

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 EXCEPTIONS; 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.

. . .

(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 specified herein. 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 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.

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 (1) Sales or services for on-premises consumption: The
2 sale or serving of alcoholic beverages for consumption
3 on the premises shall be unlawful between the hours
4 of 2:00 a.m. and 8:00 a.m. Monday through Saturday,
5 and between the hours of 2:00 a.m. and 11:00 a.m. on
6 Sundays, unless a special permit for extended hours
7 has been issued by the City.

8
9 (a) As an exception to the above limitation of hours,
10 the sale or serving of alcoholic beverages for
11 consumption on the premises shall be permitted
12 between 2 a.m. and 4 a.m. on the following
13 specified dates of any given year without the
14 need of acquiring a special permit for extended
15 hours permit:

16
17 (i) January 1

18
19 (ii) March 18

20
21 (iii) May 6

22
23 (iv) July 5

24
25 (v) December 25

26
27 (vi) December 26

28
29 (b) No person, vendor or distributor of any place of
30 business licensed under the provisions of this
31 section or by the State of Florida, or any
32 employee thereof, shall permit any person who is
33 not a proprietor, licensed vendor or employee
34 thereof to remain on the licensed premises beyond
35 the legally authorized closing hour; provided
36 however, if said premises are divided so that
37 the portion of said premises where alcoholic
38 beverages are kept, stored or dispensed is
39 segregated by partition and locked doors after
40 the legal hour, then such prohibition shall not
41 apply.

42
43 (2) Sales for off-premises consumption: The sale of
44 alcoholic beverages for consumption off the premises,
45 including delivery service, shall be unlawful between
46 the hours of 12:00 midnight and 7:00 a.m., seven days
47 a week.
48

(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 2:00 a.m. and 4:00 a.m. ~~12:00 midnight and 8:00 a.m. the following day~~ is hereby declared to be a privilege subject to termination by the City Manager ~~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 Manager ~~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.

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 for consumption on the premises has been approved, if a special permit pursuant to this section has been approved, are as follows:

~~(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~~

1 (a) Tier 1 Special permit for extended hours for
2 weekends only:

3
4 (i) From 2:00 a.m. until 4:00 a.m. on Saturday
5 and Sunday;

6
7 (b) Tier 2 Special permit for extended hours seven (7)
8 days a week:

9 (i) From 2:00 a.m. until 4:00 a.m., Monday
10 through Sunday;
11

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

15 ~~(C) Sunday morning hours permit. Establishments with a 2COP or~~
16 ~~4COP alcohol allocation that wish to serve alcohol before~~
17 ~~noon on Sunday may apply to the City Commission for a Sunday~~
18 ~~morning hours permit.~~

19 ~~Sunday morning hours permit:~~

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

24
25 ~~(C) Approval process and criteria for special permit for~~
26 ~~extended hours permit and Sunday morning hours permit. The~~
27 ~~following criteria for granting, applying and renewing a~~
28 ~~special permit for extended hours and/or a Sunday morning~~
29 ~~hours permit:~~

30
31 (1) *Criteria for granting.* Each special permit for
32 extended hours ~~and each Sunday morning hours permit~~
33 shall expire on September 30 of each year or upon the
34 change in ownership or location of any permitted
35 establishment. All applications shall be filed with
36 the Development Services Department, on forms provided
37 by same. ~~The City Clerk shall place all applications~~
38 ~~for such permits on the agenda for the first regular~~
39 ~~City Commission meeting to be held in September, or~~
40 ~~as soon thereafter as may be heard, and shall notify~~
41 ~~all qualified applicants of the place which their~~
42 ~~applications will be heard.~~

43 All applications for transfer of ownership or location
44 shall be deemed initial applications. However,
45 applications for transfer of ownership or locations
46 shall be automatically approved for a temporary period
47 of thirty-five (35) days from the date of either the

1 initial opening of an establishment serving alcoholic
2 beverages or date transfer of ownership or location
3 occurs.

4 At the end of the thirty-five (35) days proceeding,
5 establishments shall be prohibited from serving
6 alcoholic beverages except by permission of the City
7 Manager ~~Commission~~ pursuant to subsections (XI) (B).

8 The City Manager ~~Commission~~ may grant or deny such
9 special permits for extended hours.

10 The criteria which the City Manager ~~Commission~~ shall
11 consider in making a decision whether to grant or deny
12 a special permit for extended hours to an applicant
13 shall be as follows:

14 (a) The amount of parking demands created by the
15 establishment being considered, especially with
16 regard to the adverse impact on adjacent
17 residential areas or any illegal or hazardous
18 parking. ~~and whether the establishment being~~
19 ~~considered meets the criteria for current~~
20 ~~parking.~~

21
22 (b) The amount and degree of law and code enforcement
23 activities being generated by the establishment
24 being considered, both inside and outside the
25 location, with emphasis on vandalism, noise,
26 vehicular use by patrons and illegal activity of
27 any kind by employees (including municipal
28 violations), patrons and others associated with
29 the establishment during and immediately after
30 the hours of operation.

