

CITY OF MARGATE

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARGATE, FLORIDA, AUTHORIZING AND DIRECTING A REFERENDUM TO BE IMPLEMENTED BY THE ADMINISTRATION FOR THE ELECTION OF NOVEMBER 4, 2014, ESTABLISHING THE SUBJECT OF THE REFERENDUM TO BE AS FOLLOWS: CHARTER AMENDMENT FOR LESS THAN FULL TERM, MISSING COMMISSION MEETINGS, HEARING FOR FORFEITURE OF OFFICE; PROVIDING FOR REPEAL, PROVIDING FOR SEVERABILITY, PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MARGATE, FLORIDA:

SECTION 1: That the City Administration is hereby authorized and directed, and the appropriate County authorities are authorized and directed, to place special referendum questions on the November 4, 2014 ballot, providing for the questions to be applicable only to the City of Margate.

SECTION 2: The form of the question to be placed on the ballot as referred to above shall appear as follows:

QUESTION

"Charter amendment for less than full term, missing commission meetings, hearing for forfeiture of office"

"Shall the Charter of Margate be amended to provide that service of less than a full term, for term limit purposes, as a result of resignation, suspension, removal, or forfeiture shall be considered as a full term; a Commissioner shall not receive 1/24 of his/her salary for missing more than four regularly scheduled Commission meetings unless the meeting is missed for good cause; amending procedure and grounds for forfeiture of office for Commissioner?"

FOR _____

AGAINST _____

SECTION 3: That the referendum election called for by this ordinance shall be a binding referendum. Upon passage of the

question framed in Section 2 of this ordinance, Section 3.02(B) of the Charter of the City of Margate shall be amended to provide:

Section 3.02. Qualifications of commissioners.

- A. *Elector/Residency:* Any qualified Broward County elector whose principal place of residence is in the City of Margate and who has resided continuously in the city for six (6) months prior to qualifying as a candidate for the office shall be eligible to hold the office of city commissioner.
- B. *Term Limitations:* Effective with the terms of Commissioners that commenced in November 2012, an individual shall not be eligible for election as a Commissioner for more than three consecutive four-year terms. Service as a Commissioner prior to the terms that commenced ~~in~~on November 2012~~4~~ shall not be considered in applying the term limitations of this Section. Service of a two-year term, or any other partial term subsequent to November 2012~~4~~, shall not be considered in applying the term limitation provisions of this Section. Service of less than a full term as a result of resignation, suspension, removal, or forfeiture shall be considered as if it was a full term.

SECTION 4: That the referendum election called for by this ordinance shall be a binding referendum. Upon passage of the question framed in Section 2 of this ordinance, Section 3.06 of the Charter of the City of Margate shall be amended to provide:

Section 3.06. Compensation and expenses.

- (1) The Commission may determine the annual salary of Commissioners except as provided in (2) of this section. An ordinance or resolution increasing such salary shall become effective coincident with and at the time of the adoption of the next City budget.
- (2) Notwithstanding the above, a Commissioner who fails to attend, more than four (4) regularly scheduled Commission meetings, either in person or by phone, within a fiscal year, shall not receive 1/24th of the Commissioner's salary

1 for each Commission meeting which the Commissioner has not
2 attended. However, for good cause shown as determined by
3 the majority vote of the City Commission in attendance at a
4 publicly announced meeting, this requirement may be waived.

5 (3) Commissioners shall further receive their actual and
6 necessary expenses incurred in the performance of their
7 duties of office as provided by law.

8
9
10 SECTION 5: That the referendum election called for by this
11 ordinance shall be a binding referendum. Upon passage of the
12 questions framed in Section 2 of this ordinance, Section 3.11 of
13 the Charter of the City of Margate shall be amended to provide:
14

15 **Section 3.11. Vacancies; forfeiture of office; filling of vacancies.**

16 (1) *Vacancies.* A vacancy in the Ceity Ceommission occurs when a
17 Ceommissioner leaves office otherwise than by the normal
18 expiration of his/her term of office. The office of a
19 Ceommissioner shall become vacant upon his/her death,
20 resignation, removal from office in any manner authorized
21 by law, or forfeiture of his/her office, such forfeiture to
22 be declared by the remaining members of the Ceommission.
23

24 (2) *Forfeiture of office.* A Ceommissioner shall forfeit his/her
25 office if he/she:

26 (a) Lacks at any time during his/her term of office any
27 qualification for the office prescribed by this Charter or
28 law;

29
30 (b) Violates any standard of conduct or code of ethics
31 established by law for public officials;

32
33 (c) Is convicted of a crime involving moral turpitude; ~~or~~

34
35 ~~(d) Fails to attend four (4) consecutive agendaed meetings~~
36 ~~of the Ceommission without prior notification to the Ceity~~
37 ~~Celerk.~~
38

1 In all circumstances arising under this article, the
2 Commission shall be the judge of its own membership.

3 **(3) Hearing for forfeiture of office**

4 (a) The City Commission shall be the Judge of the grounds
5 constituting a forfeiture of a member's office.

6 (b) Any one member of the City Commission shall have the power
7 to charge any other member with grounds which, if found to
8 exist, would constitute a forfeiture of office.

9 If a charge is made against a City Commissioner as
10 aforementioned, immediately after said charge has been made,
11 the City Commission shall vote to determine whether or not
12 probable cause exists that a member has committed acts which,
13 if found to exist, would constitute forfeiture of office.
14 Three (3) affirmative votes shall be necessary to find that
15 said probable cause exists.

