

CITY OF MARGATE, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF THE CITY OF MARGATE, FLORIDA, AMENDING CHAPTER 9 - BUILDINGS, ADDING NEW SECTION 9-6. CONSTRUCTION HOURS OF OPERATION; AMENDING CHAPTER 33 - POLICE AND LAW ENFORCEMENT; OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE VIII - NOISE CONTROL CODE, SECTION 33-79 - SPECIFIC PROHIBITIONS, SUBSECTION (g) CONSTRUCTION NOISE; AMENDING CHAPTER 35 - ARTICLE I - IN GENERAL, ADDING NEW SECTION 35-0.6 CONSTRUCTION HOURS OF OPERATION IN RIGHT-OF-WAY; PROVIDING FOR CONSTRUCTION OPERATING HOURS; PROVIDING FOR SPECIAL PERMIT; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, operating equipment used in commercial construction may cause a noise disturbance so as to disturb the peace, quiet and comfort of the neighborhood and vicinity thereof; and

WHEREAS, conducting construction in City rights-of-way during certain hours, such as school zone operating hours and rush hour, impact the flow of traffic and may present health, safety, and welfare concerns; and

WHEREAS, the City Commission desires to limit the construction hours of operation to provide for the health, safety, and welfare of the public and enjoyment of property.

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

SECTION 1: The Code of Ordinances of the City of

1 Margate, Florida, Chapter 9 - Buildings, is hereby amended
2 adding new Section 9-6 - Construction Hours of Operation, as
3 follows¹:

4 **Sec. 9-6. ~~Reserved.~~ Construction hours of operation**

5 (a) It shall be unlawful for any person to operate or
6 cause to be operated any equipment used in commercial
7 construction, repair, alteration or demolition work on
8 buildings, structures, or appurtenances thereto, in
9 residential or commercial land use categories between the
10 hours of 7:00 p.m. and 7:00 a.m. the following day.
11 Further, it shall be unlawful for any person to operate
12 or cause to be operated said equipment on Sundays or
13 Federal holidays.

14 (b) Further limitations on construction hours of operation
15 during an emergency or other conditions affecting the
16 health, safety, and welfare of the public, shall be at the
17 discretion of the Building Official unless otherwise
18 provided for as part of an emergency declaration pursuant
19 to Section 33-7 of City Code.

20 (c) Any person desiring to engage in the use of the

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

1 aforementioned equipment for the aforementioned purposes
2 beyond the hours and days of limitations aforementioned,
3 based upon cases of necessity or the interest of public
4 health, safety and convenience, may apply to the Building
5 Official for a special permit allowing same. Such permits,
6 if granted, shall be limited to a period of up to thirty
7 (30) days' duration, but may be renewed for additional
8 periods of up to thirty (30) days if the emergency or need
9 therefor continues. In the issuance of such permits, the
10 Building Official shall weigh all facts and circumstances
11 and shall determine whether the reasons given for the
12 necessity are valid and reasonable, whether the public
13 health, safety and convenience will be protected or better
14 served by granting the permit requested, and whether the
15 manner and amount of loss or inconvenience to the party in
16 interest imposes a significant hardship upon said party.

17
18 **SECTION 2:** The Code of Ordinances of the City of
19 Margate, Florida, Chapter 33 - Police and Law Enforcement;
20 Offenses and Miscellaneous Provisions, Article VIII - Noise
21 Control Code, Section 33-79(g), is hereby amended as follows:

22 **Sec. 33-79. Specific prohibitions.**

23 The following acts are declared to be loud, disturbing and/or
24 excessive noise in violation of this code:

(g) *Construction noise.* Operating or causing to be operated any equipment used in commercial construction, repair, alteration or demolition work on buildings, structures, streets, alleys, or appurtenances thereto, in residential or commercial land use categories with sound-control devices less effective than those provided on the original equipment, or in violation of any regulation of the U.S. Environmental Protection Agency. Hours of operation of the equipment and uses aforementioned shall be as provided for in Chapter 9 and Chapter 35 of City Code.~~It shall further be unlawful for any person to operate or cause to be operated the equipment aforementioned for the uses aforementioned between the hours of 7:00 p.m. and 7:00 a.m. the following day. Further, it shall be unlawful for any person to operate or cause to be operated said equipment on Sundays. Any person desiring to engage in the use of the aforementioned equipment for the aforementioned purposes beyond the hours and days of limitations aforementioned, based upon cases of necessity or the interest of public health, safety and convenience, may apply to the city manager for a special permit allowing same. Such permits, if granted, shall be limited to a~~

