

CITY OF MARGATE, FLORIDA

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

AN ORDINANCE OF THE CITY OF MARGATE, FLORIDA, AMENDING APPENDIX-A ZONING; ARTICLE III GENERAL PROVISIONS, SECTION 3.22. ALCOHOLIC BEVERAGES; PROVIDING FOR HOURS OF OPERATION 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, Appendix-A Zoning, Article III GENERAL PROVISIONS, Section 3.22 Alcoholic beverages, is hereby amended to read as follows<sup>1</sup>:

Section 3.22. - Alcoholic beverages.

. . .

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

(A) Generally. No vendor of alcoholic beverages shall sell or offer for sale or deliver or serve or permit to be consumed upon the premises of such vendor any alcoholic beverage of any kind regardless of alcoholic content during the hours specific herein. The following limitations to hours apply seven (7) days a week: The hours of sale of alcoholic beverages at any establishment, except for 1APS, 2APS, and 3APS classifications within the City shall be 8:00 a.m. to 12:00 midnight Monday through Saturday. Hours of sale for 1APS, 2APS, and 3APS classification within the City shall be 7:00 a.m. to 12:00 midnight Sunday 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

<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 ~~classifications shall be 10:00 a.m. to 12:00 midnight.~~  
2 ~~Hours for establishments with special permit for extended~~  
3 ~~hours shall be as provided in subsection (B) below. Hours~~  
4 ~~for establishments with Sunday morning hours permit shall~~  
5 ~~be as provided in subsection (C) below.~~  
6

7 (1) Sales or services for on-premises consumption: The  
8 sale or serving of alcoholic beverages for  
9 consumption on the premises shall be unlawful  
10 between the hours of 2:00 a.m. and 8:00 a.m..  
11

12 (a) No person, vendor or distributor of any place  
13 of business licensed under the provisions of  
14 this section or by the State of Florida, or any  
15 employee thereof, shall permit any person who  
16 is not a proprietor, licensed vendor or  
17 employee thereof to remain on the licensed  
18 premises beyond the legally authorized closing  
19 hour; provided however, if said premises are  
20 divided so that the portion of said premises  
21 where alcoholic beverages are kept, stored or  
22 dispensed is segregated by partition and locked  
23 doors after the legal hour, then such  
24 prohibition shall not apply.  
25

26 (2) Sales for off-premises consumption: The sale of  
27 alcoholic beverages for consumption off the premises  
28 shall be unlawful between the hours of 12:00  
29 midnight and 7:00 a.m..  
30

31 ~~(B) Special permits for extended hours. The privilege to sell,~~  
32 ~~serve or permit the consumption of alcoholic beverages at~~  
33 ~~any commercial establishment between the hours of 12:00~~  
34 ~~midnight and 8:00 a.m. the following day is hereby~~  
35 ~~declared to be a privilege subject to termination by the~~  
36 ~~City Commission, and no person may reasonably rely on the~~  
37 ~~continuance of said privilege. Any establishment which has~~  
38 ~~not been granted or been approved for renewal of an~~  
39 ~~extended hours permit by the City Commission may not~~  
40 ~~operate beyond the hours provided in subsection (A) above.~~  
41 ~~Any person or business entity which sells or serves~~  
42 ~~alcoholic beverages for consumption on the premises may~~  
43 ~~apply for a special permit for extended hours.~~  
44

45 ~~Presumption. The presence of any alcoholic beverage not~~  
46 ~~within an unopened container, along with individuals who~~  
47 ~~are not employees, within an establishment serving~~  
48 ~~alcoholic beverages after closing hour shall be presumed~~  
49 ~~the unlawful sale or service of alcoholic beverages after~~  
50 ~~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 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:~~

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

~~(D) Approval process and criteria for special permit for extended hours permit and Sunday morning hours permit. The~~

1 following criteria for granting, applying and renewing a  
2 special permit for extended hours and/or a Sunday morning  
3 hours permit:  
4

5 ~~(1) Criteria for granting. Each special permit for~~  
6 ~~extended hours and each Sunday morning hours permit~~  
7 ~~shall expire on September 30 of each year or upon~~  
8 ~~the change in ownership or location of any permitted~~  
9 ~~establishment. The City Clerk shall place all~~  
10 ~~applications for such permits on the agenda for the~~  
11 ~~first regular City Commission meeting to be held in~~  
12 ~~September, or as soon thereafter as may be heard,~~  
13 ~~and shall notify all qualified applicants of the~~  
14 ~~place which their applications will be heard.~~  
15 ~~All applications for transfer of ownership or~~  
16 ~~location shall be deemed initial applications.~~  
17 ~~However, applications for transfer of ownership or~~  
18 ~~locations shall be automatically approved for a~~  
19 ~~temporary period of thirty-five (35) days from the~~  
20 ~~date of either the initial opening of an~~  
21 ~~establishment serving alcoholic beverages or date~~  
22 ~~transfer of ownership or location occurs.~~

