

CITY OF MARGATE, FLORIDA

ORDINANCE NO. 2017-1500.628

AN ORDINANCE OF THE CITY OF MARGATE, FLORIDA, AMENDING APPENDIX-A ZONING; SECTION 3.22. ALCOHOLIC BEVERAGES; SECTION 7.3 TOC-C CORRIDOR PERMITTED USES; SECTION 8.4 TOC-G GATEWAY PERMITTED USES; TOC-CC CITY CENTER PERMITTED USES; SECTION 22.3 PERMITTED USES; SECTION 23.3 PERMITTED USES; SECTION 2.2 TERMS DEFINED; PROVIDING FOR DELETION OF ALLOCATION OF LICENSES BY DISTRICTS; PROVIDING FOR DISTANCE RESTRICTIONS; PROVIDING FOR APPLICATION PROCEDURES; PROVIDING FOR DEFINITIONS; 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, Appendix-A Zoning, Article III General provisions, Section 3.22 Alcoholic Beverages, is hereby amended to read as follows¹:

Section 3.22. - Alcoholic beverages.

(I) *Definitions.*

- (A) The terms, words and phrases used in this chapter shall be defined as those words, terms and phrases are defined in the alcoholic beverage law of the State of Florida, known as Chapters 561, 562, 563, 564, 565, 567 and 568, Florida Statutes, as amended.

¹ CODING: 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.

1 (B) The term "license" as used in this chapter shall be
2 defined as the city approval as is required by the
3 rules and regulations of the state beverage department.
4

5 (II) *State beverage law adopted by reference; enforcement*
6 *authority of city police.*
7

8 (A) The provisions of Chapters 561, 562, 563, 564, 565,
9 567, and 568 ~~and 569~~, Florida Statutes, relating to
10 alcoholic beverages, except those sections thereof
11 which are by their nature inapplicable to
12 municipalities, are hereby adopted as a part of this
13 Code as fully as if set forth herein in full.

14 (B) The city police department shall be charged with the
15 duty of enforcing the provisions hereof and shall be
16 vested with such power and authority as necessary in
17 enforcing the beverage laws of the city and state in
18 carrying out their duties hereunder.

19 (III) *Public consumption, possession, prohibited.*

20 (A) (1) It shall be unlawful for any person to drink or
21 consume alcoholic beverages, or have in his/her
22 possession any open container containing alcoholic
23 beverages, including liquor, beer, or wine, in any
24 commercial establishment ~~of bottle club~~ as defined by
25 state law, on any public street, in any public park, in
26 any public or quasipublic parking lot, or in any other
27 public place, unless such place is licensed by the ~~city~~
28 State of Florida for the sale of alcoholic beverages.

29 (2) For temporary City or Community Redevelopment
30 Agency events, or outdoor promotional events approved
31 by the Development Review Committee in accordance with
32 the criteria contained in Section 3.24, outdoor sales
33 and/or consumption of alcoholic beverages shall be
34 permitted where:

35 1- (a) The sale and/or consumption of alcoholic
36 beverages in a designated outdoor area is approved
37 by the City Commission or the Development Review
38 Committee; and

39 2- (b) A license from the State of Florida for said
40 temporary event has been obtained

41 (3) This section shall not be construed to permit
42 drinking or consumption of any of the beverages listed

herein in public parking lots or in any other public place wherein adjacent stores may be licensed by the Ceity for the sale of alcoholic beverages.

(B) For this section, the definition of quasipublic shall be that private property where a private owner permits the general and common use of a street or way by the public such as parking lots, shopping centers, and those areas where the public is deemed to be invited. Quasipublic shall also include those portions of private property which are parking lots, streets, or common areas of apartment buildings, condominiums, mobile home parks, and like organizations, where the private owner or organization in control of said areas has requested ~~form~~ from the Ceity in writing that this section be enforced.

~~(C) Reserved.~~

~~(D)~~ (C) Those outdoor portions of any established golf course of which access is limited to only patrons who have paid the appropriate admission fees shall be considered private property and therefore exempt from the prohibitions of this section. The sale and consumption of alcoholic beverages shall be permitted in these areas upon approval of the Ceity Ceommission.

(IV) *Exemption of vendors, etc., from city alcoholic beverage license tax.*

All vendors, distributors, manufacturers, [and] exporters of alcoholic beverages, as well as clubs and caterers, shall be exempt from the payment of a Ceity alcoholic beverage license tax; provided, this exemption shall not affect the levy of any ~~occupational license~~ Local Business Tax Receipt or other Ceity license authorized by state law.

