

CITY OF MARGATE, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF THE CITY OF MARGATE, FLORIDA, AMENDING CHAPTER 33-POLICE AND LAW ENFORCEMENT; OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE VI - TRAFFIC CONTROL, SECTION 33-69.50 REGULATING TOWING OF VEHICLES FROM PRIVATE PROPERTY AND SECTION 33-69.52 SUPPLEMENTAL LOCAL REGULATIONS; PROVIDING FOR THE ADOPTION OF TOWING, IMMOBILIZATION, AND VEHICLE STORAGE RATES AS ESTABLISHED BY BROWARD COUNTY, FLORIDA; PROVIDING FOR REPEAL; 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, Chapter 33 - Police and Law Enforcement; Offenses and Miscellaneous Provisions, Article VI - Traffic Control, Section 33-69.50 Regulating towing of vehicles from private property, is hereby amended as follows¹:

Sec. 33-69.50 Regulating towing of vehicles from private property

(a) This section shall operate and govern the towing or removal of all vehicles from private property within the municipal limits of the City of Margate without the consent of the registered owner or without the consent of any other legally authorized person in control of a vehicle as contemplated in F.S. § 715.07.

1 This section shall not govern any towing or removal authorized by
2 the City of Margate or any other law enforcement agency.

3 (b) As used in this section, the term "vehicle" means any mobile
4 item which normally uses wheels, whether motorized or not.

5 (c) The owner or lessor of private real property within the City
6 of Margate, or any person authorized by the owner or lessor,
7 which person may be the designated representative of a
8 condominium association if the real property is a
9 condominium, may cause any vehicle parked on such property
10 without his permission to be removed by a firm or person
11 regularly engaged in the business of towing vehicles,
12 without liability for the costs of removal, transportation,
13 or storage or damages caused by reasonable removal,
14 transportation, or storage subject to strict compliance with
15 the following conditions and restrictions:

16 (1) Restrictions provided for by F.S. § 715.07, as amended
17 or renumbered, which are hereby made a part of the
18 code of the City of Margate.

19 (2) The City of Margate adopts all rates for towing,
20 immobilization and storage of vehicles as established
21 by Broward County, Florida, as may be amended from
22 time to time. No wrecker operator as defined in F.S.
23 § 323.002(1), or towing business for towing,

impounding or storing a vehicle or vessel for
monetary gain, as defined in F.S. § 166.04465, shall
charge any rate that is higher than any maximum rate
for any service as set forth in the rates adopted by
this subsection.

~~Maximum and allowable rates for nonconsent towing and
immobilization shall be as follows:~~

~~a. Class A vehicle towed (as defined by the Florida
Department of Highway Safety and Motor Vehicles:~~

~~1. Towing fee: \$126.72~~

~~2. Storage fee, per twenty-four (24) hours: \$25.35~~

~~3. Administrative fee: \$31.68~~

~~4. Research fee: Actual costs incurred in obtaining
vehicle ownership information and providing
notice may be charged to the person retrieving
the vehicle.~~

~~b. Class B vehicle towed (as defined by the Florida
Department of Highway Safety and Motor Vehicles:~~

~~1. Towing fee: \$184.79~~

~~If flatbed is used \$205.92~~

~~2. Storage fee, per twenty-four (24) hours: \$45.41~~

~~3. Administrative fee: \$31.68~~

1 ~~4. Research fee: Actual costs incurred in obtaining~~
2 ~~vehicle ownership information and providing notice~~
3 ~~may be charged to the person retrieving the~~
4 ~~vehicle.~~

5 ~~5. Labor fee, per hour (starting when the person~~
6 ~~arrives at the scene of the vehicle and ending~~
7 ~~when such person leaves the scene), per~~
8 ~~person\$184.79~~

9 ~~e. Class C vehicle towed (as defined by the Florida~~
10 ~~Department of Highway Safety and Motor Vehicles:~~

11 ~~1. Towing fee:\$316.79~~

12 ~~If flatbed is used:\$340.02~~

13 ~~2. Storage fee, per twenty-four (24) hours:\$52.80~~

14 ~~3. Administrative fee:\$31.68~~

15 ~~4. Research fee: Actual costs incurred in obtaining~~
16 ~~vehicle ownership information and providing notice~~
17 ~~may be charged to the person retrieving the~~
18 ~~vehicle.~~