16 (c) A member so charged with conduct constituting grounds for
17 forfeiture of his or her office, shall, upon demand by the
18 charged member, be entitled to a public hearing; however, such
19 public hearing shall not take place less than ten (10) days,
20 nor more than twenty (20) days from the date of the charge,
21 exclusive of the charging date; further, notice of such public
22 hearing shall be published by the City in one or more
23 newspapers of general circulation in the City at least one
24 time and at least one week prior to the aforementioned public
25 hearing.

26 Nothing contained herein shall prevent a charged member from
27 resigning at any time from the date charged up to the time of
28 the aforementioned hearing and if the charged member elects to
29 resign, then the City Commission shall not be required to
30 conduct a public hearing.

31 In the event that a hearing shall be demanded by the charged
32 member, the City Attorney shall act as advisor to the City
33 Commission or, the City Attorney shall present all evidence
34 and other pertinent information relating to the charge to the
35 City Commission. The City Attorney may not both prosecute and
36 advise the City Commission. The City Commission shall appoint
37 special counsel to prosecute the charge of forfeiture or
38 advise the City Commission. The charged member shall be
39 entitled to be represented at the hearing by an attorney of
40 his or her choice and at his or her own expense. In the

1 conduct of the public hearing provided herein, the rules of
2 evidence shall not be strictly followed.

3 At the conclusion of the hearing as herein provided the
4 affirmative vote of three (3) City Commissioners shall be
5 necessary to find that grounds for forfeiture of office exist
6 and that a member has forfeited his or her office. Upon three
7 (3) affirmative votes being cast as aforementioned the office
8 shall immediately become vacant.

9 (d) The charged member shall be given the opportunity prior to
10 the hearing to examine all evidence to be presented against
11 him/her and at the hearing shall be entitled to examine and/or
12 cross examine witnesses. For the purposes above stated, the
13 City Commission shall have the power to subpoena witnesses,
14 administer oaths, and require the production of evidence; and
15 upon request by a charged member, the City Commission shall
16 exercise subpoena powers for the purpose of compelling the
17 appearance of witnesses in defense of the charged City
18 Commission member.

19
20 (43) Filling of vacancies. A vacancy or vacancies in the Ceity
21 Commission shall be filled as provided in the following:
22

23 (a) Appointment. Whenever there is a vacancy in the
24 Commission, the Commission, by a majority vote of
25 the remaining members, shall choose a successor to
26 serve until the next ~~general, county-wide or~~ regularly
27 scheduled City election. The Commissioner elected at
28 said election shall be for the remainder of the
29 unexpired term, if any. If a majority of said
30 remaining members are unable to agree on a selection
31 to fill the vacancy after three (3) regular meetings
32 have been held, the Ceity Commission shall call a
33 special election for the purpose of filling said
34 vacancy. Said special election to fill the unexpired
35 term shall be held not sooner than sixty (60) days nor
36 more than ninety (90) days following the determination
37 that the Commission is unable to fill the vacancy by
38 appointment.

1 In any special election held for the purposes of this
2 section, the provisions for candidates and elections
3 of Article VI of this Charter shall apply.
4

5 (b) *Term.*

6 (i) The term of office for vacancies filled by
7 appointment or special election in subsection (3)(a)
8 shall be until the next ~~general, county-wide~~ or
9 regularly scheduled City election or for the remainder
10 of the unexpired term of the office in which the
11 vacancy exists, whichever comes first.
12

13 (ii) The vacancy filled at the next regular, City,
14 ~~county-wide~~ ~~general~~ election, as provided in
15 subsection (3)(a) shall be for the remainder of the
16 unexpired term of the vacancy.
17

18 (c) *Quorum requirements.* Notwithstanding any quorum
19 requirements established by this Charter, if at any time
20 the membership of the Commission is reduced to less than
21 a quorum, the remaining members may by majority vote
22 appoint additional Commissioners as provided in (3)(a)
23 above.
24

25 (d) *Extraordinary vacancies.* In the event that all members of
26 the Commission are removed by death, disability or forfeiture
27 of office, the Governor shall appoint an interim Commission
28 that shall call a special election as provided in paragraph
29 (3)(a) above, and such election shall be conducted to fill the
30 specific vacancies in the manner provided for under the regular
31 election procedures of this City.
32
33

34 SECTION 6: That all ordinances or parts of ordinances in
35 conflict herewith be and the same are hereby repealed to the
36 extent of such conflict.
37

38 SECTION 7: If any part, section, subsection, paragraph,
39 subparagraph, sentence, phrase, clause, term, or work of this
40 ordinance is declared unconstitutional by the valid judgment or
41 decree of any court of competent jurisdiction of such
42 unconstitutionality shall not affect any other part,

1 section, subsection, paragraph, subparagraph, sentence, phrase,
2 clause, term or word of this ordinance.
3

4 SECTION 8: It is the intention of the City Commission that
5 the provisions of this ordinance shall become and be made a part
6 of the City of Margate Code, and that the sections of this
7 ordinance may be renumbered or relettered and the word
8 "ordinance" may be changed to "section", "article" or such
9 other appropriate word or phrase in order to accomplish such
10 intentions.
11

12 SECTION 9: That this ordinance shall become effective
13 immediately upon adoption at its second reading.
14

15 PASSED ON FIRST READING THIS _____ DAY OF _____.

16 PASSED ON SECOND READING THIS _____ DAY OF _____.

17
18
19 ATTEST:

20
21 _____
22 JOSEPH J. KAVANAGH
23 CITY CLERK

MAYOR LESA PEERMAN

24
25 RECORD OF VOTE - 1ST READING RECORD OF VOTE - 2ND READING

26 Talerico	_____	Talerico	_____
27 Donahue	_____	Donahue	_____
28 Ruzzano	_____	Ruzzano	_____
29 Simone	_____	Simone	_____
30 Peerman	_____	Peerman	_____