(V) *Authority of administration.*

The Director of Economic Development, or designee, is hereby authorized and directed to execute approvals for applicants for various types of beverage licenses pursuant to the provisions of this section.

(VI) ~~Reserved Enumeration of districts for allocation of licenses; adoption of alcoholic beverage district map.~~

1 ~~The city is hereby divided into five (5) alcoholic beverage~~
2 ~~districts to be designated Districts A, B, C, D and E. The~~
3 ~~districts enumerated herein are defined as follows:~~

4 ~~District A: All that part of the City of Margate lying west~~
5 ~~of the center line of the One Mile Canal; south of the~~
6 ~~center line of Royal Palm Boulevard; and north of the center~~
7 ~~line of the Cypress Creek (C-14) Canal.~~

8 ~~District B: All that part of the City of Margate lying west~~
9 ~~of the center line of State Road 7 and north of the center~~
10 ~~line of Royal Palm Boulevard.~~

11 ~~District C: Bounded on the north by the center line of Royal~~
12 ~~Palm Boulevard; on the east by the center line of State Road~~
13 ~~7; on the south by the center line of the Cypress Creek (C-~~
14 ~~14) Canal; and on the west by the center line of the One~~
15 ~~Mile Canal.~~

16 ~~District D: All that part of the City of Margate lying east~~
17 ~~of the center line of State Road 7; and north of the center~~
18 ~~line of the Cypress Creek (C-14) Canal.~~

19 ~~District E: All that part of the City of Margate lying south~~
20 ~~of the center line of the Cypress Creek (C-14) Canal.~~

21 (VII) Reserved. ~~Allocation of licenses by district and~~
22 ~~category.~~

23 (A) ~~The allocation of the various general categories of~~
24 ~~alcoholic beverage licenses shall be in accordance with~~
25 ~~the following schedule showing the category of~~
26 ~~alcoholic beverage licenses allocated per district. No~~
27 ~~approval shall be granted which would allow licenses in~~
28 ~~excess of the number allocated per category or~~
29 ~~allocated per district. In granting or denying a~~
30 ~~request for an initial, transfer or renewal alcoholic~~
31 ~~beverage license allocation, the Economic Development~~
32 ~~Department shall grant alcoholic beverage license~~
33 ~~allocations to only those establishments that are in~~
34 ~~compliance with the zoning provisions of this City~~
35 ~~Code.~~

36 (B) ~~All applications or approvals for allocation of various~~
37 ~~categories of alcoholic beverage licenses pursuant to~~
38 ~~this section shall expire on the ninetieth day after~~
39 ~~application for said license is made unless the~~
40 ~~following shall transpire:~~

- ~~(1) That the license issued under this section is actively being utilized for the sale and/or consumption of alcoholic beverages; or~~
- ~~(2) A bona fide lease for a business contemplating the dispensing of alcoholic beverages pursuant to the license has been executed; or~~
- ~~(3) Commencement of construction (the granting and maintenance of a building permit) of a building owned by the applicant of the above alcoholic beverage license contemplating use of said alcoholic beverage license.~~

License	Districts				
	A	B	C	D	E
2 APS Beer and wine Package sales only	6	11	16	21	10
3 APS Beer, wine and liquor Package sales only	3	4	3	5	3
2 COP Beer and wine consumed on premises	9	16	16	30	14
4 COP Beer, wine and liquor consumed on premises	6	9	7	15	7
4 COP SRX Beer, wine and liquor consumed on premises of 4,000 sf or greater	2	3	2	5	2
11 C Club only	3	2	5	7	3
11 CG Golf Clubs	1	1	0	0	0
Total authorized per district	30	46	49	83	39
Total authorized licenses	247				

- ~~(C) All approvals for allocation of various categories of alcoholic beverage licenses pursuant to this section shall expire and be deemed abandoned automatically if a state license corresponding to the above granted by this section is not obtained from the Department of Business Regulations (State of Florida), Division of Alcoholic Beverages and Tobacco, and presented to the Economic Development Department within ninety (90) days of the date of approval by the city except as otherwise provided in subsection (B) above.~~
- ~~(1) A higher allocation may be utilized for a lesser allocation use. COP allocations, may be utilized for the same level or lower level allocation use. A club~~

may only be operated as a club with no sales off premises.

