

1 CITY OF MARGATE, FLORIDA  
2 ORDINANCE NO. 2019 - \_\_\_\_\_  
3

4 AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF MARGATE,  
5 FLORIDA, AMENDING THE CITY OF MARGATE COMPREHENSIVE PLAN  
6 TO ADOPT THE EVALUATION AND APPRAISAL REPORT (EAR) BASED  
7 AMENDMENTS TO INCLUDE UPDATES TO POLICIES IN THE CAPITAL  
8 IMPROVEMENTS ELEMENT, TRANSPORTATION ELEMENT,  
9 INTERGOVERNMENTAL COORDINATION ELEMENT, AND PUBLIC SCHOOLS  
10 FACILITIES ELEMENT; CREATING POLICY 1.5 IN THE CAPITAL  
11 IMPROVEMENTS ELEMENT; PROVIDING FOR CONFLICT; PROVIDING  
12 FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND  
13 PROVIDING AN EFFECTIVE DATE.  
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15 **WHEREAS**, the Florida Legislature intends that local planning be  
16 a continuous and ongoing process; and  
17

18 **WHEREAS**, Florida Statutes §163.3191 directs local governments  
19 to assess the success or failure of the adopted Comprehensive Plan  
20 to adequately address changing conditions and state policies and  
21 rules every seven (7) years; and  
22

23 **WHEREAS**, Florida Statutes §163.3191 directs local governments  
24 to adopt needed amendments to ensure that the Comprehensive Plan  
25 provides appropriate policy guidance for growth and development;  
26 and  
27

28 **WHEREAS**, the City has completed its proposed EAR-based review  
29 of amendments consistent with the requirements of the Community  
30 Planning Act pursuant to Chapter 163, Part II, Florida Statutes;  
31 and  
32

33 **WHEREAS**, the City has determined that minor amendments are  
34 required to maintain the Comprehensive Plan's consistency with  
35 Chapter 163, Part II, Florida Statutes, and has prepared the

attached amendments ("Exhibit 1-A") for transmittal to the Department of Economic Opportunity ("DEO") for review; and

**WHEREAS**, on October 2, 2018, the Planning and Zoning Board, serving as the Local Planning Agency, considered the Comprehensive Plan Amendments and afforded all interested persons an opportunity to be heard; and

**WHEREAS**, the Mayor and City Commission have conducted duly noticed public hearings on the EAR-based amendments to the City's Comprehensive Plan, as required by Chapter 163, Florida Statutes; and

**WHEREAS**, the Mayor and City Commission have determined that the proposed amendments are in the best interest of the City of Margate and its residents.

**WHEREAS**, Florida Statutes §166.041(3)(c)(2) requires that the local governing body shall hold two advertised public hearings on the proposed ordinance and at least one hearing shall be held after 5:00 PM, unless the local governing body, by a majority plus one vote, elects to conduct that hearing at another time of day.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MARGATE, FLORIDA THAT:**

**SECTION 1: Approval of EAR-Based Amendments.** The Mayor and City Commission of Margate, Florida hereby approve the City of Margate EAR-based amendments, as incorporated herein as "Exhibit 1-A", to reflect amendments to policies in the Capital Improvements Element, Transportation Element, Intergovernmental Coordination Element, and Public Schools Facilities Element; and, creating

68 Policy 1.5 in the Capital Improvements Element to remain consistent  
69 with Chapter 163, Part II, Florida Statutes.

70  
71 **SECTION 2: Transmittal.** The City of Margate, Florida  
72 Comprehensive Plan, as hereby amended, shall be transmitted to all  
73 appropriate reviewing agencies as provided in Florida Statutes  
74 §163.3184.

75  
76 **SECTION 3: Conflict.** All ordinances or parts of Ordinances,  
77 Resolutions or parts of resolutions in conflict with the provisions  
78 of this Ordinance shall be repealed to the extent of such conflict.