31
32 (c) The adverse effect, if any, that the
33 establishment will have on the neighboring
34 properties, especially with respect to the
35 effects of noise, parking, glare from headlights
36 or exterior lighting on neighborhood residential
37 properties.

38
39 (d) That an establishment be wholly enclosed,
40 soundproofed and air conditioned, and any
41 windows, doors or other openings kept closed
42 except for normal and emergency ingress and
43 egress, in order that noise and music emanating
44 therefrom will not disturb the peace and quiet
45 of the neighborhood.
46

(i) As an exception to this criteria, approved walkway cafes are not required to be fully enclosed.

(e) Those criteria specified in the City Code.

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

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

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

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

(2) *Applications.* Any person, vendor or place of business which has been regularly licensed by the State of Florida to sell and dispense alcoholic beverages may apply for a special permit for extended hours. ~~Any person, vendor or place of business which offers food service and has been regularly licensed by the State of Florida to sell and dispense alcoholic beverages with a 2COP or 4COP allocation may apply for a Sunday morning hours permit.~~ Any person, vendor or place of business desiring a special permit for extended hours ~~or a Sunday morning hours permit~~ shall file with the ~~City Clerk~~ Development Services Department an ~~typewritten~~ electronic or printed application ~~on~~ forms provided by the City. Such application, among other things, shall state the location where such business is to be conducted; the name of the applicant together with the names of the individuals operating a business under their own or under a trade name; the names of all the officers or members of the firms engaged in any such business; the names of all individuals or business entities owning five (5) per cent or more of the assets of a business (excluding publicly owned

corporations); the type of business license issued by the State of Florida and the number thereof. The applicant shall also furnish such other information as may be deemed reasonable by the City and shall pay the ~~necessary license fee together with one hundred fifty dollars (\$150.00)~~ application fee, established by resolution of the City Commission. No application may be deemed completed until the requirements of this paragraph are met.

The Police Department shall review and forward each completed application to the City Manager with a recommendation based on the criteria provided above. The City ~~Manager Commission~~ may require, as a condition of the privilege of extending hours of operation, compliance with any reasonable conditions deemed by the City Manager ~~commission~~ to be necessary to mitigate or eliminate the adverse effects of such extended hours. These conditions may include, without being limited to, provision by the owner or operator of the premises to provide at his expense additional off-street parking, security personnel, off-duty police personnel, screening and buffering from nearby properties. The City ~~Manager Commission~~ may also require a cash bond in an amount ~~they~~ he/she deems appropriate, ~~but not in excess of two thousand five hundred dollars (\$2,500.00) to ensure that the conditions which have been required are faithfully performed.~~ The maximum bond amount that can be levied shall be established by resolution of the City Commission. No bond as provided herein will be forfeited unless ~~a hearing before the City Commission is held and it is~~ the City Manager has determined that the conditions which have been required have not been performed.

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

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

- (3) *Renewals.* The renewal of any special permit shall be determined by the City ~~Manager Commission~~ in the

manner specified in subsection (2) above. Applications shall be received by July 15 of each year. Completed applications for renewal which are not received by the Development Services Department City Commission by July 15 of each year shall be subject to a late fee, established by resolution of the City Commission. ~~pay a fee of three hundred dollars (\$300.00).~~

If prior to renewal time the city administration determines that any licensee has either violated a condition of renewal or is operating in a manner harmful to the public health, safety or welfare based upon the criteria specified in subsection (2) above, the City Manager may revoke the special permit issued. ~~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~~ Written notice of the charges against the licensee shall be sent to the special permit holder. The permit holder shall have not more than 30 calendar days to send a written response ~~those charges. 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 respond to charges ~~be heard~~, the City Manager ~~Commission~~ may revoke, modify or condition the special permit. The criteria to be used by the ~~administration and City Manager 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 Manager ~~Commission~~. The City Manager ~~commission~~ may then modify or refuse to modify his/her ~~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.

. . .

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

SECTION 2: All ordinances or parts of ordinances in conflict herewith are and the same is hereby repealed to the extent of such conflict.

SECTION 3: 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 4: It is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the City of Margate Code, and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 5: This ordinance shall become effective October 1, 2020.

PASSED ON FIRST READING THIS 22 DAY OF January 2020.

PASSED ON SECOND READING THIS 29 DAY OF January 2020.

ATTEST:

JOSEPH J. KAVANAGH
CITY CLERK

MAYOR TOMMY RUZZANO

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

Caggiano	_____	Caggiano	_____
Simone	_____	Simone	_____
Arserio	_____	Arserio	_____
Schwartz	_____	Schwartz	_____
Ruzzano	_____	Ruzzano	_____