19 ~~5. Labor fee, per hour (starting when the person~~
20 ~~arrives at the scene of the vehicle and ending~~
21 ~~when such person leaves the scene), per~~
22 ~~person\$316.79~~

~~d. Class D vehicle towed (defined as any vehicle with a gross vehicle weight which exceeds a Class C vehicle):~~

~~1. Towing fee:\$422.40~~

~~If flatbed or lowboy is used:\$340.02~~

~~2. Storage fee, per twenty-four (24) hours:\$52.80~~

~~3. Administrative fee:\$31.68~~

~~4. Research fee: Actual costs incurred in obtaining vehicle ownership information and providing notice may be charged to the person retrieving the vehicle.~~

~~5. Labor fee, per $\frac{1}{4}$ hour (starting when the person arrives at the scene of the vehicle and ending when such person leaves the scene), per person\$105.59~~

~~e. Immobilization, per vehicle:\$68.64~~

~~f. Road service:~~

~~1. Class A:\$42.24~~

~~2. Class B:\$59.13~~

~~3. Class C:\$76.56~~

~~g. Winch recovery:~~

~~1. Class A, first thirty (30) minutes:\$105.59~~

~~Each additional thirty (30) minutes:\$52.80~~

~~2. Class B, first thirty (30) minutes:\$184.79~~

~~Each additional thirty (30) minutes:\$92.40~~

~~3. Class C, first thirty (30) minutes:\$316.79~~

~~Each additional thirty (30) minutes:\$158.40~~

~~h. Miscellaneous fee provisions:~~

~~1. If the towed vehicle is retrieved within the first six (6) hours of arriving at the storage facility, the person retrieving the vehicle may not be charged a storage fee.~~

~~2. An administrative fee may not be charged if the vehicle owner is identified within twenty-four (24) hours of the vehicle arriving at the storage facility.~~

~~3. The person retrieving the vehicle may pay a five dollar and eighteen cent (\$5.18) fee to expedite vehicle ownership verification.~~

~~4. The rates for other tows do not apply to tows conducted on behalf of a government agency pursuant to a contract between the government agency and a licensed tow company if such contract provides a different rate structure.~~

~~5. Research fees may be charged only when the tow company providing the service must actually perform research to determine ownership of a~~

1 ~~vehicle to notify the vehicle owner, lien holders,~~
2 ~~and insurance companies. Written documentation of~~
3 ~~the efforts undertaken to ascertain ownership of~~
4 ~~the vehicle must be made available for inspection~~
5 ~~by the county upon request. Costs shall mean~~
6 ~~actual fees charged by the State of Florida for~~
7 ~~obtaining ownership information and shall include~~
8 ~~the cost of actual postage fees, advertising fees~~
9 ~~(if more than a single vehicle is advertised in~~
10 ~~the same advertisement, then the cost of the~~
11 ~~advertisement shall be prorated per vehicle), and~~
12 ~~title search for out-of-state vehicles. Proofs of~~
13 ~~all costs incurred by the tow company must be made~~
14 ~~available for inspection by the city upon request.~~

15 [(3) Reserved.]

16 [(4) Reserved.]

17 (5) That any person or firm regularly engaged in the
18 business of towing vehicles pursuant to Section 715.07
19 of the Florida Statutes and this section shall register
20 with the City of Margate Police Department the current
21 name and phone number of an agent who is authorized to
22 release any vehicle towed from private property within
23 the City of Margate and the hours which the storage
24 facility for same is open for claim of vehicles.

1 (6) The adoption of reasonable guidelines which allow for
2 acceptance of checks and credit cards as payment for
3 services provided by any person or firm which tows
4 pursuant to state statute and this section.

5 a. The above guidelines shall be prominently posted
6 at such location(s) where towed vehicles are held
7 for claim;

8 b. Such guidelines shall be provided to the City of
9 Margate Police Department and an individual
10 responsible for a vehicle shall be advised of the
11 guidelines when said individual is notified that
12 his/her vehicle is held by the company.

13 (7) The posting of the following at a location where towed
14 vehicles are held for claim by any person or firm which
15 tows pursuant to state statute and this section:

16 a. This section.