(2) No establishment may hold more than one (1) allocation per location unless another specific license is granted by the State of Florida and is held by said establishment. Should any establishment request and be granted a different classification, then any former classification shall be deemed abandoned upon grant of the different allocation.

(D) All approvals for various categories of alcoholic beverage licenses pursuant to this section shall expire and be deemed abandoned if the business holding the approval pursuant to this section fails to renew or otherwise maintain a state license issued by the Department of Business Regulations (State of Florida), Division of Alcoholic Beverages and Tobacco, corresponding to the above granted by this section.

(E) If any establishment selling or serving alcoholic beverages is either destroyed or vacated such that they are no longer selling or serving alcoholic beverages, upon learning of same, the city shall as expeditiously as possible update its records so that the allocation granted to said establishment has been released or abandoned. The city shall notify the holder of the allocation at their last known address as shown on the allocation application on file with the Economic Development Department, said notice shall be sent by certified mail at least fourteen (14) days in advance of the official release or abandonment. Each application for beverage allocation shall make note of the above procedure.

Unless it is shown by tangible evidence that the allocation is being utilized for the serving or selling of alcoholic beverages within a three month period, said allocation shall be deemed abandoned or released by the City of Margate.

(F) Transfers. If any business which is granted an approval pursuant to this section shall be transferred or foreclosed, the transferee or foreclosing entity shall be entitled to retain said allocation as long as all criteria for said licenses are met and the allocation is utilized at the same location.

(VIII) Distance restrictions.

- (A) Distance restrictions from a house of worship, or school, or daycare. No liquor license approval or beer and wine license approval for consumption on the premises shall be issued where the place of business designated in the application therefore is within one thousand (1,000) feet of a house of worship, or a public or private elementary, middle or high school, or child care center. The distance shall be measured from the main entrance or front door of such house of worship, ~~or school, or daycare~~ to the main entrance of such place of business in accordance with subsection (IX). For any location within any zone designated under any business classification to which a license for the sale of liquor or beer and wine for consumption on the premises has previously been issued, and which license is subsisting and in use, no house of worship, ~~nonacademic~~ public or private elementary, middle, or high school, of instruction or child care center shall be permitted within one thousand (1,000) feet of said location. The distance shall be measured from the front door of the licensee to the main entrance of the house of worship, ~~nonacademic~~ school, ~~of instruction~~ or child care center. Any proposed use not meeting the specific distance restrictions listed above shall be prohibited.
- (B) Distance from adult bookstore or adult motion-picture theater. No establishment for the sale of any alcoholic beverage for consumption on the premises shall be located within one thousand (1,000) feet, to be measured from front door to front door of said establishment by airline route, of an adult bookstore or adult motion-picture theater located within or without the corporate limits of the city.
- (C) Distance restrictions for 3APS (beer, wine, and liquor package sales only). No establishment for package sales, with a 3APS classification, shall be located within one thousand five hundred feet (1,500) feet of another 3APS classified establishment.
- (IX) Distance measuring generally. Measuring distances shall be from the front door of one (1) establishment to the front door of the other establishment, in determining the distances called for in this section, and according to the following rules:
- (1) Distance will be the result of measured length along property lines abutting a street, going across the street, if necessary, in any direction.

(2) The starting point for the existing store or location will be established by drawing a line at ninety (90) degrees with or to the nearest property line. The starting point for the proposed store or location for an alcoholic beverage license will be established by drawing a line at ninety (90) degrees with or to the nearest property line of that proposed location.

(X) *Persons to whom sale prohibited.*

No person licensed under the provisions of this section or of state law shall give, sell, deliver, serve or permit to be served any alcoholic beverages or liquors, including wines or beers, as follows:

(1) To any person less than twenty-one (21) years of age, actually or apparently.

(2) To any person who is intoxicated.

(XI) *Hours of operation, sale and consumption on the premises.*

(A) *Generally.* The hours of sale of alcoholic beverages at any establishment within the City shall be 8:00 a.m. to 12:00 midnight Monday through Saturday. Sunday hours for 2COP and 4COP classifications shall be 12:00 noon to 12:00 midnight. Sunday hours for 4COP SRX and 11C classifications shall be 10:00 a.m. to 12:00 midnight. Hours for establishments with special permit for extended hours shall be as provided in subsection (B) below. Hours for establishments with Sunday morning hours permit shall be as provided in subsection (C) below.