23 ~~At the end of the thirty-five (35) days proceeding,~~  
24 ~~establishments shall be prohibited from serving~~  
25 ~~alcoholic beverages except by permission of the City~~  
26 ~~Commission pursuant to subsections (XI) (B) and (C).~~

27 ~~The City Commission may grant or deny such special~~  
28 ~~permits for extended hours or Sunday morning hours~~  
29 ~~permit.~~

30 ~~The criteria which the City Commission shall consider~~  
31 ~~in making a decision whether to grant or deny a~~  
32 ~~special permit for extended hours to an applicant~~  
33 ~~shall be as follows:~~

34 ~~(a) The amount of parking demands created by the~~  
35 ~~establishment being considered, especially with~~  
36 ~~regard to the adverse impact on adjacent~~  
37 ~~residential areas or any illegal or hazardous~~  
38 ~~parking, and whether the establishment being~~  
39 ~~considered meets the criteria for current~~  
40 ~~parking.~~

41  
42 ~~(b) The amount and degree of law and code~~  
43 ~~enforcement activities being generated by the~~  
44 ~~establishment being considered, both inside and~~  
45 ~~outside the location, with emphasis on~~  
46 ~~vandalism, noise, vehicular use by patrons and~~  
47 ~~illegal activity of any kind by employees~~  
48 ~~(including municipal violations), patrons and~~

1                   ~~others associated with the establishment during~~  
2                   ~~and immediately after the hours of operation.~~

3  
4                   ~~(c) The adverse effect, if any, that the~~  
5                   ~~establishment will have on the neighboring~~  
6                   ~~properties, especially with respect to the~~  
7                   ~~effects of noise, parking, glare from~~  
8                   ~~headlights or exterior lighting on neighborhood~~  
9                   ~~residential properties.~~

10  
11                   ~~(d) That an establishment be wholly enclosed,~~  
12                   ~~soundproofed and air conditioned, and any~~  
13                   ~~windows, doors or other openings kept closed~~  
14                   ~~except for normal and emergency ingress and~~  
15                   ~~egress, in order that noise and music emanating~~  
16                   ~~therefrom will not disturb the peace and quiet~~  
17                   ~~of the neighborhood.~~

18  
19                   ~~(e) Those criteria specified in the City Code.~~

20  
21                   ~~(f) Conformance with property maintenance standards~~  
22                   ~~and municipal codes directly related to the~~  
23                   ~~establishment requesting extended hours.~~

24  
25                   ~~The criteria which the City Commission shall consider~~  
26                   ~~in making a decision whether to grant or deny a~~  
27                   ~~Sunday morning hours permit to an applicant shall be~~  
28                   ~~as follows:~~

29                   ~~(a) That any alcohol served on Sunday between 10:00~~  
30                   ~~a.m. and 12:00 noon shall only be served as an~~  
31                   ~~accompaniment to a full course meal.~~

32  
33                   ~~(b) The amount and degree of law and code~~  
34                   ~~enforcement activities being generated by the~~  
35                   ~~establishment being considered, both inside and~~  
36                   ~~outside the location, with emphasis on~~  
37                   ~~vandalism, noise, vehicular use by patrons and~~  
38                   ~~illegal activity of any kind by employees~~  
39                   ~~(including municipal violations), patrons and~~  
40                   ~~others associated with the establishment during~~  
41                   ~~and immediately after the hours of operation.~~

42  
43                   ~~(2) Applications. Any person, vendor or place of~~  
44                   ~~business which has been regularly licensed by the~~  
45                   ~~State of Florida to sell and dispense alcoholic~~  
46                   ~~beverages may apply for a special permit for~~  
47                   ~~extended hours. Any person, vendor or place of~~  
48                   ~~business which offers food service and has been~~

1 regularly licensed by the State of Florida to sell  
2 and dispense alcoholic beverages with a 2COP or 4COP  
3 allocation may apply for a Sunday morning hours  
4 permit. Any person, vendor or place of business  
5 desiring a special permit for extended hours or a  
6 Sunday morning hours permit shall file with the City  
7 Clerk a typewritten or printed application on forms  
8 provided by the City. Such application, among other  
9 things, shall state the location where such business  
10 is to be conducted; the name of the applicant  
11 together with the names of the individuals operating  
12 a business under their own or under a trade name;  
13 the names of the officers or members of the firms  
14 engaged in any such business; the names of all  
15 individuals or business entities owning five (5) per  
16 cent or more of the assets of a business (excluding  
17 publicly owned corporations); the type of business  
18 license issued by the State of Florida and the  
19 number thereof. The applicant shall also furnish  
20 such other information as may be deemed reasonable  
21 by the City and shall pay the necessary license fee  
22 together with one hundred fifty dollars (\$150.00)  
23 application fee. No application may be deemed  
24 completed until the requirements of this paragraph  
25 are met.

