures are adopted pursuant
11 to sections 162.03(2) and 162.13, Florida Statutes, as an
12 alternative method of enforcing the Code, and are enacted to
13 protect the public health, welfare and safety of the
14 residents of the City.

15 ~~(2) Any individual who wishes to contest a citation by a~~
16 ~~person authorized by the City to issue citations may do so by~~
17 ~~the Special Magistrate procedures of the City. A violation of~~
18 the Code is a civil infraction for which a citation may be
19 issued pursuant to this section.

20 ~~(3) The failure to comply with any provision of this Code or~~
21 ~~the Code of Broward County, or any duly enacted ordinance of~~
22 ~~the City or County shall, upon issuance of a citation, be a~~

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~~civil infraction of the City or County. Such infraction shall carry a daily penalty and technology fee as provided below should a violator not contest a citation:~~

~~All citations shall incur a \$5.00 technology fee in addition to any fine. The revenues generated by this fee shall be used exclusively for the acquisition, operation, maintenance, repair and replacement of data processing equipment and software related to the administration and costs of the issuance of citations. A Code Officer may issue a citation to a violator when, based upon personal investigation, the Code Enforcement Officer has reasonable cause to believe that the violator is responsible for the civil infraction.~~

Violation Category	First Offense	Second Offense	Third Offense	Fourth Offense
Animal nuisance	\$ 25.00	\$ 75.00	\$150.00	\$150.00- \$500.00
Building code	75.00	100.00	150.00	-150.00- 500.00
County ordinances	25.00	75.00	150.00	-150.00- 500.00
Fire code	25.00	75.00	150.00	-150.00- 500.00
Health hazard	50.00	75.00	150.00	-150.00- 500.00
Landscaping	25.00	75.00	150.00	-150.00-

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				500.00
Licensing	100.00	150.00	150.200	-200.00- 500.00
Litter/debris	50.00	75.00	150.00	-150.00- 500.00
Nuisance	25.00	75.00	150.00	-150.00- 500.00
Recycling	25.00	75.00	150.00	-150.00- 500.00
Safety hazard	50.00	75.00	150.00	-150.00- 500.00
Signs/advertising	25.00	75.00	-150.00	-150.00- 500.00
Vehicles (non- parking)	35.00	75.00	150.00	-150.00- 500.00
Disabled parking	<u>\$250.00</u>	<u>\$250.00</u>	<u>\$250.00</u>	<u>\$250.00</u>
Commercial vehicles (not tractor-trailer)	\$35.00	\$75.00	\$150.00	\$150- 500.00
Tractor-trailer, truck tractor, or portion thereof	100.00	500.00	500.00	500.00
Parking within 15 feet of fire hydrant, fire connection, or fire lane	50.00	50.00	50.00	50.00
All other parking	35.00	75.00	150.00	-150.00- 500.00
Other violations not listed above	25.00	75.00	150.00	-150.00- 500.00
Tree abuse, \$150.00 per incident or replace abused trees with equivalent				
— (No daily fee)				
Water restriction violation	25.00	125.00	250.00	Criminal violation

1

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1 ~~(4) A civil infraction of this Code or the Code of~~
2 ~~Broward County, or any ordinance of the City or~~
3 ~~County shall carry a maximum civil penalty of five~~
4 ~~hundred dollars (\$500.00) should the violator~~
5 ~~contest the citation. Excluded from the above~~
6 ~~penalties, whether for contested or noncontested~~
7 ~~citations, is:~~

8 ~~a. any violation of the Florida Building Code, if a~~
9 ~~building permit has been issued pursuant to~~
10 ~~Florida Statutes 162.21 (7);~~

11 ~~b. Any section of the Code of Broward County or~~
12 ~~any ordinance of Broward County which is not~~
13 ~~applicable to municipalities or which has been~~
14 ~~superseded by City ordinance or a violation of~~
15 ~~which has not transpired within the municipal~~
16 ~~limits of the City.~~

