

CITY OF MARGATE, FLORIDA

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF MARGATE,  
FLORIDA, AMENDING CHAPTER 2 -  
ADMINISTRATION, ARTICLE I, IN GENERAL,  
SECTION 2-8 - POLITICAL CAMPAIGNS; TO  
PROHIBIT CAMPAIGN ACTIVITIES BY KEY CITY  
EMPLOYEES FOR CERTAIN ELECTIONS; PROVIDING  
FOR CONFLICT; PROVIDING FOR SEVERABILITY;  
PROVIDING FOR CODIFICATION; PROVIDING FOR  
AN EFFECTIVE DATE.

WHEREAS, an Act to Prevent Pernicious Political Activities  
(the Hatch Act of 1939) prohibits employees in the executive  
branch of the federal government from engaging in various  
forms of political activities; and

WHEREAS, Congress passed the Hatch Act of 1939 after having  
determined that partisan activity by federal employees must be  
limited for public institutions to function fairly and  
effectively; and

WHEREAS, the United States Supreme Court has stated:

"The right to participate in democracy through political  
contributions is protected by the First Amendment, but that  
right is not absolute. Congress may regulate campaign  
contributions to protect against corruption or the appearance  
of corruption." McCutcheon v. Federal Election Commission,  
134 S.Ct. 1434 (2014); and

1 WHEREAS, the International City/County Management  
2 Association (ICMA) has county and city managers as its  
3 members; and

4 WHEREAS, Tenet 7 of ICMA's Code of Ethics with Guidelines  
5 provides that its members shall:

6 "Refrain from all political activities which undermine  
7 public confidence in professional administrators. Refrain  
8 from participation in the election of the members of the  
9 employing legislative body."; and

10  
11 WHEREAS, in support of Tenet 7, ICMA's Guidelines provide:

12 \* \* \*

13 "Members should maintain a reputation for serving equally  
14 and impartially all members of the governing body of the local  
15 government they serve, regardless of party. To this end, they  
16 should not participate in an election campaign on behalf of or  
17 in opposition to candidates for the governing body.

18 \* \* \*

19 "Members share with their fellow citizens the right and  
20 responsibility to vote. However, in order not to impair their  
21 effectiveness on behalf of the local governments they serve,  
22 they shall not participate in political activities to support  
23 the candidacy of individuals running for any city, county,  
24 special district, school, state or federal offices.  
25 Specifically, they shall not endorse candidates, make  
26 financial contributions, sign or circulate petitions, or  
27 participate in fund-raising activities for individuals seeking  
28 or holding elected office."; and

29  
30 WHEREAS, Florida Statutes §104.31 prohibits officers and  
31 employees of the City from using their official authority or  
32 influence for the purpose of interfering with an election; and

1       WHEREAS, on a local level, voters expect that a supervisor  
2 of elections will maintain impartiality in elections and  
3 election related decisions; and

4       WHEREAS, the City Clerk functions as an equivalent of a  
5 supervisor of elections in the City of Margate and is  
6 responsible for handling all aspects of municipal elections,  
7 including the statutorily required advertising; administering  
8 the petition initiative process; assisting with the  
9 identification and selection of polling locations; acting as  
10 the local qualifying officer for municipal candidates,  
11 including the receipt and completeness of campaign treasurer's  
12 reports; notifying candidates and the State of Florida  
13 regarding campaign report deficiencies as necessary;  
14 collecting qualifying fees; transmitting election assessments  
15 to the Florida Elections Commission; transmitting ballot  
16 information to the Broward County Supervisor of Elections;  
17 executing agreements with the Broward Supervisor of Elections  
18 for the hiring, training and placement of poll workers; paying  
19 poll workers; ensuring smooth conduct of elections on Election  
20 Day by visiting polls; and presenting election results to the  
21 City Commission; and

1 WHEREAS, the office of the City Attorney is responsible for  
2 providing election advice to the City Clerk prior to, during  
3 and after the election; and

4 WHEREAS, the Police Chief enforces Florida's Election Code;  
5 and

6 WHEREAS, when there are elections for mayor or city  
7 commissioners of the City of Margate, the City desires to  
8 prevent actual, or even the appearance of partiality, bias,  
9 conflicts of interest, or corruption.

10  
11 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION  
12 OF THE CITY OF MARGATE, FLORIDA:

13  
14 Section 1: Chapter 2, Article I, In General,  
15 Section 2-8 Political campaigns, is hereby amended to read as  
16 follows:

17  
18 Sec. 2-8. - Political campaigns.

19  
20 (a) It shall be unlawful for any elected official,  
21 appointed official, employee or agent of the city to  
22 utilize city resources in any political campaign, whether  
23 partisan or nonpartisan.

24  
25 (b) *City resources* shall be defined as any:

- 26 (1) City employees during duty hours;  
27 (2) City property, supplies, purchases, or any  
28 other tangible or intangible thing owned by the  
29 city.

30 The above shall not limit the right of the use of city-  
31 owned real property for political campaigns if said city  
32 property or buildings are regularly used in the course of  
33 business of the city for civic, charitable or other  
34 similar functions.

1  
2 (c) Prohibition on campaign activities. The City Manager,  
3 City Clerk, Police Chief, City Attorney and any Assistant  
4 City Attorneys shall not participate in a campaign  
5 involving any candidate for or incumbent City of Margate  
6 Commissioner, including being a member of an election or  
7 re-election committee for a candidate; public endorsement  
8 with or without financial support of a candidate; holding  
9 campaign signs, wearing a campaign tee-shirt, or other  
10 public display of support for a candidate; signing an  
11 endorsement card for a candidate; attending a candidate's  
12 campaign fundraiser; chairing or co-chairing an ongoing  
13 election campaign or fundraiser for a candidate; or  
14 providing financial campaign contribution. Nothing in  
15 this section shall be deemed to prohibit the City Manager,  
16 City Clerk, Police Chief, City Attorney and any Assistant  
17 City Attorneys from expressing his or her opinions on any  
18 candidate or issues during the employee's off-duty hours.

19  
20 SECTION 2: All ordinances or parts of ordinances in  
21 conflict herewith are and the same is hereby repealed to the  
22 extent of such conflict.  
23

24 SECTION 3: If any section, sentence, clause, or phrase  
25 of this ordinance is held to be invalid or unconstitutional by  
26 a court of competent jurisdiction, then said holding shall in  
27 no way affect the validity of the remaining portions of this  
28 ordinance.

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

SECTION 5: This ordinance shall become effective immediately upon adoption at its second reading.

PASSED ON FIRST READING THIS \_\_\_\_ day of \_\_\_\_\_ 2015.

PASSED ON SECOND READING THIS \_\_\_\_ day of \_\_\_\_\_ 2015.

ATTEST:

\_\_\_\_\_  
JOSEPH KAVANAGH  
CITY CLERK

\_\_\_\_\_  
MAYOR JOANNE SIMONE

RECORD OF VOTE - 1ST READING

RECORD OF VOTE - 2ND READING

Peerman \_\_\_\_\_  
Talerico \_\_\_\_\_  
Bryan \_\_\_\_\_  
Ruzzano \_\_\_\_\_  
Simone \_\_\_\_\_

Peerman \_\_\_\_\_  
Talerico \_\_\_\_\_  
Bryan \_\_\_\_\_  
Ruzzano \_\_\_\_\_  
Simone \_\_\_\_\_