

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, SECTION 31-2. UNDERGROUND WIRING  
REQUIRED; EXCEPTION AND ADDING NEW SECTION  
SECTION 31-3 UNDERGROUND UTILITY TRUST FUND -  
ESTABLISHED; 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:** The Code of Ordinances of the City of  
Margate, Florida, Chapter 31 - Platting, Subdivision and Other  
Land Use Regulations, Article 1. - In General, Section 31-2,  
is hereby amended to read as follows<sup>1</sup>:

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

**ARTICLE I. - IN GENERAL**

**Sec. 31-2. - Underground wiring required; ~~exception.~~**

**(A) Definitions:**

(1) *Utilities.* "Utilities" shall mean all utilities and  
similar facilities, including but not limited to gas,  
telephone, cable, fiber, internet, broadband,  
telecommunications, and other communications and electrical  
distribution and transmission facilities.

<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        (2) Substantially redevelop or reconstruct. "Substantially  
2        redevelop or reconstruct" shall mean (i) the cost of  
3        rebuilding, repair or reconstruction will be 50 percent of  
4        the replacement cost of the building or structure, or (ii)  
5        a modification to an approved site plan as regulated by  
6        section 31-34, is required.

7  
8        ~~(a) In new residential subdivisions whose plats are approved~~  
9        ~~after the effective date of this section, all utility lines,~~  
10       ~~including but not limited to those required for electrical~~  
11       ~~power distribution, telephone and telegraph communication,~~  
12       ~~street lighting and television signal services, shall be~~  
13       ~~installed underground. This section shall apply to all cable,~~  
14       ~~conduits or wires forming part of an electrical distribution~~  
15       ~~system, including service lines to individual properties~~  
16       ~~necessary to serve the subdivision under consideration.~~  
17       ~~However, this section shall not apply to wires, conductors or~~  
18       ~~associated apparatus and supporting structures where exclusive~~  
19       ~~function is in transmission of electrical energy between~~  
20       ~~generating stations, substations and transmission lines of~~  
21       ~~other utility systems. Appurtenances such as transformer~~  
22       ~~boxes, pedestal mounted terminal boxes, and meter cabinets may~~  
23       ~~be placed above ground and shall be located in such a manner as~~  
24       ~~to minimize noise effects upon the surrounding residential~~  
25       ~~properties.~~

26       ~~(Bb)~~ Easements shall be provided for the installation of  
27       underground utilities or relocating existing facilities in  
28       conformance with such size and location of easements as may be  
29       determined by the city's engineer to be compatible with the  
30       requirements of all utility companies involved with respect to  
31       a particular utility service.

32       ~~(Ce)~~ The subdivider or developer shall submit written evidence  
33       of a satisfactory arrangement with each of the persons, firms  
34       or corporations furnishing utility services involved with  
35       respect to a particular development before the final plat of  
36       the subdivision is submitted to the city commission for its  
37       approval.

38       ~~(d) With regard to business and industrial zoned property, all~~  
39       ~~utility lines shall be located beneath the ground from the~~  
40       ~~building or structure to the terminal supplied by the utility~~  
41       ~~company (which in most cases shall mean that the utility lines~~  
42       ~~shall be underground from the street line or pole line to the~~  
43       ~~building or structure).~~

~~(c) It is specifically required by this section, whether or not new plats or replats are filed or in the event it is determined that replatting of areas are not required, that all areas in the "eastern tier" of the City of Margate, the "eastern tier" being that area of the City of Margate located east of 441 (State Road 7) and north of Coconut Creek Parkway, is hereby required to have underground utility lines as described in paragraph (a) of this section.~~

(D) Underground placement of existing utilities:

(1) Applicability.

(a) For any new commercial, industrial, retail development, mixed use application or any other development application other than a residential development application approved after the effective date of this ordinance, all utilities to be located within or in the public rights-of-way adjacent to the development and within that development even if not in the public rights-of-way shall be installed underground at the developer's and/or owner's cost. Existing overhead utilities on public rights-of-way adjacent to the new development and within that development, even if not in the public rights-of-way, shall be converted to underground utilities at the developer's and/or owner's cost, provided that, where applicable, such cost is determined pursuant to a utility's tariffs, such as those of Florida Power & Light Company, that are approved and enforceable by the Florida Public Service Commission. Where the costs are not subject to tariffs enforceable by the Florida Public Service Commission, it is the intent of this section that the City will not be responsible for any such costs, and that the apportionment of such costs between the developer, owner, and any utility shall be pursuant to a written agreement between the involved parties. For a project parcel located at a roadway intersection, the developer and/or owner shall be responsible to continue the underground conversion across the intersection to the nearest point/points of connection at no cost to the City. No overhead poles shall be allowed to stay adjacent to any parcel that is required to have underground utilities pursuant to this section of the City Code.

