

CITY OF MARGATE, FLORIDA

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

AN ORDINANCE OF THE CITY OF MARGATE, FLORIDA,  
AMENDING CHAPTER 31 - PLATTING, SUBDIVISION AND  
OTHER LAND USE REGULATIONS, ARTICLE 1. - IN  
GENERAL, ADDING NEW SECTION SEC. 31-4 PUBLIC ART  
REQUIREMENT; PROVIDING FOR REPEAL; PROVIDING FOR  
SEVERABILITY; PROVIDING FOR CODIFICATION; AND  
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 31 - Platting, Subdivision and Other  
Land Use Regulations, Article 1. - In General, Section 31-4  
Public Art Requirement, is added to read as follows<sup>1</sup>:

**Chapter 31 - PLATTING, SUBDIVISION AND OTHER LAND USE  
REGULATIONS**

**ARTICLE I. - IN GENERAL**

Sec. 31-4. - Public art requirement.

It is the intent and purpose of this article to further the  
commitment of the City of Margate to providing public art to  
beautify the appearance of the City, commemorate the City's  
history, and to enhance cultural opportunities throughout the  
City.

<sup>1</sup> CODING: Words in ~~struck-through~~ text are deletions from existing  
text, words in underscored text are additions to existing text, and  
**shaded** text are changes between First and Second Readings.

1       (A)       Definitions.   For purposes of this section, the  
2       following words and phrases shall have the following meanings:

3               (1)   "Alteration" means any change or modification in  
4               construction or occupancy.

5               (2)   "Artist"   or   "professional artist" means a  
6               practitioner in the visual arts, generally recognized  
7               by critics and peers as a professional of serious  
8               intent and ability. Indications of a person's status  
9               as a professional artist include but are not limited to  
10              income realized through the sole commission of artwork,  
11              frequent or consistent art exhibitions, placement of  
12              artwork in public institutions or museums, receipt of  
13              honors and awards, and training in the arts.

14              (3)   "Art", "artwork" or "works of art" means tangible  
15              creations by artists exhibiting the highest quality of  
16              skill and aesthetic principles, and includes all forms  
17              of the visual arts conceived in any medium, material,  
18              or combination thereof, including but not limited to  
19              paintings, sculptures, engravings, carvings, frescos,  
20              stained glass, mosaics, mobiles, tapestries, murals,  
21              photographs, video projections, digital images, bas-  
22              relief, high relief, fountains, kinetics, collages,  
23              drawings, monuments erected to commemorate a person(s)  
24              or event(s), functional furnishings, such as artist

1 designed seating and payers, architectural elements  
2 designed by an artist, and artist designed landforms or  
3 landscape elements. The following shall not be  
4 considered artwork or works of art for purposes of this  
5 chapter:

6 a. Reproductions or unlimited copies of original  
7 artwork.

8 b. Art objects that are mass produced.

9 c. Works that are decorative, ornamental, or  
10 functional elements of the architecture or  
11 landscape design, except when commissioned from an  
12 artist as an integral aspect of a structure or  
13 site.

14 (4) "Building" means any structure that encloses space  
15 and is used or built for the shelter or enclosure of  
16 persons, businesses, chattel or property.

17 (5) "Development" means any construction,  
18 redevelopment, alteration or repair of any private or  
19 public building within the limits of the City.

20 (6) "Nonresidential construction" is the gross floor  
21 area of buildings and other structures used for non-  
22 residential purposes. For purpose of this requirement,

1       all parking garages, structures and decks shall be  
2       considered non-residential construction.

3       (7) "Public Art Fund" means a separate, interest  
4       bearing account set up by the City to receive monies  
5       for public art.

6       (8) "Repair" or "maintenance" means the reconstruction  
7       or renewal of any part of an existing building for the  
8       purpose of maintenance.

9       (B) Applicability.

10       (1) All development, redevelopment, remodeling or  
11       converting greater than 12,500 square feet in gross  
12       floor area that are in non-residential zoning  
13       districts, as of the effective date of this section,  
14       shall participate in the public art requirement. The  
15       requirements of this section shall apply to the  
16       following activities:

17               (a) All nonresidential construction, alteration  
18               or repair for which a building permit is required.

19               (b) All new public construction for which a  
20               building permit is required.

21               (c) Exceptions: the requirements of this chapter  
22               shall not apply to public works and utilities  
23               projects or remodeling, repair or reconstruction of

1           structures which have been damaged by fire, flood,  
2           wind, earthquake, hurricane or other disaster.

3           (2) (a) The owner of a development shall provide artwork  
4           in the development site equal or greater than fifty  
5           cents (\$0.50) per square foot of estimated gross  
6           floor area for the development. Owners who are  
7           remodeling or converting may provide artwork on the  
8           development site equal to or greater than twenty  
9           five cents (\$0.25) per square foot of estimated  
10          gross floor area being remodeled or converted.

