

CITY OF MARGATE, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARGATE, FLORIDA, AMENDING SECTION 2-78 POWERS AND DUTIES; AMENDING APPENDIX-A ZONING; ARTICLE III GENERAL PROVISIONS, SECTION 3.22. ALCOHOLIC BEVERAGES; ARTICLE VII TRANSIT ORIENTED CORRIDOR - CORRIDOR (TOC-C) DISTRICT, SECTION 7.3 TOC-C CORRIDOR PERMITTED USES; ARTICLE VIII TRANSIT ORIENTED CORRIDOR - GATEWAY (TOC-G) DISTRICT, SECTION 8.4 TOC-G GATEWAY PERMITTED USES; ARTICLE IX TRANSIT ORIENTED CORRIDOR-CITY CENTER (TOC-CC) DISTRICT, SECTION 9.5 TOC-CC CITY CENTER PERMITTED USES; ARTICLE XXI NEIGHBORHOOD BUSINESS B-1 DISTRICT, SECTION 21.3 PERMITTED USES; ARTICLE XXII COMMUNITY BUSINESS B-2 DISTRICT, SECTION 22.3 PERMITTED USES; ARTICLE XXIII LIBERAL BUSINESS B-3 DISTRICT, SECTION 23.3 PERMITTED USES; ARTICLE XXXV ADULT BOOKSTORES AND ADULT MOTION PICTURE THEATERS, SECTION 35.1 LOCATION RESTRICTED; PROVIDING FOR THE ELIMINATION OF MINIMUM SEPARATION REQUIREMENTS FOR ESTABLISHMENTS LICENSED TO SERVE OR SELL ALCOHOL; 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, Section 2-78 - Powers and duties, is hereby amended to read as follows¹:

Sec. 2-78. - Powers and duties.

(a) The board shall have the following powers:

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

- (1) To hear and determine appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning regulations of the city.
- (2) To hear and grant or deny such variances from the terms of any zoning ordinances of the city. To hear or deny such variances from the Code of the city as will not be contrary to the public interest or the general purposes sought to be accomplished by the zoning ordinances and where, owing to special conditions, a literal enforcement of the provisions of the zoning ordinances will result in unnecessary hardship in the use of the property involved.
- (b) In exercising said powers and duties, they shall not grant a variance unless:
- (1) It shall be demonstrated that special conditions and circumstances exist which, if there is a literal and strict enforcement of the provisions of a zoning ordinance, would constitute a hardship or practical difficulty in the use of the property involved.
- (2) The board shall find that the granting of the variance will not be contrary to the public interest or the general purpose sought to be accomplished by the zoning ordinances.
- (3) In granting any variance, the board shall record in its minutes the circumstances and conditions constituting the hardship or practical difficulties upon which the variance is based.
- (c) The board shall not have jurisdiction to consider any variance allowing any use of buildings or lands not permitted within any designated zoning classification.
- ~~(d) The board shall not have jurisdiction to consider any variance of distance requirements for liquor licenses from freestanding Broward County public schools and approved charter schools, pursuant to [Appendix A,] section 3.22 (VIII) (A).~~

SECTION 2: 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.

(VIII) Distance restrictions. The City does not require a minimum separation from establishments licensed to sell or serve alcohol.

~~(A) Distance restrictions from a house of worship, 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, 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, public or private elementary, middle, or high school, 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, school, 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 (1,500) feet of another 3APS classified establishment.~~

(IX) Reserved. 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.

[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 VII TRANSIT ORIENTED CORRIDOR - CORRIDOR (TOC-C) DISTRICT, Section 7.3 TOC-C permitted uses, is hereby amended to read as follows¹:

Section 7.3. - TOC-C Corridor permitted uses.

(A) *[Permitted uses.]* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than any of the uses specified below.

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

Church, synagogue, and similar congregations of other religion and denominations, subject to the following:

(a) That same shall not exceed seven thousand (7,000) square feet in gross area; and

(b) That bingo and other similar games of chance are operated only as an accessory use; and

(c) There shall be no academic parochial school on the subject site; and

(d) ~~That all distance requirements to a COP alcoholic beverage license are waived.~~

~~(e)~~ That a safe and adequate pedestrian circulation system has been provided.

