

CITY OF MARGATE, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARGATE, FLORIDA, AMENDING CHAPTER 2, ARTICLE I IN GENERAL, SECTION 2-18 OFFICIAL ZONING CONFIRMATION LETTERS; AMENDING APPENDIX-A ZONING; ARTICLE III GENERAL PROVISIONS, SECTION 3.30. REASONABLE ACCOMMODATION PROCEDURES AND SECTION 3.31 WALKWAY SALES; PROVIDING FOR ECONOMIC DEVELOPMENT DEPARTMENT; 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: The Code of Ordinances of the City of Margate, Florida, Chapter 2 - Administration, Article I In General, Section 2-18 Official zoning confirmation letters, is hereby amended to read as follows¹:

Sec. 2-18. - Official zoning confirmation letters.

(a) An administrative fee of seventy-five dollars (\$75.00) will be applied to all requests for an official zoning confirmation letter issued by the eCity. Such fee shall be deposited into the general fund.

(1) Each official zoning confirmation letter shall only include zoning and land use information for a single property. If multiple properties are included in a single request for an official zoning confirmation letter, the administrative fee shall be applied for each letter issued by the eCity.

¹CODING: Words in ~~struck through~~ text are deletions from existing text, words in underscoring text are additions to existing text, and **shaded** text are changes between First and Second Readings.

(b) All requests for an official zoning confirmation letter must be submitted to the Economic Development ~~Department of environmental and engineering services~~ in writing and include the following:

- (1) Administrative fee;
- (2) Address of property for which the official zoning confirmation letter shall provide current zoning and land use information;
- (3) Current use of property;
- (4) Proposed use of property, if any;
- (5) Current telephone number, e-mail address, and mailing address of person or organization that has requested the official zoning confirmation letter.

SECTION 2: The Code of Ordinances of the City of Margate, Florida, Appendix-A Zoning, Article III General provisions, Section 3.30 Reasonable accommodation procedures, is hereby amended to read as follows¹:

Section 3.30. - Reasonable accommodation procedures.

- (1) 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 II of the Americans with Disabilities Act (42 USC 12131 et seq.) (ADA). 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. 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.

1 (2) A request by an applicant for reasonable accommodation
2 under this section shall be made in writing by completion
3 of a reasonable accommodation request form, which form is
4 maintained by (and shall be submitted to) the Economic
5 Development ~~Department of environmental and engineering~~
6 ~~services (DEES)~~. The reasonable accommodation form shall
7 contain such questions and requests for information as
8 are necessary for processing the reasonable accommodation
9 request. The reasonable accommodation request form shall
10 be substantially in the form set forth in subsection
11 (10), below.

12
13 (3) Should the information provided by the disabled
14 individual to the eCity include medical information or
15 records, including records indicating the medical
16 condition, diagnosis or medical history of the disabled
17 individual, such individual may, at the time of
18 submitting such medical information, request that the
19 eCity, to the extent allowed by law, treat such medical
20 information as confidential information of the disabled
21 individual. The eCity shall thereafter endeavor to
22 provide written notice to the disabled individual, and/or
23 their representative, of any request received by the
24 eCity for disclosure of the medical information or
25 documentation which the disabled individual has
26 previously requested be treated as confidential by the
27 eCity. The eCity will cooperate with the disabled
28 individual, to the extent allowed by law, in actions
29 initiated by such individual to oppose the disclosure of
30 such medical information or documentation, but the eCity
31 shall have no obligation to initiate, prosecute or pursue
32 any such action, or to incur any legal or other expenses
33 (whether by retention of outside counsel or allocation of
34 internal resources) in connection therewith, and may
35 comply with any judicial order without prior notice to
36 the disabled individual.

37
38 (4) The city manager, or his/her designee, shall have the
39 authority to consider and act on requests for reasonable
40 accommodation, after notice and public hearing to receive
41 comments, input and information from the public
42 (provided, however, the city manager or designee, shall
43 not be required to render their decision at said public
44 hearing). When a reasonable accommodation request form
45 has been completed and submitted to the Economic
46 Development Department ~~DEES~~, it will be referred to the
47 city manager, or designee, for review and consideration.