79  
80 **SECTION 4: Severability.** If any clause, section, or other part  
81 or application of this Ordinance shall be held by any court of  
82 competent jurisdiction to be unconstitutional or invalid, such  
83 unconstitutional or invalid part or application shall be  
84 considered as eliminated and so not affecting the validity of the  
85 remaining portions or applications remaining in full force and  
86 effect.

87  
88 **SECTION 5: Codification.** It is the intention of the City  
89 Commission that the provisions of this ordinance shall become and  
90 be made a part of the City of Margate Code, and that the sections  
91 of this ordinance may be renumbered or relettered and the word  
92 "ordinance" may be changed to "section", "article" or such other  
93 appropriate word or phrase in order to accomplish such intentions.

94  
95 **SECTION 6: Effective date.** This Ordinance shall become  
96 effective pursuant to Florida Statutes §163.3184.

97  
98 PASSED upon first reading this \_\_\_\_ day of \_\_\_\_\_, 2018.

99 PASSED AND ADOPTED upon second reading this \_\_\_\_ day of  
100 \_\_\_\_\_, 2019.

101

102 *ATTEST:*

103

104

105 \_\_\_\_\_  
JOSEPH J. KAVANAGH

106 CITY CLERK

107

108

109 *RECORD OF VOTE - 1<sup>st</sup> READING*

110 Peerman \_\_\_\_\_

111 Simone \_\_\_\_\_

112 Ruzzano \_\_\_\_\_

113 Caggiano \_\_\_\_\_

114 Schwartz \_\_\_\_\_

\_\_\_\_\_  
MAYOR ARLENE R. SCHWARTZ

*RECORD OF VOTE - 2<sup>nd</sup> READING*

Peerman \_\_\_\_\_

Simone \_\_\_\_\_

Ruzzano \_\_\_\_\_

Caggiano \_\_\_\_\_

Schwartz \_\_\_\_\_

## EXHIBIT 1-A

### Capital Improvements Element

Policy 1.5. Annually adopt a schedule of capital improvements that includes any publicly funded projects of federal, state, or local government, and that may include privately funded projects for which the local government has no fiscal responsibility. Projects necessary to ensure that any adopted level-of-service standards are achieved and maintained for the 5-year period must be identified as either funded or unfunded and given a level of priority for funding.

Policy 5.4. The City's concurrency management system will ensure that the necessary facilities and services are available concurrent with the impacts of development. The City of Margate will conduct its concurrency review ~~for local facilities at the time of plat~~ prior to issuance of a development order. ~~The City of Margate shall review all City plats and continue to participate in the countywide development review committee plat review and approval process.~~

~~The City and County plat approval process~~ will require that necessary regional and local facilities and services be available concurrent with the impacts of development through any of the following situations:

- ~~The necessary facilities are in place at the time a plat approval~~ the development order is issued, or a plat approval the development order is issued subject to the condition that the necessary facilities will be in place when the impacts of the development occur.
- The necessary facilities are under construction at the time ~~a plat approval~~ the development order is issued.
- The necessary facilities are the subject of a binding contract executed for the construction of those necessary facilities at the time the development order a plat approval is issued.
- The necessary facilities have been included in the 5-year schedule of capital improvements ~~Broward County or City of Margate's annual budget~~ at the time a ~~plat approval~~ the development order is issued although the facilities are not yet the subject of a binding contract for their construction. The City of Margate shall make a determination that it will not remove the budgetary provision for the necessary facilities from the budget.
- The applicant in good faith offers to enter into a binding agreement to pay for or construct its proportionate share of required transportation improvements in a manner consistent with F.S. §163.3180(5), and that the proportionate-share contribution or construction is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility, pursuant to F.S. 163.3180.
- The applicant enters into a binding agreement to pay for or construct its proportionate share of the school facilities necessary to serve the proposed development pursuant to Objective 1.3.0 of the Public Schools Facilities Element, or adequate school facilities will be in place or under actual construction within 3 years after approval of final plat, site plan or functional equivalent.