. . .

Nightclubs, teen clubs, catering halls or dance halls, with an occupant load of less than two hundred fifty (250) persons. ~~Minimum separation of one thousand (1,000) feet to nearest school or adult bookstore/theater.~~ Subject to limitations of section 33.11 of this Code.

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

. . .

(B) *Special exception uses.* Special exception uses may be deemed appropriate to provide a complete distribution of commercial uses within the City, but because of their operational characteristics or area requirements need to be given individual consideration with respect to their location, access and relationship to adjacent properties and public rights-of-way, and conformity with the City's current and future redevelopment efforts.

(1) The following uses are authorized upon a finding by the City Commission that a special exception to the article is warranted, pursuant to the procedure and criteria set forth in Chapter 31, Section 31-54 of the Margate Code of Ordinances.

(n) Night clubs, teen clubs, catering halls or dance halls, with an occupancy greater than 250. ~~Minimum separation of 1,000 feet to nearest school or adult bookstore/theater.~~ Subject to limitations of section 33.11 of this Code.

. . .

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

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4
5 **SECTION 4:** The Code of Ordinances of the City of Margate,
6 Florida, Appendix-A Zoning, Article VIII TRANSIT ORIENTED CORRIDOR
7 - GATEWAY (TOC-G) DISTRICT, Section 8.4 TOC-G permitted uses, is
8 hereby amended to read as follows¹:
9

10 **Section 8.4. - TOC-G Gateway permitted uses.**

11
12 (A) *[Permitted uses.]* No building or structure, or part thereof,
13 shall be erected, altered or used, or land or water used, in whole
14 or in part, for other than any of the uses specified below.

15 . . .

16
17
18 Bars, and taverns. ~~Not permitted within one thousand (1,000)~~
19 ~~feet of any church, school, or adult bookstore/theater.~~

20 . . .

21
22
23 Church, synagogue, and similar congregations of other religion
24 and denominations, subject to the following:

- 25 (a) That same shall not exceed seven thousand (7,000)
26 square feet in gross area; and
27
28 (b) That bingo and other similar games of chance are
29 operated only as an accessory use; and
30
31 (c) There shall be no academic parochial school on the
32 subject site; and
33
34 (d) ~~That all distance requirements to a COP alcoholic~~
35 ~~beverage license are waived.~~
36
37 (e) That a safe and adequate pedestrian circulation
38 system has been provided.

39 . . .

40
41
42 Nightclubs, teen clubs, catering halls or dance halls, with an
43 occupant load of less than two hundred fifty (250)
44 persons. ~~Minimum separation of one thousand (1,000) feet~~
45 ~~to nearest school or adult bookstore/theater.~~ Subject to
46 limitations of section 33.11 of this Code.

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

. . .

(B) *Special exception uses.* Special exception uses may be deemed appropriate to provide a complete distribution of commercial uses within the City, but because of their operational characteristics or area requirements need to be given individual consideration with respect to their location, access and relationship to adjacent properties and public rights-of-way, and conformity with the City's current and future redevelopment efforts.

(1) The following uses are authorized upon a finding by the City Commission that a special exception to the article is warranted, pursuant to the procedure and criteria set forth in Chapter 31, Section 31-54 of the Margate Code of Ordinances.

(j) Night clubs, teen clubs, catering halls or dance halls, with an occupancy greater than 250. ~~Minimum separation of 1,000 feet to nearest school or adult bookstore/theater.~~ Subject to limitations of section 33.11 of this Code.

. . .

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

SECTION 5: The Code of Ordinances of the City of Margate, Florida, Appendix-A Zoning, Article IX TRANSIT ORIENTED CORRIDOR - CITY CENTER (TOC-CC) DISTRICT, Section 9.5 TOC-CC permitted uses, is hereby amended to read as follows¹:

Section 9.5. - TOC-CC Gateway permitted uses.