26 The City Commission may require, as a condition of  
27 the privilege of extending hours of operation,  
28 compliance with any reasonable conditions deemed by  
29 the commission to be necessary to mitigate or  
30 eliminate the adverse effects of such extended hours.  
31 These conditions may include, without being limited  
32 to, provision by the owner or operator of the  
33 premises to provide at his expense additional off-  
34 street parking, security personnel, off-duty police  
35 personnel, screening and buffering from nearby  
36 properties. The City Commission may also require a  
37 cash bond in an amount they deem appropriate, but not  
38 in excess of two thousand five hundred dollars  
39 (\$2,500.00) to ensure that the conditions which have  
40 been required are faithfully performed. No bond as  
41 provided herein will be forfeited unless a hearing  
42 before the City Commission is held and it is  
43 determined that the conditions which have been  
44 required have not been performed.

45 The granting of a special permit to a particular  
46 licensee has been and continues to be a privilege  
47 subject to modification or termination by the City  
48 Commission each year at renewal time, and no person  
49 may reasonably rely on a continuation of that  
50 privilege.

1           The licensee shall be deemed the owner of an  
2           establishment for which application has been made and  
3           any transfer of ownership or location shall  
4           necessitate a new application to be made pursuant to  
5           this section. Should an establishment owned by an  
6           entity transfer five (5) per cent or more of its  
7           assets, said transfer shall be deemed to be a  
8           transfer of ownership, pursuant to this section.

9  
10       ~~(3) Renewals. The renewal of any special permit shall be~~  
11       ~~determined by the City Commission in the manner~~  
12       ~~specified in subsection (2) above. Applications~~  
13       ~~shall be received by July 15 of each year. Completed~~  
14       ~~applications for renewal which are not received by~~  
15       ~~the City Commission by July 15 of each year shall~~  
16       ~~pay a fee of three hundred dollars (\$300.00).~~  
17       ~~If prior to renewal time the city administration~~  
18       ~~determines that any licensee has either violated a~~  
19       ~~condition of renewal or is operating in a manner~~  
20       ~~harmful to the public health, safety or welfare based~~  
21       ~~upon the criteria specified in subsection (2) above,~~  
22       ~~it may place on the City Commission agenda the matter~~  
23       ~~of revoking the special permit issued. Such agenda~~  
24       ~~items shall be publicly advertised in a newspaper of~~  
25       ~~local circulation, and written notice of the charges~~  
26       ~~against the licensee shall be sent to him at least~~  
27       ~~fourteen (14) days in advance and shall also contain~~  
28       ~~the day, time and place of such agenda item.~~

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

41       ~~No person, vendor or distributor of any place of~~  
42       ~~business licensed under the provisions of this~~  
43       ~~section or by the State of Florida, or any employee~~  
44       ~~thereof, shall permit any person who is not a~~  
45       ~~proprietor, licensed vendor or employee thereof to~~  
46       ~~remain on the licensed premises beyond the legally~~  
47       ~~authorized closing hour; provided however, if said~~  
48       ~~premises are divided so that the portion of said~~  
49       ~~premises where alcoholic beverages are kept, stored~~  
50       ~~or dispensed is segregated by partition and locked~~

~~doors after the legal hour, then such prohibition shall not apply.~~

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

**SECTION 7:** All ordinances or parts of ordinances in conflict herewith are and the same is hereby repealed to the extent of such conflict.

**SECTION 8:** 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 9:** 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 10:** 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 - 1<sup>ST</sup> READING RECORD OF VOTE - 2<sup>ND</sup> READING

Simone \_\_\_\_\_  
Arserio \_\_\_\_\_  
Schwartz \_\_\_\_\_  
Ruzzano \_\_\_\_\_  
Caggiano \_\_\_\_\_

Simone \_\_\_\_\_  
Arserio \_\_\_\_\_  
Schwartz \_\_\_\_\_  
Ruzzano \_\_\_\_\_  
Caggiano \_\_\_\_\_