Policy 6.2. ~~The Level of Service standard shall be 110% of the permanent Florida Inventory of School Housing (FISH) capacity for each public elementary, middle and high school~~ the higher of 100% gross capacity (including relocatables) or 110% permanent Florida Inventory

of School Housing (FISH) capacity for the purpose of establishing uniform, districtwide level-of-service standards for public schools, as outlined in the adopted Third Amended Interlocal Agreement.

## Transportation Element

Policy 2.2.1. The City of Margate shall adopt and implement adopted in 1994 and since then maintains a concurrency management system that assures substantial conformity with both the Margate and Broward County Comprehensive Plans when assessing all development activities. provides that Further, a development order may be issued within when an impacted roadway exceeds its adopted LOS standard only if one or more of the following mitigation measures apply:

1. The proposed development does not place any trips on, or create any, overcapacity links within the impact area. The impact area consists of all property within the impact distance of the boundary of the proposed development site, where the impact distance is defined below:

| Proposed Use:   | Impact Distance (miles): |
|---|--------------------------|
| Church  | 1                        |
| Commercial, less than 200,000 square feet GFA           | 1                        |
| Commercial, between 200,000 & 1 million square feet GFA | 2                        |
| Commercial, greater than 1 million square feet GFA      | 3                        |
| Commercial Recreation                                   | 1                        |
| Community Facility                                      | 1                        |
| Day Care  | 1                        |
| Hotel   | 1                        |
| Industrial/Warehouse                                    | 2                        |
| Office  | 2                        |
| Park (local)  | 1                        |
| Park (regional)   | 2                        |
| Regional Cultural/Tourism Facility                      | 3                        |
| Residential   | 1.5                      |
| School  | 1                        |

Proposed development with mixed use will be assigned the impact distance from the above table that is closest to the weighted average of impact distances of the individual uses in the proposed development, with the weights based on trips generated. Traffic studies submitted by an applicant shall be considered in reaching this decision.

2. The proposed development places trips on, or creates, overcapacity links within the impact area, but one of the following conditions applies:
- a. There is an approved action plan to accommodate the traffic impact of the development; or
  - b. The necessary improvements to provide the applicable level of service are either under construction or are the subject of an executed contract for the immediate implementation of the improvements at the time the permit is issued; or
  - c. The necessary improvements to provide the applicable level of service have been included for the first two (2) years of the adopted municipal, state or county schedule of transportation improvements and the applicable government entity makes a determination that a binding contract for the implementation of said improvements will be executed no later than the final day of the second fiscal year of the original schedule; provided, however, that for an improvement to a FIHS facility, inclusion in the third year of the adopted state program may also be acceptable; or
  - d. The necessary improvements for the applicable LOS are provided for in an enforceable development agreement and will be available prior to certificates of occupancy that require those facilities. An enforceable development agreement may include, but is not limited to, development agreements pursuant to section 163.3220, Florida Statutes; or
  - e. The development permit will be issued in accordance with, and as authorized by, an approved Florida Quality Development (FQD) or Development of Regional Impact (DRI) development order which development order was either issued prior to the adoption of the 1989 Broward County Comprehensive Plan or was issued after being reviewed for concurrency; or
  - f. The proposed development is found to have vested rights with regard to any affected road segment in accordance with the provisions of Chapter 163, Part II, Florida Statutes, or a common law vested rights determination made as to that road segment in accordance with Section 5-181(l) of this Article. The proposed development must meet concurrency for any road segment for which a vested rights determination has not been made; or
  - ~~g. The proposed development meets all of the de minimis criteria~~
  - hg. The proposed development would promote public transportation. Specifically, the proposed development is either:
    - i. A public transit capital facility, including transit terminals, lines, shelters and stations; or
    - ii. An office building or office project that includes fixed-rail or transit terminals as part of the building
  - ih. The applicant in good faith offers to enter into a binding agreement to pay for or construct its proportionate share of required transportation improvements in a manner consistent with F.S. §163.3180(5), and that the proportionate-share contribution or construction is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility, pursuant to F.S. §163.3180. The Margate development review and approval process will ensure that necessary facilities and services will be available concurrent with the

impacts of development consistent with ~~Rule 9J-5.005(3)(c) F.A.C.~~ F.S. §163.3180 through any of the following situations. Development Action includes any land use change, site plan approval, building permit, zoning permit, subdivision approval, rezoning, special exception, variance, or any other official action of the City Commission or other appropriate City official or agency.