1 The city manager, or designee, shall issue a written
2 determination within forty-five (45) days of the date of
3 receipt of a completed application and may, in accordance
4 with federal law, (1) grant the accommodation request,
5 (2) grant a portion of the request and deny a portion of
6 the request, and/or impose conditions upon the grant of
7 the request, or (3) deny the request, in accordance with
8 federal law. Any such denial shall be in writing and
9 shall state the grounds therefore. All written
10 determinations shall give notice of the right to appeal.
11 The notice of determination shall be sent to the
12 requesting party (i.e. he disabled individual or his/her
13 representative) by certified mail, return receipt
14 requested. If reasonably necessary to reach a
15 determination on the request for reasonable
16 accommodation, the city manager, or designee, may, prior
17 to the end of said forty-five-day period, request
18 additional information from the requesting party,
19 specifying in sufficient detail what information is
20 required. The requesting party shall have fifteen (15)
21 days after the date of the request for additional
22 information to provide the requested information. In the
23 event a request for additional information is made, the
24 forty-five-day period to issue a written determination
25 shall no longer be applicable, and the city manager, or
26 designee, shall issue a written determination within
27 thirty (30) days after receipt of the additional
28 information. If the requesting party fails to provide the
29 requested additional information within said fifteen-day
30 period, the city manager, or designee, shall issue a
31 written notice advising that the requesting party had
32 failed to timely submit the additional information and
33 therefore the request for reasonable accommodation shall
34 be deemed abandoned and/or withdrawn and no further
35 action by the City with regard to said reasonable
36 accommodation request shall be required.

- 37
38 (5) In determining whether the reasonable accommodation
39 request shall be granted or denied, the requesting party
40 shall be required to establish that they are protected
41 under the FHA and/or ADA by demonstrating that they are
42 handicapped or disabled, as defined in the FHA and/or
43 ADA. Although the definition of disability is subject to
44 judicial interpretation, for purposes of this ordinance
45 the disabled individual must show: (i) a physical or
46 mental impairment which substantially limits one or more
47 major life activities; or (ii) a record of having such
48 impairment; or (iii) that they are regarded as having

1 such impairment. Next, the requesting party will have to
2 demonstrate that the proposed accommodations being sought
3 are reasonable and necessary to afford
4 handicapped/disabled persons equal opportunity to use and
5 enjoy housing. The foregoing (as interpreted by the
6 courts) shall be the basis for a decision upon a
7 reasonable accommodation request made by the city
8 manager, or designee, or by the city commission in the
9 event of an appeal.

10
11 (6) Within thirty (30) days after the city manager's, or
12 designee's, determination on a reasonable accommodation
13 request is mailed to the requesting party, such applicant
14 may appeal the decision. All appeals shall contain a
15 statement containing sufficient detail of the grounds for
16 the appeal. Appeals shall be to the city commission who
17 shall, after public notice and a public hearing, render a
18 determination as soon as reasonably practicable, but in
19 no event later than sixty (60) days after an appeal has
20 been filed.

21
22 (7) There shall be no fee imposed by the City in connection
23 with a request for reasonable accommodation under this
24 section or an appeal of a determination on such request
25 to the City Commission, and the City shall have no
26 obligation to pay a requesting party's (or an appealing
27 party's, as applicable) attorneys fees or costs in
28 connection with the request, or an appeal.

29
30 (8) While an application for reasonable accommodation, or
31 appeal of a determination of same, is pending before the
32 City, the City will not enforce the subject zoning
33 ordinance, rules, policies, and procedures against the
34 Applicant.

35
36 (9) The following general provisions shall be applicable:

37
38 (a) The City shall display a notice in the City's public
39 notice bulletin board (and shall maintain copies
40 available for review in Economic Development
41 Department, ~~DEES~~, the Building Department, and the
42 City Clerk's Office), advising the public disabled
43 individuals (and qualifying entities) may request
44 reasonable accommodation as provided herein.