17
18 ~~(5) Each and every act, action or thing done in~~
19 ~~violation of the provisions of this Code or an~~
20 ~~ordinance of the City shall be construed, deemed and~~
21 ~~taken as a separate and distinct civil infraction of~~
22 ~~such provisions of this Code; and in every event~~

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1 ~~that a violation of this Code or any of the~~
2 ~~provisions hereof shall continue, each day of such~~
3 ~~continuance shall be deemed, construed and taken as~~
4 ~~a separate and distinct infraction of the provisions~~
5 ~~of this Code that such condition so allowed to~~
6 ~~continue shall violate.~~

7 ~~(6) Nothing contained in subsection 1-8(b)(1) through~~
8 ~~(5) shall preclude the enforcement of any municipal~~
9 ~~violation in the county court, pursuant to section~~
10 ~~1-8(a) if a violator has been issued a municipal~~
11 ~~citation by a law enforcement officer, or if said~~
12 ~~law enforcement officer has arrested an individual~~
13 ~~for violation of this Code and takes said individual~~
14 ~~into his custody or a municipal information is~~
15 ~~issued by the office of the City prosecutor.~~

16 (4) The contents of the citation shall include but not be
17 limited to the following:

18 a. The date and time of issuance;

19 b. Location of the violation;

20 c. The name and address of the person to whom the
21 citation is issued;

22 d. The date and time the civil infraction was observed;

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- 1 e. Brief description of the nature of the violation;
- 2 f. The section number of the specific code that has been
- 3 violated;
- 4 g. The applicable civil penalty for committing the
- 5 violation;
- 6 h. The name of the Code Enforcement Officer and their
- 7 division or department;
- 8 i. Instructions and due date to pay the civil penalty or
- 9 to contest the citation;
- 10 j. Notice that each day the violation continues shall be
- 11 treated as separate civil infraction for which a
- 12 citation may be issued;
- 13 k. Notice that failure to request an administrative
- 14 hearing within 10 days after service of the citation
- 15 shall constitute a waiver of the violator's right to
- 16 an administrative hearing before the Special
- 17 Magistrate, and that such waiver shall constitute an
- 18 admission of violation and an order may be entered
- 19 against the violator for a civil penalty in the
- 20 amount listed in the citation plus administrative
- 21 costs.

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1 1. Notice that the person may be liable for the
2 reasonable costs of the hearing to contest the
3 violation should the citation be affirmed by the
4 Special Magistrate at such hearing.

5 (5) Civil penalties resulting from a civil citation are due
6 and payable to the City on the 20th day from the issuance of
7 the citation, or if a proper appeal is filed, when the appeal
8 has been finally decided adversely against the violator.

9 (6) A violator who has been served with a citation shall
10 elect either to:

11 a. Pay the civil penalty in the manner indicated on the
12 citation and correct the violation; or

13 b. Request an administrative hearing before the Special
14 Magistrate to appeal the determination of the Code Officer
15 which resulted in the issuance of the citation.

16 (7) If the violator chooses to appeal the citation, he or she
17 must file with the City a written request, on a City provided
18 appeal form, for an administrative hearing within 10 days
19 after service of the citation.

20 (8) The administrative hearing shall be conducted in
21 accordance with section 1-8(b) (8) of this chapter.

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1 (9) If the violator fails to pay the civil penalty and
2 correct the violation within the specified time in the
3 citation or fails to timely appeal the citation, such failure
4 shall constitute a waiver of the violator's right to an
5 administrative hearing before the Special Magistrate. Such
6 waiver shall be deemed an admission of the violation and
7 civil penalties and administrative costs may be assessed
8 accordingly by the Special Magistrate without further notice
9 to the violator.

10 (10) The Code Officer may immediately request a hearing to
11 obtain an order from the Special Magistrate affirming the
12 citation, including the civil penalty and costs due if the
13 violator waives the right to an administrative hearing. A
14 certified copy of such order may be recorded in the public
15 records pursuant to section 1-8(e) (3).