(B) *Special permits for extended hours.* The privilege to sell, serve or permit the consumption of alcoholic beverages at any commercial establishment between the hours of 12:00 midnight and 8:00 a.m. the following day is hereby declared to be a privilege subject to termination by the City Commission, and no person may reasonably rely on the continuance of said privilege. Any establishment which has not been granted or been approved for renewal of an extended hours permit by the City Commission may not operate beyond the hours provided in subsection (A) above. Any person or business entity which sells or serves alcoholic beverages for consumption on the premises may apply for a special permit for extended hours. ~~This subsection~~

shall not apply to those establishments governed by subsection (XII) of this section.

Presumption. The presence of any alcoholic beverage not within an unopened container, along with individuals who are not employees, within an establishment serving alcoholic beverages after closing hour shall be presumed the unlawful sale or service of alcoholic beverages after permitted hours.

- (1) *Vendors.* A special permit granted to a vendor of alcoholic beverages shall permit said vendor to sell, serve and allow consumption of alcoholic beverages on the premises.

The hours of sale of alcoholic beverages consumed or served on the premises where a state liquor license and city allocation for consumption on the premises has been approved, if a special permit pursuant to this section has been approved, are as follows:

Special permit for extended hours:

- (a) From 8:00 a.m. until 2:00 a.m. of the following day, Monday through Thursday;
- (b) From 8:00 a.m. Friday until 4:00 a.m. the following Saturday;
- (c) From 8:00 a.m. Saturday until 4:00 a.m. the following Sunday;
- (d) From 12:00 noon Sunday until 2:00 a.m. the following Monday;
- (e) On New Year's Eve, the hours of sale shall be from 8:00 a.m. until 4:00 a.m. on New Year's Day;
- (f) On March 17 (St. Patrick's Day), the hours of sale shall be from 8:00 a.m. until 4:00 a.m. on March 18; and

Extended hours shall not be permitted for sale at retail as package goods or for any other reason than consumption on the premises.

- (C) *Sunday morning hours permit.* Establishments with a 2COP or 4COP alcohol allocation that wish to serve alcohol before noon on Sunday may apply to the City Commission for a Sunday morning hours permit.

Sunday morning hours permit:

1 (a) Starting at 10:00 a.m. on Sunday, as an
2 accompaniment to a full-course meal. If it is
3 determined that alcohol is being served without
4 food, then the Sunday morning hours permit shall
5 be subject to revocation.

6 ~~Extended hours shall not be permitted for sale at~~
7 ~~retail as package goods or for any other reason~~
8 ~~than consumption on the premises.~~

9 (D) *Approval process and criteria for special permit for*
10 *extended hours permit and Sunday morning hours permit.*
11 *The following criteria for granting, applying and*
12 *renewing a special permit for extended hours and/or a*
13 *Sunday morning hours permit:*

14 (1) *Criteria for granting.* Each special permit for
15 extended hours and each Sunday morning hours
16 permit shall expire on September 30 of each year
17 or upon the change in ownership or location of any
18 permitted establishment. The City Clerk shall
19 place all applications for such permits on the
20 agenda for the first regular Ceity Ceommission
21 meeting to be held in September, or as soon
22 thereafter as may be heard, and shall notify all
23 qualified applicants of the place which their
24 applications will be heard. ~~All initial~~
25 ~~applications which are made pursuant to this~~
26 ~~section two (2) weeks prior to September 30 of~~
27 ~~each year may be considered by the City Commission~~
28 ~~on an individual basis and if granted shall expire~~
29 ~~on September 30 of each year.~~

30 All applications for transfer of ownership or
31 location shall be deemed initial applications.
32 However, applications for transfer of ownership or
33 locations shall be automatically approved for a
34 temporary period of thirty-five (35) days from the
35 date of either the initial opening of an
36 establishment serving alcoholic beverages or date
37 transfer of ownership or location occurs.

38 At the end of the thirty-five (35) days
39 proceeding, establishments shall be prohibited
40 from serving alcoholic beverages except by
41 permission of the City Commission pursuant to
42 subsections (XI) (B) and (C).