(A) *[Permitted uses.]* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than any of the uses specified below.

. . .

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

3
4 . . .

5
6 Package store. ~~Not permitted within one thousand five hundred~~
7 ~~(1,500) feet of any other package store.~~ Subject to
8 requirements of section 33.11 of this Code.
9

10 . . .
11

12 (B) *Special exception uses.* Special exception uses may be deemed
13 appropriate to provide a complete distribution of commercial
14 uses within the City, but because of their operational
15 characteristics or area requirements need to be given
16 individual consideration with respect to their location, access
17 and relationship to adjacent properties and public rights-of-
18 way, and conformity with the City's current and future
19 redevelopment efforts.
20

21 (1) The following uses are authorized upon a finding by the
22 City Commission that a special exception to the article is
23 warranted, pursuant to the procedure and criteria set
24 forth in Chapter 31, Section 31-54 of the Margate Code of
25 Ordinances.
26

27 (b) Church, synagogue, and similar congregations of other
28 religion and denominations, subject to the following:
29

30 1. That same shall not be permitted in any first-floor
31 occupancy; and
32

33 2. That same shall only be permitted with an occupancy
34 load of less than two hundred fifty (250) persons;
35 and
36

37 3. That bingo and other similar games of chance are
38 operated only as an accessory use; and
39

40 4. There shall be no academic parochial school on the
41 subject site; and
42

43 5. ~~That all distance requirements to a COP alcoholic~~
44 ~~beverage license are waived; and~~
45

46 ~~6.~~ That a safe and adequate pedestrian circulation
47 system has been provided.
48

. . .

- 1
2 (j) Night clubs, teen clubs, catering halls or dance halls,
3 with an occupancy greater than 250. ~~Minimum separation of~~
4 ~~1,000 feet to nearest school or adult bookstore/theater.~~
5 Subject to limitations of section 33.11 of this Code.
6
7 . . .
8
9

10 [Note to Municipal Code: The rest of this section shall
11 remain as codified.]
12

13 **SECTION 6:** The Code of Ordinances of the City of Margate,
14 Florida, Appendix-A Zoning, Article XXI NEIGHBORHOOD BUSINESS B-1
15 DISTRICT, Section 21.3 Permitted uses, is hereby amended to read as
16 follows¹:
17

18 **Section 21.3. - Permitted uses.**
19

- 20 (A) *Permitted uses specified.* No building or structure, or
21 part thereof, shall be erected, altered or used, or land
22 or water used, in whole or in part, for other than one of
23 the following specified uses:
24
25 . . .
26

27 Church, synagogue, and similar congregations of other
28 religion and denominations, subject to the following:

- 29 (1) That same shall not exceed seven thousand
30 (7,000) square feet in gross area.
31
32 (2) That bingo and other similar games of chance
33 are operated only as an accessory use.
34
35 (3) There shall be no academic parochial school on
36 the subject site.
37
38 (4) There shall be no associated residence on the
39 subject site.
40
41 (5) ~~That all distance requirements to a COP~~
42 ~~alcoholic beverage license are waived.~~
43
44 ~~(6)~~ That a safe and adequate pedestrian circulation
45 system has been provided.

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

SECTION 7: The Code of Ordinances of the City of Margate, Florida, Appendix-A Zoning, Article XXII COMMUNITY BUSINESS B-2 DISTRICT, Section 22.3 Permitted uses, is hereby amended to read as follows¹:

Section 22.3. - Permitted uses.

- (A) *Permitted uses specified.* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following specified uses:

~~Bars and taverns, subject to the following limitation(s):~~

- ~~(1) Not permitted within one thousand (1,000) feet of any church, school or adult bookstore/theater.~~

Church, synagogue, and similar congregations of other religion and denominations, subject to the following:

- (1) That same shall not exceed seven thousand (7,000) square feet in gross area.
- (2) That bingo and other similar games of chance are operated only as an accessory use.
- (3) There shall be no academic parochial school on the subject site.
- (4) There shall be no associated residence on the subject site.
- (5) ~~That all distance requirements to a COP alcoholic beverage license are waived.~~
- ~~(6)~~ That a safe and adequate pedestrian circulation system has been provided.