16 ~~(c) Code enforcement special magistrate.~~ **(d) Notice of**
17 **Violation Procedures.**

18 ~~(1) Code enforcement special magistrate.~~

19 ~~a. The City, by this subsection, hereby adopts an~~
20 ~~alternative code enforcement system which shall~~
21 ~~provide for a special magistrate to be with the~~

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1 ~~authority to hold hearings and assess fines and~~
2 ~~enforcement costs against violators of all City~~
3 ~~codes.~~

4 ~~b. The City hereby adopts F.S. ch. 162, in its entirety~~
5 ~~as may be amended from time to time.~~

6 ~~(2) Intent. It is the intent of this division to~~
7 ~~promote, protect, and improve the health, safety,~~
8 ~~and welfare of the citizens of the City by~~
9 ~~authorizing the creation of the position of special~~
10 ~~magistrate for code enforcement proceedings with the~~
11 ~~authority to impose administrative fines and other~~
12 ~~noncriminal penalties, to provide an equitable,~~
13 ~~expeditious, effective, and inexpensive method of~~
14 ~~enforcing any codes and ordinances in force in the~~
15 ~~city where a pending or repeat violation exists.~~

16 ~~(3) Jurisdiction. The jurisdiction of the special~~
17 ~~magistrate appointed by the City Commission to hear~~
18 ~~cases brought by code officers shall include~~
19 ~~violations of any City ordinances or the City Code~~
20 ~~and any County code or state statute incorporated~~
21 ~~into the City Code by reference or by operation of~~
22 ~~law, occurring within the City of Margate. The~~

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1 ~~special magistrate shall also have the authority to~~
2 ~~notify the administration and to order same to make~~
3 ~~reasonable repairs necessary to bring properties in~~
4 ~~compliance, charging the violator with the~~
5 ~~reasonable cost of repairs, or where it is~~
6 ~~determined that a violation presents a serious~~
7 ~~threat to the public health, safety, or welfare, or~~
8 ~~the violation is irreparable or irreversible in~~
9 ~~nature.~~

10 ~~(4) Definitions. For the purpose of this section, the~~
11 ~~following definitions shall apply unless the context~~
12 ~~clearly indicates or requires a different meaning:~~

13 ~~City shall mean the City of Margate, Florida.~~

14 ~~City Attorney shall mean the Office of the City~~
15 ~~Attorney of the City of Margate, Florida.~~

16 ~~City Commission shall mean the legislative body of the~~
17 ~~City.~~

18 ~~Chapter 162 shall mean F.S. (1999) ch. 162, as~~
19 ~~currently enacted and as may be amended from time to~~
20 ~~time.~~

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1 ~~Clerk shall mean the City employee with responsibility~~
2 ~~for coordinating hearings of the special magistrate.~~

3 ~~Code shall mean the Margate City Code and all codes~~
4 ~~and state statutes incorporated into the Margate City~~
5 ~~Code by reference or by operation of law, occurring~~
6 ~~within the City.~~

7 ~~Code officer shall mean any employee or other agent of~~
8 ~~the City designated by law or ordinance, whose duties~~
9 ~~are to insure compliance with City codes or ordinances~~
10 ~~and to present code violations to the special~~
11 ~~magistrate.~~

12 ~~Notices shall be provided as set forth in F.S. ch. 162~~
13 ~~(1999) as currently enacted or as may be amended from~~
14 ~~time to time.~~

15 ~~Owner shall mean the person or persons reflected as~~
16 ~~the property owner in the most recently certified real~~
17 ~~property ad valorem tax rolls of Broward County, or~~
18 ~~other official documentation contained within the~~
19 ~~public records of the City, Broward County, or the~~
20 ~~state. Additionally, in the case of multiple or joint~~

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1 ~~ownership, notice to one (1) owner shall be considered~~
2 ~~notice to all multiple or joint owners.~~

3 ~~Person shall mean individuals, firms, associations,~~
4 ~~joint adventures, partnerships, estates, trusts,~~
5 ~~business trusts, syndicates, fiduciaries,~~
6 ~~corporations, and all other groups or combinations.~~