(a) The necessary transportation facilities are in place at the time a Development Action is approved by the City Commission or other appropriate City officials or the Development Action is approved subject to the condition that the necessary transportation facilities will be in place concurrent with the impacts of the development;

(b) The necessary transportation facilities are under construction at the time a Development Action is approved by the City Commission, or other appropriate City officials.

(c) The necessary transportation facilities are the subject of a binding contract executed for the construction of those necessary transportation facilities at the time a Development Action is approved by the City Commission, or other appropriate City officials.

(d) The necessary transportation facilities have been included in the Municipal, County or State annual budget at the time a Development Action is approved by the City Commission, or other appropriate City officials although the facilities are not yet the subject of a binding contract for their construction; and/or,

(e) At the time a Development Action is approved by the City Commission, or other appropriate City officials, the City is able to assure that the necessary transportation facilities will be in place within a reasonable period of time consistent with ~~the Rule 9J-5.0055(3)(c), F.A.C.~~ F.S. §163.3180. At a minimum, the necessary transportation facilities are to be included within a financially feasible Capital Improvements Element or an alternative implementation plan which is determined by the ~~Florida Department of Community Affairs~~ State Land Planning Agency to be in compliance with ~~Rule 9J-5 of the Florida Administrative Code~~ F.S. §163.3180 and supported by all necessary implementing land development regulations and a concurrency monitoring system; and/or-

(f) The applicant in good faith offers to enter into a binding agreement to pay for or construct its proportionate share of required transportation improvements in a manner consistent with F.S. §163.3180(5), and that the proportionate-share contribution or construction is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility, pursuant to F.S. §163.3180.

## **Intergovernmental Coordination Element**

**Policy 2.4.** Utilize the SFRPC ~~informal~~ dispute resolution program to resolve intergovernmental disputes, ~~when agreed to by all affected parties. [9J-5(3)(c)2] as~~ required by F.S. §163.3177.

## **Public Schools Facilities Element**

**Objective 1.1.0.** Pursuant to Chapters 163.3177 and 163.3180 F.S. and the Third Amended and Restated Interlocal Agreement for Public School Facility Planning (TRILA),



the City shall provide comments to the School Board during its annual preparation, update and adoption of the Five-Year District Educational Facilities Plan (DEFP). The School Board shall also ensure that school facilities are planned to meet the long-term planning period of the Public School Facility Element (PSFE) of the City of Margate Comprehensive Plan, consistent with the provisions of the TRILA.

**Policy 1.1.1.** The City hereby adopts the most current Broward County School Board DEFP (Broward County School Board annually adopted district educational facilities plan (DEFP) dated September 7, 2010, as amended, for fiscal years 2010-11 to 2014-15, including the 5-year schedule of capital improvements) is hereby adopted into the CIE.

**Policy 1.1.2.** The financially feasible schedule of capital improvements of the DEFP shall be annually adopted into the City of Margate Comprehensive Plan Capital Improvements Element (CIE) schedule of capital improvements by reference.

**Policy 1.1.3.** The Level of Service (LOS) standard shall be the higher of: 100% of the gross capacity (with including relocatable classrooms) for each CSA until the end of the 2018-2019 school year; and commencing at the 2019-20 school year, the LOS for each CSA shall be 100% or 110% of the permanent Florida Inventory of School Housing (FISH) capacity for each public elementary, middle and high school.