1 The City Commission may grant or deny such special
2 permits for extended hours or Sunday morning hours
3 permit.

4 The criteria which the City Commission shall
5 consider in making a decision whether to grant or
6 deny a special permit for extended hours to an
7 applicant shall be as follows:

- 8 (a) The amount of parking demands created by the
9 establishment being considered, especially
10 with regard to the adverse impact on adjacent
11 residential areas or any illegal or hazardous
12 parking, and whether the establishment being
13 considered meets the criteria for current
14 parking.
- 15 (b) The amount and degree of law and code
16 enforcement activities being generated by the
17 establishment being considered, both inside
18 and outside the location, with emphasis on
19 vandalism, noise, vehicular use by patrons
20 and illegal activity of any kind by employees
21 (including municipal violations), patrons and
22 others associated with the establishment
23 during and immediately after the hours of
24 operation.
- 25 (c) The adverse effect, if any, that the
26 establishment will have on the neighboring
27 properties, especially with respect to the
28 effects of noise, parking, glare from
29 headlights or exterior lighting on
30 neighborhood residential properties.
- 31 (d) That an establishment be wholly enclosed,
32 soundproofed and air conditioned, and any
33 windows, doors or other openings kept closed
34 except for normal and emergency ingress and
35 egress, in order that noise and music
36 emanating therefrom will not disturb the
37 peace and quiet of the neighborhood.
- 38 (e) Those criteria specified in the City Code.
- 39 (f) Conformance with property maintenance
40 standards and municipal codes directly
41 related to the establishment requesting
42 extended hours.

43 The criteria which the City Commission shall
44 consider in making a decision whether to grant or

1 deny a Sunday morning hours permit to an applicant
2 shall be as follows:

3 (a) That any alcohol served on Sunday between
4 10:00 a.m. and 12:00 noon shall only be
5 served as an accompaniment to a full course
6 meal.

7 (b) The amount and degree of law and code
8 enforcement activities being generated by the
9 establishment being considered, both inside
10 and outside the location, with emphasis on
11 vandalism, noise, vehicular use by patrons
12 and illegal activity of any kind by employees
13 (including municipal violations), patrons and
14 others associated with the establishment
15 during and immediately after the hours of
16 operation.

17 (2) *Applications.* Any person, vendor or place of business
18 which has been regularly licensed by the State of
19 Florida to sell and dispense alcoholic beverages may
20 apply for a special permit for extended hours. Any
21 person, vendor or place of business which offers food
22 service and has been regularly licensed by the State of
23 Florida to sell and dispense alcoholic beverages with a
24 2COP or 4COP allocation may apply for a Sunday morning
25 hours permit. Any person, vendor or place of business
26 desiring a special permit for extended hours or a Sunday
27 morning hours permit shall file with the Ceity Celerk a
28 typewritten or printed application ~~to conduct business~~
29 ~~at a specified location. Such application shall be made~~
30 ~~upon the~~ on forms provided by the City. Such
31 application, among other things, shall state the
32 location where such business is to be conducted; the
33 name of the applicant together with the names of the
34 individuals operating a business under their own or
35 under a trade name; the names of the officers or members
36 of the firms engaged in any such business; the names of
37 all individuals or business entities owning five (5) per
38 cent or more of the assets of a business (excluding
39 publicly owned corporations); the type of business
40 license issued by the State of Florida and the number
41 thereof. The applicant shall also furnish such other
42 information as may be deemed reasonable by the City and
43 shall pay the necessary license fee together with one
44 hundred fifty dollars (\$150.00) application fee. No
45 application may be deemed completed until the
46 requirements of this paragraph are met.

1 The City Commission may require, as a condition of the
2 privilege of extending hours of operation, compliance
3 with any reasonable conditions deemed by the commission
4 to be necessary to mitigate or eliminate the adverse
5 effects of such extended hours. These conditions may
6 include, without being limited to, provision by the
7 owner or operator of the premises to provide at his
8 expense additional off-street parking, security
9 personnel, off-duty police personnel, screening and
10 buffering from nearby properties. The City Commission
11 may also require a cash bond in an amount they deem
12 appropriate, but not in excess of two thousand five
13 hundred dollars (\$2,500.00) to ensure that the
14 conditions which have been required are faithfully
15 performed. No bond as provided herein will be forfeited
16 unless a hearing before the Ceity Ceommission is held
17 and it is determined that the conditions which have been
18 required have not been performed.

19 The granting of a special permit to a particular
20 licensee has been and continues to be a privilege
21 subject to modification or termination by the City
22 Commission each year at renewal time, and no person may
23 reasonably rely on a continuation of that privilege.