7 ~~Repeat violation shall mean a violation of a provision~~
8 ~~of a code or ordinance by a person whom the county~~
9 ~~court or special magistrate has previously found to~~
10 ~~have violated the same provision within five (5) years~~
11 ~~prior to the violation.~~

12 ~~Special magistrate shall mean any special magistrate~~
13 ~~appointed by the City Commission to hear code~~
14 ~~enforcement violation cases.~~

15 ~~Violator shall mean the person(s) responsible for the~~
16 ~~ordinance or code violation which, in the appropriate~~
17 ~~circumstances, shall be the perpetrator of the~~
18 ~~violation, the owner of the real property or personal~~
19 ~~property, or person legally responsible for the~~
20 ~~property upon which the violation occurred, or any or~~
21 ~~all of the foregoing, or as otherwise provided in the~~

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1 ~~specific code section violated. The term "violator"~~
2 ~~shall specifically include a property owner, when an~~
3 ~~ordinance violation exists on, or emanates from, the~~
4 ~~owner's property, but is caused or allowed to be~~
5 ~~caused by tenant(s) at said property.~~

6 ~~(5) Establishing a special magistrate.~~

7 ~~a. The qualifications and appointment of the special~~
8 ~~magistrate shall be as follows:~~

9 ~~1. The special magistrate shall be appointed by the~~
10 ~~City Commission and shall serve with compensation~~
11 ~~as established by the City Commission upon~~
12 ~~appointment. The City Commission may appoint one~~
13 ~~(1) or more special magistrates. The special~~
14 ~~magistrate shall serve at the pleasure of the City~~
15 ~~Commission.~~

16 ~~2. The special magistrate must be both an attorney and~~
17 ~~a member of the Florida Bar for a minimum of five~~
18 ~~(5) years.~~

19 ~~3. The special magistrate will be bound by the code of~~
20 ~~judicial conduct as currently proscribed or as~~
21 ~~amended from time to time.~~

22 ~~b. The provisions of F.S. ch. 162 are hereby adopted.~~

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1 ~~The special magistrate may adopt additional rules and~~
2 ~~regulations as are consistent with the provisions of~~
3 ~~F.S. ch. 162 which the magistrate finds necessary to~~
4 ~~carry out the provisions of this division, subject to~~
5 ~~the approval of the City Commission.~~

6 ~~(6) Code prosecutor duties.~~

7 ~~a. The office of the City Attorney shall represent the~~
8 ~~interests of the City and act as code prosecutor when~~
9 ~~the violator is represented by counsel, as deemed~~
10 ~~necessary.~~

11 ~~b. The code prosecutor, or designee, shall, in each~~
12 ~~violation, have professional discretion, including~~
13 ~~but not limited to the right to negotiate a plea with~~
14 ~~the violator, and present that plea to the special~~
15 ~~magistrate for approval, to recommend the disposition~~
16 ~~of a case to the special magistrate, and to decline~~
17 ~~to prosecute a case, similar to the discretion~~
18 ~~exercised by the City prosecutor for criminal~~
19 ~~municipal violations.~~

20 ~~(7)~~ (1) *Code officers and duties.*

21 a. The code officers have the primary duty to enforce
22 the various codes and ordinances and initiate

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1 enforcement proceedings before the special
2 magistrate. The special magistrate shall not have the
3 power to initiate such enforcement proceedings.

4 b. If the violation of a code or ordinance is found, the
5 code officer shall give written notification to the
6 alleged violator ~~of the violation~~ in accordance with
7 ~~F.S. ch. 162~~section 162.06(2), Florida Statutes, and
8 give the alleged violator a reasonable time, in light
9 of the nature of the violation, to correct the
10 violation. ~~Should the violation continue beyond the~~
11 ~~time specified for correction, or if the violation is~~
12 ~~a repeat violation, the code officer shall ask the~~
13 ~~clerk to set a hearing and to notify the alleged~~
14 ~~violator of the hearing.~~Should the violation continue
15 beyond the time specified for correction in the
16 notice of violation, the code officer shall proceed
17 to request a hearing before the special magistrate. If
18 the violation is corrected and then recurs, or if the
19 violation is corrected between the deadline for
20 correction and the Special Magistrate hearing, the
21 case may proceed to the hearing and the notice shall
22 so state.