Music, instruction, subject to the following limitation(s):

(1) Soundproofing required.

~~Nightclubs, teen clubs, catering halls or dance halls, with
an occupant load of less than two hundred fifty (250)
persons, subject to the following limitation(s):~~

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

~~Music, instruction (soundproofed only).~~

Nightclubs, teen clubs, catering halls or dance halls, with
an occupant load of less than two hundred fifty (250)
persons.

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

~~(1) Not permitted within one thousand five hundred
(1,500) feet of any other package store.~~

. . .

(B) *Special exception uses.* The following uses are authorized
upon a finding by the City Commission that a special
exception to the article is warranted, pursuant to the
procedure and criteria set forth in Chapter 31, Section
31-54 of this Code.

. . .

Nightclubs, teen clubs, catering halls or dance halls,
with an occupancy greater than two hundred fifty
(250), ~~subject to the following limitation(s):~~

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

. . .

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

SECTION 8: The Code of Ordinances of the City of Margate, Florida, Appendix-A Zoning, Article XXIII LIBERAL BUSINESS B-3 DISTRICT, Section 23.3 Permitted uses, is hereby amended to read as follows¹:

Section 23.3. - Permitted uses.

(A) *Permitted uses specified.* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following specified uses:

. . . .
Bars and taverns, ~~subject to the following limitation(s):~~

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

. . . .
Church, synagogue, and similar congregations of other religion and denominations, subject to the following:

(1) That same shall not exceed seven thousand (7,000) square feet in gross area.

(2) That bingo and other similar games of chance are operated only as an accessory use.

(3) There shall be no academic parochial school on the subject site.

(4) There shall be no associated residence on the subject site.

(5) ~~That all distance requirements to a COP alcoholic beverage license are waived.~~

~~(6)~~ That a safe and adequate pedestrian circulation system has been provided.

. . . .

Nightclubs, teen clubs, catering halls or dance halls, with an occupant load of less than two hundred fifty (250) persons, ~~subject to the following limitation(s):~~

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

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

~~(1) Not permitted within one thousand five hundred
(1,500) feet of any other package store.~~

. . .

(B) *Special exception uses.* The following uses are authorized upon a finding by the City Commission that a special exception to the article is warranted, pursuant to the procedure and criteria set forth in Chapter 31, Section 31-54 of the Margate Code of Ordinances.

. . .

Nightclubs, teen clubs, catering halls or dance halls, with an occupancy greater than two hundred fifty (250), ~~subject to the following limitation(s):~~

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

. . .

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

SECTION 9: The Code of Ordinances of the City of Margate, Florida, Appendix-A Zoning, Article XXXV ADULT BOOKSTORES AND ADULT MOTION PICTURE THEATERS, Section 35.1 Location restricted, is hereby amended to read as follows¹:

Section 35.1. - [Location restricted].

. . .

(F) Distance from alcoholic beverage establishment. The City does not require a minimum separation from establishments licensed to sell or serve alcohol. ~~No adult bookstore or adult motion picture theatre shall be located within one thousand (1,000) feet, to be measured from front door to front door by airline route, of an existing establishment which sells any alcoholic beverage for consumption on the premises located within or without the corporate limits of the City of Margate.~~

. . .

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

SECTION 10: All ordinances or parts of ordinances in conflict herewith are and the same is hereby repealed to the extent of such conflict.

SECTION 11: 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 12: 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 13: This ordinance shall become effective immediately upon adoption at its second reading.

PASSED ON FIRST READING THIS _____ DAY OF _____ 2019.

PASSED ON SECOND READING THIS _____ DAY OF _____ 2019.

ATTEST:

JOSEPH J. KAVANAGH
CITY CLERK

MAYOR ANTHONY N. CAGGIANO

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

Simone _____
Arserio _____
Schwartz _____
Ruzzano _____
Caggiano _____

Simone _____
Arserio _____
Schwartz _____
Ruzzano _____
Caggiano _____