24 The licensee shall be deemed the owner of an
25 establishment for which application has been made and
26 any transfer of ownership or location shall necessitate
27 a new application to be made pursuant to this section.
28 Should an establishment owned by an entity transfer five
29 (5) per cent or more of its assets, said transfer shall
30 be deemed to be a transfer of ownership, pursuant to
31 this section - ~~.(This shall exclude publicly owned~~
32 ~~corporations.)~~

- 33 (3) *Renewals.* The renewal of any special permit shall be
34 determined by the City Commission in the manner
35 specified in subsection (2) above. ~~All applications for~~
36 ~~renewal shall be as provided in [subsection] (2) above.~~
37 Applications shall be received by July 15 of each year.
38 Completed applications for renewal which are not
39 received by the City Commission by July 15 of each year
40 shall pay a fee of three hundred dollars (\$300.00).

41 If prior to renewal time the city administration
42 determines that any licensee has either violated a
43 condition of renewal or is operating in a manner harmful
44 to the public health, safety or welfare based upon the
45 criteria specified in subsection (2) above, it may place

on the City Commission agenda the matter of revoking the special permit issued. Such agenda items shall be publicly advertised in a newspaper of local circulation, and written notice of the charges against the licensee shall be sent to him at least fourteen (14) days in advance and shall also contain the day, time and place of such agenda item.

After consideration of the matter and allowing the licensee to be heard, the City Commission may revoke, modify or condition the special permit. The criteria to be used by the administration and City Commission in such matters shall be the criteria specified in subsection (2) above. Should the license or privilege be revoked, conditioned or modified, the licensee may seek review of such action, after three (3) months, before the City Commission. The commission may then modify or refuse to modify its action. Only one (1) such review shall be given within a twelve-month period.

No person, vendor or distributor of any place of business licensed under the provisions of this section or by the State of Florida, or any employee thereof, shall permit any person who is not a proprietor, licensed vendor or employee thereof to remain on the licensed premises beyond the legally authorized closing hour; provided however, if said premises are divided so that the portion of said premises where alcoholic beverages are kept, stored or dispensed is segregated by partition and locked doors after the legal hour, then such prohibition shall not apply.

(XII) *Reserved.*

(XIII) *Violations declared, prohibited; penalty.*

It shall be unlawful for any person, firm or corporation to violate any of the provisions of this section or the state beverage laws incorporated herein; and said violation is declared to be a misdemeanor of the second degree, punishable as otherwise provided in the Florida Statutes.

(XIV) *Right of commission to recommend revocation and suspension of state licenses to state beverage department.*

The Ceity Ceommission retains the right to recommend to the state beverage department the revocation or suspension of any license upon cause appearing to the violation by any licensee of any of the laws of the State of Florida or of the United States or of any of the provisions of this section or ordinances of the Ceity or of his maintaining a nuisance or

1 unsanitary premises, disorderly conduct on the premises where
2 such beverage business is conducted, or permitting loud and
3 boisterous noises to be made or loud and disturbing music to
4 be played on said premises.

5 (XV) *Exceptions to section provisions.*

6 The following exceptions are made from the terms of this
7 section or subsections as referred to:

8 (1) Vendors holding licenses for off-premises sales of beer
9 or malt beverages, ~~shall not be subject to the distance~~
10 ~~restrictions contained in subsection (VIII) of this~~
11 ~~section.~~

12 ~~(2) Vendors holding licenses for off-premises sale of wine,~~
13 ~~fortified wine or beverages made of fresh fruits,~~
14 ~~berries or grapes, either by natural fermentation or by~~
15 ~~natural fermentation with brandy added, including all~~
16 ~~sparkling wines, champagnes, combinations of the~~
17 ~~aforesaid beverages, vermouths and like products, shall~~
18 ~~not be subject to the distance restrictions contained~~
19 ~~in subsection (VIII) of this section.~~

20 The exemption from distance regulations granted by this
21 subsection shall not, however, permit the issuance of
22 alcoholic beverage licenses to those persons or places
23 or establishments excepted, where said establishment is
24 located in a zoning district as defined in the zoning
25 classification ordinances of the city, unless said
26 establishment qualifies as a previously existing
27 nonconforming use in that district.

28 (XVI) Bottle clubs, as defined in Florida Statute 561.01, are
29 prohibited within the City of Margate. ~~Applicability of~~
30 ~~section provisions to bottle clubs.~~

31 ~~Except as where specifically exempted, bottle clubs shall~~
32 ~~comply with all subsections of this section.~~

33 (XVII) *Prohibition of minors.*

34 (1) *Definitions.*

35 *Establishment whose primary business is the sale and*
36 *consumption of alcoholic beverages:* A business where
37 consumption of alcoholic beverages on the premises is
38 permitted and where the sale of alcoholic beverages amounts
39 to fifty (50) per cent or more of the gross receipts of the
40 business in any given month.