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1 c. If a repeat violation is found, the code officer
2 shall notify the violator but is not required to give
3 the violator a reasonable time to correct the
4 violation. The code officer, upon notifying the
5 violator of a repeat violation, shall request a
6 Special Magistrate hearing. The case may be presented
7 to the special magistrate even if the repeat
8 violation has been corrected prior to the hearing,
9 and the notice shall so state. If the repeat
10 violation has been corrected and proceeds to a
11 hearing, the Special Magistrate retains the right to
12 impose the payment of fines and costs upon the repeat
13 violator. The repeat violator may choose to waive his
14 or her rights to this hearing and pay said fines and
15 costs as determined the Special Magistrate.

16
17 ~~(8) Conducting hearings.~~

18 ~~a. The clerk shall set a time and date for the hearing~~
19 ~~and notify the alleged violator and the code officer.~~
20 ~~The violator shall be given at least seven (7)~~
21 ~~working days' written notification of the hearing.~~
22 ~~The conduct of the hearing shall be consistent with~~

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1 F.S. ch. 162.

2 ~~b. Hearsay evidence may be accepted for the purpose of~~
3 ~~supplementing or explaining any direct evidence, but~~
4 ~~hearsay evidence shall not, in and of itself, be~~
5 ~~considered sufficient to support a finding or~~
6 ~~decision unless the evidence would be admissible over~~
7 ~~objections in a civil action.~~

8 ~~c. The alleged violator shall have the right to be~~
9 ~~represented by an attorney; however, the alleged~~
10 ~~violator or their attorney shall provide the office~~
11 ~~of the City Attorney with written notice that an~~
12 ~~attorney is representing the violator's interest at~~
13 ~~least seven (7) working days prior to the scheduled~~
14 ~~date of the hearing.~~

15 ~~d. All testimony before the special magistrate shall be~~
16 ~~under oath and shall be recorded. The alleged~~
17 ~~violator or the City may cause the proceedings to be~~
18 ~~recorded by a certified court reporter or other~~
19 ~~certified recording instrument; however, the City~~
20 ~~shall be under no obligation to provide a certified~~
21 ~~court reporter or other certified recording~~
22 ~~instrument but rather, the City may use a recording~~

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1 ~~device of its choice to satisfy its obligation to~~
2 ~~record the meeting.~~

3 ~~e. The burden of proof shall be with the code officer to~~
4 ~~show by the greater weight of evidence that a code~~
5 ~~violation exists and that the alleged violator~~
6 ~~committed or was responsible for maintaining the~~
7 ~~violation.~~

8 ~~f. If written notice, or notice as contained in [F.S.]~~
9 ~~chapter 162, has been provided to an alleged violator~~
10 ~~of the hearing, a hearing may be conducted and an~~
11 ~~order rendered in the absence of the violator.~~

12 ~~g. The special magistrate may, in his/her discretion,~~
13 ~~postpone or continue a hearing.~~

14 ~~h. All determinations of the special magistrate shall be~~
15 ~~based upon competent substantial evidence.~~

16 ~~(9)~~ (2) *Construction of violations.* Each and every act,
17 action or thing done in violation of the provisions of this
18 Code or an ordinance of the City shall be construed, deemed
19 and taken as a separate and distinct violation of such
20 provisions of this Code; and in every event that a violation
21 of this Code or any of the provisions hereof shall continue,
22 each day of such continuance shall be deemed, construed and

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taken as a separate and distinct violation of the provisions of this Code that such condition so allowed to continue shall violate.

(e) Fines, civil penalties and liens.

(1) References in this section to a fine shall be synonymous with the term civil penalty. Unless specifically provided for in the schedule of civil penalties below, a civil penalty imposed pursuant to this section shall not exceed \$250 for a first violation and shall not exceed \$500 for a repeat violation. However, if the violation is deemed to be irreparable or irreversible in nature, a civil penalty not to exceed \$5,000 per violation may be imposed.