11           1. The owner shall provide a performance  
12           bond to the City equal to the value of the  
13           art prior to the issuance of a building  
14           permit.

15           2. Prior to placement on the development  
16           site, the artwork must be approved by the  
17           City Commission as recommended by the City  
18           Manager or designee. It is a requirement  
19           that the artwork be accessible and readily  
20           visible to the public based on location of  
21           artwork and normal traffic of  
22           vehicles/pedestrians in the proposed  
23           location.

1                   3. A minimum of 75 percent of the total  
2                   value of the art requirement shall be placed  
3                   in areas that are clearly visible from the  
4                   public sidewalk or public space.

5                   4. The owner shall be given up to six  
6                   months after issuance of the building permit  
7                   to obtain approval of the proposed artwork  
8                   from the City Commission, unless the City  
9                   Manager grants an extension for good cause as  
10                  determined in his/her sole discretion. If no  
11                  such approval is obtained within this time  
12                  period, the City shall require transfer of  
13                  aforementioned funds to the Public Art Fund.

14                  5. The owner shall be given up to six  
15                  months after the issuance of a certificate of  
16                  occupancy to install artwork, as approved by  
17                  the City Commission unless the City Manager  
18                  grants an extension for good cause as  
19                  determined in his/her sole discretion. If no  
20                  installation occurs within this time period,  
21                  said funds shall be transferred to the Public  
22                  Art Fund.

23                  (b) In lieu of providing artwork, the owner of a  
24                  development shall pay forty cents (\$0.40) per

1           square foot of estimated gross floor area as an  
2           art fee to the City's Public Art Fund prior to the  
3           issuance of a building permit. In lieu of  
4           providing artwork, owners who are remodeling or  
5           converting shall pay twenty cents (\$0.20) per  
6           square foot of estimated gross floor area being  
7           remodeled or converted as an art fee to the City's  
8           Public Art Fund prior to the issuance of a  
9           building permit.

10          (3) If an owner chooses to pay a public art fee, it  
11          shall be collected by the building department at the  
12          time of permit issuance.

13          (4) The public art requirement shall not include any  
14          development with an approved site plan that has an  
15          effective date prior to the effective date of this  
16          ordinance.

17          (C) Public Art Fund.

18          (1) There is hereby created a Public Art Fund which  
19          shall consist of all contributions received from art  
20          fees for development, redevelopment, renovation and  
21          repair, from public and private development, cash  
22          grants, and donations to the City for public art  
23          projects from governmental or private resources, and

1       all other funds allocated by the City through the  
2       budgetary process for the provision of public art.

3       (2) The public art fund shall be used solely for  
4       expenses associated with the selection, commissioning,  
5       acquisition, transportation, maintenance, promotion,  
6       administration, removal and insurance of the works of  
7       art or in relation thereto. Expenditures shall be  
8       authorized by the City Manager or designee.

9       (D) Art selection criteria.

10       The following criteria, at a minimum, shall be considered by  
11       the City Manager or designee in the review and recommendation  
12       of artwork to the City Commission:

13       (1) Appropriateness of the artwork to the site and  
14       site environmental conditions;

15       (2) Maximum visual accessibility to pedestrian or  
16       vehicular traffic;

17       (3) Quality of the artwork;

18       (4) Whether the artwork too closely resembles a  
19       business logo or sign; and

20       (5) Any other criteria set forth in the public art  
21       program guidelines as adopted from time to time.

22  
23       **SECTION 2:** All ordinances or parts of ordinances in



1 conflict are repealed to the extent of such conflict.

2  
3 **SECTION 3:** If any section, sentence, clause, or phrase  
4 of this Ordinance is held to be invalid or unconstitutional by  
5 a court of competent jurisdiction, then said holding shall in  
6 no way affect the validity of the remaining portions of this  
7 Ordinance.

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

16  
17 **SECTION 5:** This Ordinance shall become effective  
18 immediately upon adoption at its second reading.

19  
20 PASSED ON FIRST READING THIS \_\_\_\_\_ day of \_\_\_\_\_, 2017.

21 PASSED ON SECOND READING THIS \_\_\_\_\_ day of \_\_\_\_\_, 2017.

22 ATTEST:

23  
24  
25 \_\_\_\_\_  
26 JOSEPH KAVANAGH  
27 CITY CLERK  
28

\_\_\_\_\_  
MAYOR TOMMY RUZZANO

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

30  
31 Caggiano \_\_\_\_\_  
32 Simone \_\_\_\_\_  
33 Peerman \_\_\_\_\_  
34 Schwartz \_\_\_\_\_  
35 Ruzzano \_\_\_\_\_

Caggiano \_\_\_\_\_  
Simone \_\_\_\_\_  
Peerman \_\_\_\_\_  
Schwartz \_\_\_\_\_  
Ruzzano \_\_\_\_\_