1 (b) A disabled individual may apply for a reasonable
2 accommodation on his/her own behalf or may be
3 represented at all stages of the reasonable
4 accommodation process by a person designated by the
5 disabled individual.
6

7 (c) The City shall provide such assistance and
8 accommodation as is required pursuant to FHA and ADA
9 in connection with a disabled person's request for
10 reasonable accommodation, including, without
11 limitation, assistance with reading application
12 questions, responding to questions, completing the
13 form, filing an appeal, and appearing at a hearing,
14 etc., to ensure the process is accessible.
15

16
17 **SECTION 3:** The Code of Ordinances of the City of
18 Margate, Florida, Appendix-A Zoning, Article III General
19 provisions, Section 3.31 Walkway sales, is hereby amended to
20 read as follows¹:
21

22. **Section 3.31. - Walkway sales.**
23.

24 Applications for sales on walkways on private property shall
25 be made to the Economic Development Department of Environmental
26 and Engineering Services (DEES) at least fourteen (14) days
27 prior to the first day of the walkway sale. An administrative
28 fee of two hundred dollars (\$200.00) shall be applied to all
29 applications. A letter of approval must be obtained prior to
30 holding a walkway sale.

31 (A) *Permit criteria.* ~~DEES~~ Economic Development staff may
32 approve applications for walkway sales meeting the
33 following criteria:
34

35 (1) Walkway sales are permitted outside of an existing
36 enclosed permanent business location on four (4)
37 occasions per calendar year for a time period not to
38 exceed three (3) consecutive days per occasion. All
39 occasions must be documented on the application to the
40 Economic Development Department ~~DEES~~.
41

42 (2) All vending shall be directly in front of or adjacent to
43 the permanently enclosed business, and wholly on private
44 property.

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2 (3) No parking spaces, fire lanes, or drive aisles shall be
3 encroached upon.
4
5 (4) Sufficient pedestrian access shall be maintained.
6
7 (5) Only merchandise customarily sold from the existing
8 business with a valid occupational license shall be sold
9 outdoors.
10
11 (6) A letter of approval from the property owner must be
12 provided.
13
14 (7) Proof of insurance, including a certificate naming the
15 City as additional insured must be provided.
16
17 (8) No cooking, musicians, radio broadcasts, DJs or other
18 live entertainment or activity shall be permitted in
19 conjunction with a walkway sale. Any additional such
20 activity in conjunction with a walkway sale shall be
21 considered an outdoor event and be subject to all
22 provisions of Section 3.24 of this Article.

23
24 **SECTION 4:** All ordinances or parts of ordinances
25 in conflict herewith are and the same is hereby repealed to
26 the extent of such conflict.
27

28 **SECTION 5:** If any section, sentence, clause, or
29 phrase of this ordinance is held to be invalid or
30 unconstitutional by a court of competent jurisdiction, then
31 said holding shall in no way affect the validity of the
32 remaining portions of this ordinance.
33

34 **SECTION 6:** It is the intention of the City
35 Commission that the provisions of this ordinance shall become
36 and be made a part of the City of Margate Code, and that the
37 sections of this ordinance may be renumbered or relettered
38 and the word "ordinance" may be changed to "section",
39 "article" or such other appropriate word or phrase in order
40 to accomplish such intentions.
41

42 **SECTION 7:** This ordinance shall become effective
43 immediately upon adoption at its second reading.
44

45 PASSED ON FIRST READING THIS _____ DAY OF _____ 2017.

PASSED ON SECOND READING THIS _____ DAY OF _____ 2017.

ATTEST:

_____ JOSEPH J. KAVANAGH CITY CLERK	_____ MAYOR TOMMY RUZZANO
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RECORD OF VOTE - 1ST READING RECORD OF VOTE - 2ND READING

Caggiano	_____	Caggiano	_____
Simone	_____	Simone	_____
Peerman	_____	Peerman	_____
Schwartz	_____	Schwartz	_____
Ruzzano	_____	Ruzzano	_____