(b) If any application is submitted after the effective date hereof for a permit to substantially redevelop or reconstruct an existing commercial,

1 industrial, retail, mixed use or any project other than  
2 a residential development that occupies one acre or  
3 more or that requires site plan approval, all utilities  
4 located within or in the public rights-of-way adjacent  
5 to that development and within that development, even  
6 if not in the public rights-of-way, shall be installed  
7 underground at the developer's and/or owner's cost.  
8 Existing overhead utilities shall be converted to  
9 underground utilities at the developer's and/or owner's  
10 cost. For a project parcel located at a roadway  
11 intersection, the developer and/or owner shall be  
12 responsible to continue the underground conversion  
13 across the intersection to the nearest point/points of  
14 connection at no cost to the City. No overhead poles  
15 shall be allowed to stay adjacent to any parcel that is  
16 required to have underground utilities pursuant to this  
17 section of the City Code.

18 (c) 1. For any redevelopment or reconstruction of a  
19 residential project of five acres or more or any new  
20 development or reconstruction of a residential project  
21 of five units or more approved after the effective date  
22 hereof, all utilities located within or in the public  
23 rights-of-way adjacent to that development and all  
24 utilities located within the project site shall be  
25 installed underground at the developer's and/or owner's  
26 cost. All existing overhead utilities, including  
27 "service laterals" and "service drops" that serve  
28 individual residences, units, or commercial  
29 establishments in the public rights-of-way and in the  
30 project area, regardless whether such utility  
31 facilities are located in the rights-of-way or on  
32 private property, shall be converted to underground  
33 utilities at the developer's and/or owner's cost. When  
34 an area is converted to underground service for a  
35 project in which the City participates and front-ends  
36 the costs to obtain benefits available from any utility  
37 (including, without limitation, the reduced cost  
38 available from Florida Power and Light Company through  
39 that company's governmental adjustment factor waiver  
40 tariffs), each property owner in the affected area  
41 shall complete the conversion of his or her services,  
42 including service laterals or service drops, within 90  
43 days after the new underground facilities have been  
44 energized. For a project parcel located at a roadway  
45 intersection, the developer and/or owner shall be  
46 responsible to continue the underground conversion  
47 across the intersection to the nearest point/points of

1 connection at no cost to the City. No overhead poles  
2 shall be allowed to stay adjacent to any parcel that is  
3 required to have underground utilities pursuant to this  
4 section of the City Code.

5 2. This section shall not be applicable to the  
6 remodeling or reconstruction of an individual single  
7 family home, situated alone with no other residences on  
8 the same parcel, on any sized parcel of property  
9 existing on the property as of the effective date of  
10 this ordinance. The remodeling or reconstruction of an  
11 existing single family residence is defined as an  
12 addition or remodeling that does not require the  
13 demolition of more than 50 percent of the existing  
14 structure. Any reconstruction or remodeling that  
15 requires more than 50 percent of the existing structure  
16 to be demolished shall be required to comply with  
17 subsection (1)(c)1. above. The intent of this  
18 subsection is to allow remodeling of an existing  
19 single-family home anywhere in the City that was  
20 constructed before the effective date of this  
21 ordinance.

22 (2) *Exception.* Electrical transmission or distribution  
23 lines with a rated load of more than 27 kV (27,000 volts)  
24 shall be exempt from the requirements of this section. All  
25 electrical transmission or distribution lines with a rated  
26 load of 27 kV (27,000 volts) or less shall not be exempted  
27 from the requirements of this section.

28 (3) *City participation.* Upon application and execution of  
29 an agreement by a developer or property owner consistent  
30 with this section, the City may participate as an applicant  
31 or co-applicant for undergrounding projects in order to take  
32 advantage of benefits that may be available from the utility  
33 to local government applicants. The developer or property  
34 owner shall agree to reimburse the City for the City's  
35 costs, including without limitation attorney's costs,  
36 incurred in the City's participation in the project as  
37 contemplated by this section. In certain areas or projects  
38 where the City participates to underground utilities and  
39 pays all costs up front to obtain benefits available from  
40 any utility, including without limitation from Florida Power  
41 and Light Company (FPL), AT&T, Comcast, etc., each owner  
42 and/or developer who benefits from this conversion or  
43 undergrounding shall pay the City all expenses related to  
44 the conversion or undergrounding, including but not limited  
45 to design construction and/or any fees in a pro-rated manner  
46 as determined by the City Commission.

1       (4) Process timing and waiver.

2       (a) The developer and/or owner shall evidence  
3       compliance with the requirements in this division by  
4       providing to the City a signed agreement between the  
5       developer and/or the owner and each relevant utility  
6       showing that the utility has agreed, at the developer  
7       or owner's cost, to place or convert the relevant  
8       utilities underground, or the developer and/or owner  
9       has established an agreement with the City indicating  
10       their intent to comply with the undergrounding  
11       requirements of subsection (1)(c)1. above. This  
12       evidence or application for waiver shall be submitted  
13       with the development application; if not thus  
14       submitted, then the development application shall be  
15       deemed incomplete. The City shall require this  
16       evidence or an application for waiver, as described in  
17       subsection (b) below, to accompany the review of the  
18       development application by the Development Review  
19       Committee. The City Commission shall be the final  
20       authority to grant or deny said waiver application.