41 *Adult:* An individual over the age of twenty-one (21) years.

Minor: An individual under the age of twenty-one (21) years.

(2) Minors unaccompanied by an adult are prohibited from entering establishments whose primary business is the sale and consumption of alcoholic beverages.

(3) In establishments whose primary business is not for the sale and consumption of alcoholic beverages, but where an area has been set aside or separated for the sale of alcoholic beverages, minors are prohibited from entering said area unless accompanied by an adult.

(XVIII) *Nuisance abatement related to establishments serving alcoholic beverages.*

(1) Any place or premises serving alcoholic beverages pursuant to this chapter [appendix] may be declared to be a public nuisance, and such nuisance may be abated pursuant to the procedures provided in this section. The violations constituting a nuisance are as follows:

(a) On more than two (2) occasions within a six-month period as a site of a violation of F.S. § 796.07;

(b) On more than two (2) occasions within a six-month period as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(c) On one (1) occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one (1) occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(d) By a criminal street gang for the purpose of conducting a pattern of criminal street gang activity as defined by [F.S.] § 874.03; or

(e) On more than two (2) occasions within a six-month period as the site of a violation of F.S. § 812.019 relating to dealing in stolen property.

(2) An administrative board composed of the Ceity Ceommission is hereby empowered to hear complaints regarding nuisances described in subsection (1). The administration of the Ceity may bring a complaint before the Ceity Ceommission after giving not less than three (3) days' written notice of such complaint to the owner of the place or premises at his or her last known address. After the hearing, in which the Ceommission

- may consider any evidence, including evidence of the general reputation of the place or premises, and at which the owner of the premises or place shall have an opportunity to present evidence in his or her defense, the Ceommission may declare the place or premises to be a public nuisance as described in subsection (1).
- (3) If the City Ceommission declares the place or premises to be a public nuisance, it may enter an order requiring the owner of such place or premises to adopt such procedures as may be appropriate under the circumstances to abate any such nuisance, or it may enter an order immediately prohibiting:
- (a) The maintaining of the nuisance;
 - (b) The operating or maintaining of the place or premises, including the closure of the place or premises; or any part thereof; or
 - (c) The conduct, operation or maintenance of any business or activity on the premises which is conductive to such nuisance.
- (4) An order entered under subsection (3) shall expire after one (1) year or at such earlier time as is stated in the order.
- (5) An order entered under subsection (3) may be enforced pursuant to the procedure contained in F.S. § 120.69. However, no other section of F.S. chapter 120 shall be applicable.
- (6) The Ceity may bring a complaint under F.S. § 60.05 seeking temporary and permanent injunctive relief against any nuisance described in subsection (1).
- (7) As used in this subsection (XVIII), the term "controlled substance" includes any substance sold in lieu of a controlled substance in violation of F.S. § 817.563, or any imitation controlled substance defined in F.S. § 817.564.
- (8) The City Ceommission, upon a hearing and appropriate finding, may provide:
- (a) For imposition of a fine on the establishment or place declared a nuisance, not to exceed two hundred fifty dollars (\$250.00) per day;
 - (b) Reasonable costs, including reasonable attorney's fees associated with investigations and hearings for public nuisances;

(c) Continuing jurisdiction for a period of one (1) year over any place or premises that has been declared to be a public nuisance;

(d) Fines for recurring violations may be made up to and including five hundred dollars (\$500.00) per day.

Orders of the Ceommission pursuant to this section shall be reduced to writing. The Ceity Celerk, upon the order of the Ceity Ceommission, shall record a certified copy of the order of the Ceity Ceommission with the public records of Broward County. Recorded orders on public nuisances shall become liens against the real property that is subject to the order. Upon order of the Ceity Ceommission, the lien may be foreclosed subject to a lien with recoverable costs including reasonable attorneys' fees associated with the recording of orders and foreclosure.

SECTION 2: The Code of Ordinances of the City of Margate, Florida, Appendix-A Zoning, Article VII Transit Oriented Corridor - Corridor (TOC-C) District, Section 7.3 TOC-C Corridor permitted uses, is hereby amended to read as follows:

~~Bars, bottle clubs,~~ and taverns. Not permitted within one thousand (1,000) feet of any church, school, or adult bookstore/theater.