<u>Violation Category</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>	<u>Fourth Offense</u>
<u>Animal nuisance</u>	<u>\$ 25.00</u>	<u>\$ 75.00</u>	<u>\$150.00</u>	<u>\$150.00— \$500.00</u>
<u>Building code</u>	<u>75.00</u>	<u>100.00</u>	<u>150.00</u>	<u>150.00— 500.00</u>
<u>County ordinances</u>	<u>25.00</u>	<u>75.00</u>	<u>150.00</u>	<u>150.00— 500.00</u>
<u>Fire code</u>	<u>25.00</u>	<u>75.00</u>	<u>150.00</u>	<u>150.00— 500.00</u>
<u>Health hazard</u>	<u>50.00</u>	<u>75.00</u>	<u>150.00</u>	<u>150.00— 500.00</u>
<u>Landscaping</u>	<u>25.00</u>	<u>75.00</u>	<u>150.00</u>	<u>150.00— 500.00</u>
<u>Licensing</u>	<u>100.00</u>	<u>150.00</u>	<u>150.200</u>	<u>200.00— 500.00</u>

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<u>Litter/debris</u>	<u>50.00</u>	<u>75.00</u>	<u>150.00</u>	<u>150.00—</u> <u>500.00</u>
<u>Nuisance</u>	<u>25.00</u>	<u>75.00</u>	<u>150.00</u>	<u>150.00—</u> <u>500.00</u>
<u>Recycling</u>	<u>25.00</u>	<u>75.00</u>	<u>150.00</u>	<u>150.00—</u> <u>500.00</u>
<u>Safety hazard</u>	<u>50.00</u>	<u>75.00</u>	<u>150.00</u>	<u>150.00—</u> <u>500.00</u>
<u>Signs/advertising</u>	<u>25.00</u>	<u>75.00</u>	<u>150.00</u>	<u>150.00—</u> <u>500.00</u>
<u>Vehicles (non-</u> <u>parking)</u>	<u>35.00</u>	<u>75.00</u>	<u>150.00</u>	<u>150.00—</u> <u>500.00</u>
<u>Disabled parking</u>	<u>\$250.00</u>	<u>\$250.00</u>	<u>\$250.00</u>	<u>\$250.00</u>
<u>Commercial</u> <u>vehicles (not</u> <u>tractor-trailer)</u>	<u>\$35.00</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$150—</u> <u>500.00</u>
<u>Tractor-trailer,</u> <u>truck tractor, or</u> <u>portion thereof</u>	<u>100.00</u>	<u>500.00</u>	<u>500.00</u>	<u>500.00</u>
<u>Parking within 15</u> <u>feet of fire</u> <u>hydrant, fire</u> <u>connection, or</u> <u>fire lane</u>	<u>50.00</u>	<u>50.00</u>	<u>50.00</u>	<u>50.00</u>
<u>All other parking</u>	<u>35.00</u>	<u>75.00</u>	<u>150.00</u>	<u>150.00—</u> <u>500.00</u>
<u>Other violations</u> <u>not listed above</u>	<u>25.00</u>	<u>75.00</u>	<u>150.00</u>	<u>150.00—</u> <u>500.00</u>
<u>Tree abuse, \$150.00 per incident</u> <u>or replace abused trees with equivalent</u>				
(No daily fee)				
<u>Water restriction</u> <u>violation</u>	<u>25.00</u>	<u>125.00</u>	<u>250.00</u>	<u>Criminal</u> <u>violation</u>

1

2 (2) In determining what the amount of the fine to levy, the

3 special magistrate shall consider the following:

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- 1 a. The gravity of the violation;
- 2 b. Any action taken by the violator to correct the
- 3 violation; and
- 4 c. Any previous violations committed by the violator.

5 In addition to such fines, the special magistrate may impose

6 all costs incurred by the City in enforcing its codes and all

7 costs of repairs undertaken by the City to correct the

8 violation.