1 ~~period of up to thirty (30) days' duration, but may be~~
2 ~~renewed for additional periods of up to thirty (30) days~~
3 ~~if the emergency or need therefor continues. In the~~
4 ~~issuance of such permits, the city manager shall weigh~~
5 ~~all facts and circumstances and shall determine whether~~
6 ~~the reasons given for the necessity are valid and~~
7 ~~reasonable, whether the public health, safety and~~
8 ~~convenience will be protected or better served by~~
9 ~~granting the permit requested, and whether the manner~~
10 ~~and amount of loss or inconvenience to the party in~~
11 ~~interest imposes a significant hardship upon said party.~~

12
13 **[Note to Municipal Code: The rest of this section shall**
14 **remain as codified.]**
15

16 **SECTION 3:** The Code of Ordinances of the City of
17 Margate, Florida, Chapter 35, Article I - In General, is hereby
18 amended adding new Section 35-0.6 - Construction hours of
19 operation in right-of-way, as follows:

20 **Sec. 35-0.6. - Construction hours of operation in right-of-way.**

21 (a) It shall be unlawful to conduct construction in City
22 right-of-way between the hours of 7:00 p.m. and 7:00 a.m.
23 the following day and on Sundays or Federal holidays.
24 Further, it shall be unlawful to conduct construction in
25 school zones during operating hours, determined by

1 Florida Statute 316.1895(5) as 30 minutes before, during,
2 and 30 minutes after the periods of time when pupils are
3 arriving at a regularly scheduled breakfast program or a
4 regularly scheduled school session and leaving a regularly
5 scheduled school session.

6 (b) Further limitations on construction hours of operation
7 in City right-of-way for high volume traffic hours,
8 emergency conditions, and other conditions affecting the
9 health, safety, and welfare of the public, shall be at the
10 discretion of the Director of Environmental and
11 Engineering Services unless otherwise provided for as part
12 of an emergency declaration pursuant to Section 33-7 of
13 City Code.

14 (c) Any person desiring to engage in construction in City
15 right-of-ways during the limitations aforementioned, based
16 upon cases of necessity or the interest of public health,
17 safety and convenience, may apply to the Director of
18 Environmental and Engineering Services for a special
19 permit allowing same. Such permits, if granted, shall be
20 limited to a period of up to thirty (30) days' duration,
21 but may be renewed for additional periods of up to thirty
22 (30) days if the emergency or need therefor continues. In
23 the issuance of such permits, the Director shall weigh all

1 facts and circumstances and shall determine whether the
2 reasons given for the necessity are valid and reasonable,
3 whether the public health, safety and convenience will be
4 protected or better served by granting the permit
5 requested, and whether the manner and amount of loss or
6 inconvenience to the party in interest imposes a
7 significant hardship upon said party.

8
9 **SECTION 4:** All ordinances or parts of ordinances in
10 conflict herewith are repealed to the extent of such conflict.

11
12 **SECTION 5:** If any section, sentence, clause, or
13 phrase of this Ordinance is held to be invalid or
14 unconstitutional by a court of competent jurisdiction, then
15 said holding shall in no way affect the validity of the
16 remaining portions of this Ordinance.

17
18 **SECTION 6:** It is the intention of the City
19 Commission that the provisions of this ordinance shall become
20 and be made a part of the City of Margate Code, and that the
21 sections of this Ordinance may be renumbered or relettered and
22 the word "ordinance" may be changed to "section", "article" or
23 such other appropriate word or phrase in order to accomplish
24 such intentions.

SECTION 7: This Ordinance shall become effective
immediately upon adoption at its second reading.

PASSED ON FIRST READING THIS ____ day of _____ 2021.

PASSED ON SECOND READING THIS ____ day of _____ 2021.

ATTEST:

JOSEPH KAVANAGH
CITY CLERK

MAYOR ARLENE R. SCHWARTZ

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

Caggiano _____
Simone _____
Ruzzano _____
Arserio _____
Schwartz _____

Caggiano _____
Simone _____
Ruzzano _____
Arserio _____
Schwartz _____