21       (b) Any developer or owner subject to the requirements  
22       of this section may apply to the City, in a form  
23       specified by the City and accompanied by the payment of  
24       a waiver application fee seeking to be relieved of the  
25       requirements of this division. This waiver application  
26       must be submitted to the City prior to the time  
27       specified in subsection (a) above. If the developer or  
28       owner claims that technical reasons are the basis for  
29       the waiver application, the application shall contain a  
30       detailed statement by a state licensed professional  
31       engineer, qualified with respect to utility issues,  
32       explaining why, in the engineer's professional opinion,  
33       it is technically infeasible to locate such utilities  
34       underground. The Director of Environmental and  
35       Engineering Services and the Economic Development  
36       Director shall review such application and shall make a  
37       recommendation to the City Commission. The City  
38       Commission shall have the authority to grant or deny a  
39       waiver. The City may grant a waiver if the application  
40       is supported by information detailing justifiable  
41       reasons for not pursuing the subject undergrounding,  
42       including, by way of example and not limitation,  
43       technical infeasibility or impracticability, practical  
44       infeasibility or impracticability, or costs outweigh  
45       perceived benefits, as determined by the City.

(c) If a waiver is granted, a dollar amount equal to the cost of placing the utilities underground, as determined by an estimate established by the relevant utilities and as agreed upon by the City, may be required to be paid into the City's Underground Utility Trust Fund prior to the development permits being issued.

**SECTION 2:** The Code of Ordinances of the City of Margate, Florida, Chapter 31, Section 31-3 Underground Utility Trust Fund - Established, shall read as follows:

Sec. 31-3 Underground Utility Trust Fund - Established.

There is hereby established an Underground Utility Trust Fund. Contributions generated from the waiver provision of Section 31-2 of this Code, entitled "Underground utilities; required", shall be deposited into the Underground Utility Trust Fund. The City Commission may, by resolution, designate other additional funds to be deposited into the underground Utility Trust Fund as deemed to be in the best interest of the City.

(A) Restriction on expending funds.

(1) Funds deposited into the Underground Utility Trust Fund shall be restricted and shall be expended solely for projects that place existing or future utility lines underground as may be approved by the City Commission from time to time. Projects that are eligible for the expenditure of such funds include but are not limited to:

a. The underground placement of all utilities lines and appurtenances, including but not limited to gas, telephone, cable, fiber, communications and electrical distribution and transmission facilities on public rights-of-way.

b. Public property beautification projects, including but not limited to median improvements, which are occasioned by the placement of utility lines underground.

c. Payment for any loan, bond, or other debt incurred for any project authorized by this section, including debt service, if any.

(2) Funds deposited into the Underground Utility Trust Fund are intended to be used for projects with a rational nexus to the project or projects contributing the funds into the trust, where feasible or practicable. The

1        rational nexus may be based on location, system integrity  
2        or other matters as determined in the discretion of the  
3        City Commission.

4        (B) Prohibition against expending funds.

5            (1) Funds deposited into the Underground Utility Trust  
6            Fund shall not be used as a source of revenue to meet  
7            operating needs of the City of Margate.

8            (2) Funds deposited into the Underground Utility Trust  
9            Fund shall not be commingled with general fund revenue,  
10           and shall not be used to supplement the general fund  
11           budget.

12           (3) All interest earnings resulting from funds  
13           deposited into the Underground Utility Trust Fund shall be  
14           transferred back into the Underground Utility Fund on an  
15           annual basis on or by September 30 of every year.

16        (C) Authority to expend funds.

17        Any project which meets the criteria for funding from the  
18        Underground Utility Trust Fund as set forth in section (A)  
19        above, shall be approved by a separate, specific resolution of  
20        the City Commission for that project. Said resolution shall be  
21        separate and apart from the annual budget process.

22        (D) Amendments to or rescission of Underground Utility Trust  
23        Fund.

24           (1) The City Commission may, by ordinance, temporarily  
25           cease depositing contributions from the waiver provisions  
26           of section 31-2 of this Code into the Underground Utility  
27           Trust Fund. Any ordinance that approves the temporary  
28           cessation of said contributions to the Underground Utility  
29           Trust Fund shall be effective for a period that shall not  
30           exceed one year.

31           (2) The City Commission may, by ordinance, amend or  
32           rescind the Underground Utility Trust Fund.

33           (3) In the event the Underground Utility Trust Fund is  
34           rescinded by subsequent ordinance, it is the intention of  
35           this subsection that all existing Underground Utility  
36           Trust Fund funds be used for the purposes contained in  
37           section (A) above.

38  
39        **SECTION 2:** All ordinances or parts of ordinances in  
40        conflict are repealed to the extent of such conflict.

41  
42        **SECTION 3:** If any section, sentence, clause, or phrase  
43        of this Ordinance is held to be invalid or unconstitutional by  
44        a court of competent jurisdiction, then said holding shall in



no way affect the validity of the remaining portions of this 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 \_\_\_\_\_, 2017.

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

ATTEST:

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

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

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

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