9 (3) A certified copy of the Special Magistrate's order

10 imposing a fine, or a fine and costs, may be recorded in the

11 public records and thereafter shall constitute a lien against

12 the land on which the violation exists and upon any other

13 real or personal property owned by the violator. Upon

14 petition to the circuit court, such order shall be

15 enforceable in the same manner as a court judgment by the

16 sheriffs of this state, including execution and levy against

17 the personal property of the violator, but such order shall

18 not be deemed to be a court judgment except for enforcement

19 purposes. A lien arising from a civil penalty imposed

20 pursuant to this section runs in favor of the City, and the

21 City may execute a satisfaction or release of lien entered

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1 pursuant to this section. After 3 months from the filing of
2 any such lien which remains unpaid, the City may foreclose on
3 the lien or to sue to recover a money judgment for the amount
4 of the lien plus accrued interest. No lien created pursuant
5 to the provisions of this part may be foreclosed on real
6 property which is a homestead under s. 4, Art. X of the State
7 Constitution. The money judgment provisions of this section
8 shall not apply to real property or personal property which
9 is covered under s. 4(a), Art. X of the State Constitution.

10 (4) Upon full payment of any lien, and all fees associated
11 with the preparation, filing and release of the liens, the
12 special magistrate or the City Attorney shall be authorized
13 to execute, record and deliver a full satisfaction of the
14 lien to the violator, or his or her representative.

15 (5) The code enforcement special magistrate shall have the
16 authority to reduce any fine either before or after a lien
17 has been placed upon any property, taking into consideration
18 the facts provided in (d)(2) of this subsection, along with
19 any extenuating circumstances believed by the special
20 magistrate to be just and proper.

21 **(f) Supplementary provisions.**

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1 The provision and procedures contained in this section shall
2 be in addition and supplemental to any other remedies
3 provided for by law, regarding violations or municipal
4 ordinances.

5 ~~(10) Establishing a fine and lien.~~

6 ~~a. The establishment of a fine and lien shall be~~
7 ~~consistent with and pursuant to the provisions of~~
8 ~~F.S. ch. 162.~~

9 ~~b. Fines levied by the special magistrate shall not~~
10 ~~exceed one thousand dollars (\$1,000.00) per day per~~
11 ~~violation of [for] the first violation, five thousand~~
12 ~~dollars (\$5,000.00) per day per violation for a~~
13 ~~repeat violation, and up to fifteen thousand dollars~~
14 ~~(\$15,000.00) per violation if the special magistrate~~
15 ~~finds the violation to be irreparable, or~~
16 ~~irreversible in nature. In determining what fine to~~
17 ~~levy, the special magistrate shall consider the~~
18 ~~following:~~

19 ~~1. The gravity of the violation;~~

20 ~~2. Any action taken by the violator to correct~~
21 ~~the violation; and~~

22 ~~3. Any previous violations committed by the~~

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1 ~~violation.~~

2 ~~In addition to such fines, the special magistrate may~~
3 ~~impose additional fines to cover all costs incurred by~~
4 ~~the City in enforcing its codes and all costs and~~
5 ~~repairs where it is deemed that a violation presents a~~
6 ~~serious threat to the public, health, and welfare, or~~
7 ~~where the violation is irreparable or irreversible.~~

8 ~~c. A certified copy of an order imposing a fine or costs~~
9 ~~of repairs may be recorded in the public records and~~
10 ~~thereafter shall constitute a lien against the land~~
11 ~~upon which the violation exists, or if the violator~~
12 ~~does not own the land, upon any other real or~~
13 ~~personal property owned by the violator. It may be~~
14 ~~enforced in the same manner as a court judgment by~~
15 ~~the sheriffs of the state, including levy against the~~
16 ~~personal property, but shall not be deemed otherwise~~
17 ~~to be a judgment of a court except for enforcement~~
18 ~~purposes. As authorized by law, the City may~~
19 ~~foreclose on duly recorded liens that have remained~~
20 ~~unpaid. Property subject to a lien established by the~~
21 ~~special magistrate may be foreclosed by the City in a~~
22 ~~manner provided by state law for the foreclosure of~~