Package store. Not permitted within one thousand five hundred ~~(1,000)~~ (1,500) feet of any other package store. Subject to requirements of section 33.11 of this Code.

[Note to Municipal Code: The rest of this section shall remain as codified.]

SECTION 3: The Code of Ordinances of the City of Margate, Florida, Appendix-A Zoning, Article VIII Transit Oriented Corridor - Gateway (TOC-G) District, Section 8.4

1 TOC-G Gateway permitted uses, is hereby amended to read as
2 follows:
3

4 . . .
5
6
7 Bars, ~~bottle clubs~~, and taverns. Not permitted within one
8 thousand (1,000) feet of any church, school, or adult
9 bookstore/theater.
10

11 . . .
12
13
14 Package store. ~~Minimum separation like uses is one thousand~~
15 ~~(1,000) feet. Not permitted within one thousand five~~
16 ~~hundred (1,500) feet of any other package store.~~
17 Subject to requirements of section 33.11 of this Code.
18
19 . . .
20

21 [Note to Municipal Code: The rest of this section shall
22 remain as codified.]
23

24
25 **SECTION 4:** The Code of Ordinances of the City of
26 Margate, Florida, Appendix-A Zoning, Article IX Transit Oriented
27 Corridor - City Center (TOC-CC) District, Section 9.5 TOC-CC
28 City Center permitted uses, is hereby amended to read as
29 follows:
30

31 . . .
32
33 Bars, ~~bottle clubs~~, and taverns. Not permitted within one
34 thousand (1,000) feet of any church, school, or adult
35 bookstore/theater.
36

37 . . .
38
39 Package store. ~~Minimum separation like uses is one thousand~~
40 ~~(1,000) feet. Not permitted within one thousand five~~
41 ~~hundred (1,500) feet of any other package store.~~
42 Subject to requirements of section 33.11 of this Code.
43
44 . . .
45

46 [Note to Municipal Code: The rest of this section shall
remain as codified.]

1
2
3 **SECTION 5:** The Code of Ordinances of the City of
4 Margate, Florida, Appendix-A Zoning, Article XXII Community
5 Business B-2 District, Section 22.3 Permitted uses, is hereby
6 amended to read as follows:
7
8

9 Package store, subject to the following limitation(s):
10

- 11 (1) Not permitted within one thousand five hundred
12 ~~(1,000)~~ (1,500) feet of any other package store.
13
14

15
16 [Note to Municipal Code: The rest of this section shall
17 remain as codified.]
18

19 **SECTION 6:** The Code of Ordinances of the City of
20 Margate, Florida, Appendix-A Zoning, Article XXIII Liberal
21 Business B-3 District, Section 23.3 Permitted uses, is hereby
22 amended to read as follows:
23
24

25 Bars, ~~bottle clubs~~ and taverns, subject to the
26 following limitation(s):

- 27 (1) Not permitted within one thousand (1,000) feet
28 of any church, school, or adult
29 bookstore/theater.
30
31

32
33 Package store, subject to the following limitation(s):
34

- 35 (2) Not permitted within one thousand five hundred
36 ~~(1,000)~~ (1,500) feet of any other package store.
37
38

39
40 [Note to Municipal Code: The rest of this section shall
41 remain as codified.]
42

43 **SECTION 7:** The Code of Ordinances of the City of
44 Margate, Florida, Appendix-A Zoning, Article II Definitions,
45 Section 2.2 Terms defined, is hereby amended to read as follows:

Package store: A business establishment licensed to sell liquor place where alcoholic beverages are dispensed or sold in containers for consumption off the premises, including but not limited to, any business with a 3APS alcohol license.

[Note to Municipal Code: The rest of this section shall remain as codified.]

SECTION 8: All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 9: If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 10: 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 11: This Ordinance shall become effective immediately upon adoption at its second reading.

PASSED ON FIRST READING THIS 18th DAY OF January, 2017.

PASSED ON SECOND READING THIS 1st DAY OF February, 2017.

ATTEST:

JOSEPH J. KAVANAGH
CITY CLERK

MAYOR TOMMY RUZZANO

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

Caggiano	<u>Yes</u>	Caggiano	<u>Yes</u>
Simone	<u>Yes</u>	Simone	<u>Yes</u>
Peerman	<u>Yes</u>	Peerman	<u>Yes</u>
Schwartz	<u>Yes</u>	Schwartz	<u>Yes</u>
Ruzzano	<u>Yes</u>	Ruzzano	<u>Yes</u>