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1 ~~mortgages on real property, or in the alternative,~~
2 ~~foreclosure proceedings may be instituted and~~
3 ~~prosecuted under the provisions of F.S. ch. 173, as~~
4 ~~currently enacted or as amended from time to time, or~~
5 ~~payment enforced otherwise as authorized by law. Upon~~
6 ~~an action for foreclosure, the City shall receive all~~
7 ~~costs, including reasonable attorney's fees necessary~~
8 ~~to institute and prosecute same.~~

9 ~~d. Upon full payment of any lien, and all fees~~
10 ~~associated with the preparation, filing and release~~
11 ~~of the liens, the special magistrate or the City~~
12 ~~Attorney shall be authorized to execute, record and~~
13 ~~deliver a full satisfaction of the lien to the~~
14 ~~violator, or his or her representative.~~

15 ~~e. Liens created pursuant to the order of a Margate~~
16 ~~Special Magistrate and recorded in the public record~~
17 ~~shall remain liens coequal with the liens of all~~
18 ~~state, county, district and municipal taxes, superior~~
19 ~~in dignity to all other liens, titles and claims,~~
20 ~~until paid, and shall bear interest annually at a~~
21 ~~rate not to exceed the legal rate allowed for such~~
22 ~~liens and may be foreclosed pursuant to the procedure~~

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1 ~~set forth in F.S. chapter 173.~~

2 ~~(11) The code enforcement special magistrate shall~~
3 ~~have the authority to reduce any fine either before~~
4 ~~or after a lien has been placed upon any property,~~
5 ~~taking into consideration the facts provided in~~
6 ~~(10) (b) of this section, along with any extenuating~~
7 ~~circumstances believed by the special magistrate to~~
8 ~~be just and proper.~~

9 ~~(12) Code enforcement procedures of the special~~
10 ~~magistrate. The City Commission may adopt by~~
11 ~~resolution such procedures as are deemed necessary~~
12 ~~and appropriate for the special magistrate to carry~~
13 ~~out their function as set forth in this subsection~~
14 ~~(c).~~

15 ~~(13) Supplementary provisions. The provision and~~
16 ~~procedures contained in this section shall be in~~
17 ~~addition and supplemental to any other remedies now~~
18 ~~existing or subsequently provided for by law,~~
19 ~~regarding violations or municipal ordinances.~~

20 **Section 6.** It is the intention of the City
21 Commission of the City of Margate, Florida that the

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1 provisions of this ordinance shall become and be made a part
2 of the City of Margate Code of Ordinances. The sections of
3 this ordinance may be re-numbered or re-lettered and the word
4 "ordinance" may be changed to "section," "article," or such
5 other appropriate word or phrase in order to accomplish such
6 intentions.

7 **Section 7.** All Ordinances or parts of Ordinances,
8 Resolutions or parts of Resolutions in conflict herewith be,
9 and the same are hereby repealed to the extent of such
10 conflict.

11 **Section 8.** If any clause, section, or other part or
12 application of this Ordinance shall be held by any court of
13 competent jurisdiction to be unconstitutional or invalid, such
14 unconstitutional or invalid part or application shall be
15 considered as eliminated and so not affecting the validity of
16 the remaining portions or applications remaining in full force
17 and effect.

18 **Section 9.** This Ordinance shall become effective on
19 _____, 2024.

20
21 PASSED ON FIRST READING THIS ____ day of ____, 2024.

22 PASSED ON SECOND READING THIS _____ day of _____, 2024.

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1 ATTEST:

2

3 _____
4 JENNIFER M. JOHNSON
 CITY CLERK

MAYOR TOMMY RUZZANO

5 RECORD OF VOTE - 1ST READING RECORD OF VOTE - 2ND READING

6

7 Arserio _____

Arserio _____

8 Ruzzano _____

Ruzzano _____

9 Caggiano _____

Caggiano _____

10 Schwartz _____

Schwartz _____

11 Simone _____

Simone _____

12

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