17 b. F.S. § 715.07, titled: Vehicles Parked on Private
18 Property; Towing.

19 c. The Towing Company Licensing and Regulating
20 Ordinance of Broward County.

21 (8) Should any item which is required to be posted be
22 removed or become unreadable, then it shall be the
23 responsibility of the owner or principal of the

premises or lessee to replace same as expeditiously as possible.

(d) Towing rates may be increased annually in accordance with the adopted Broward County, Florida rates for towing, immobilization and storage of vehicles, as may be amended from time to time ~~in an amount equal to the annual percentage increase in the Consumer Price Index as determined by the Environmental and Consumer Protection Division after review of the Bureau of Labor Statistics, Southeastern Regional Office Consumer Price Index or three (3) per cent, whichever is greater. The increase in fees shall be published every year on the city's website.~~

(e) This section shall be deemed supplemental to Section 715.07 of the Florida Statutes entitled: Vehicles Parked on Private Property; Towing, as amended or renumbered in Article XII, Sections 20-242 through 20-250 of the Broward County Code entitled Towing Company Licensing and Regulating Ordinance of Broward County. However, this section shall supersede and prevail over the above referred to state statute and county ordinance where same conflict when the towing of a vehicle emanates from private property within the municipal limits of the city.

1 (f) Any individual or corporation violating any provision of
2 this section shall be deemed guilty of a municipal violation
3 and shall be punished as provided in section 1-8 of the Code
4 of the city.

5 (g) Should any individual or entity violate any provision of
6 this code acting as an employee, agent or officer of any
7 other individual, corporation or business entity, then the
8 action of said individual or corporation shall be deemed as
9 an additional separate violation against the individual,
10 corporation, or business entity which is the principal or
11 employer.

12 **SECTION 2:** The Code of Ordinances of the City of Margate, Florida,
13 Chapter 33 - Police and Law Enforcement; Offenses and
14 Miscellaneous Provisions, Article VI - Traffic Control, Section
15 33-69.52 Supplemental Local Regulations, is hereby amended as
16 follows¹:

17 As authorized by F.S. ch. 316, adopted in section 33-69.51, the
18 following additional traffic regulations are hereby
19 enacted:

20 (1) *Standing in freight curb loading zone.*

21 a. No person shall stop, stand or park a vehicle, for any
22 purpose, a length of time expeditious in loading and
23 delivery or curb loading zones during hours when the

1 provisions applicable to such zones are in effect. In
2 no case shall the stop for loading or unloading of
3 materials exceed thirty (30) minutes, unless otherwise
4 posted.

- 5 b. The driver of a vehicle may stop temporarily at a place
6 marked as a freight curb loading zone for the purpose
7 of and while actually engaged in loading or unloading
8 passengers, when such stopping does not interfere with
9 any motor vehicle used for the transportation of
10 materials which is waiting to enter, or about to enter,
11 such zone.

12 (2) *Driving on unpaved easements located on residential*
13 *properties.*

- 14 a. It is hereby declared unlawful for vehicular traffic to
15 move upon or on or in any way travel across or through
16 any unpaved easements which easements are located on
17 residential properties within the City of Margate.

- 18 b. Any person convicted of a violation of this subsection
19 shall be punished by a fine not exceeding five hundred
20 dollars (\$500.00) or ninety (90) days imprisonment or
21 both in the discretion of the municipal judge.

22 (3) *Impounding of vehicles.*

1 a. *Authority to move impounded vehicles.* Sworn members of
2 the police department are hereby authorized to cause to
3 be removed and impounded a vehicle to the nearest
4 garage or other place of safety, or to a garage
5 designated or maintained by the police department or by
6 this municipality, or to move or cause to be moved such
7 vehicle, or to require the driver or person in charge
8 of the vehicle to move the same to a position which
9 would not be an obstruction or in violation of any
10 ordinance, under the circumstances hereinafter
11 enumerated:

12 1. When any vehicle is left unattended upon any bridge, or
13 viaduct where such vehicle constitutes an obstruction
14 to traffic.

15 2. When a vehicle upon a street is so disabled as to
16 constitute an obstruction to traffic, or the person
17 or persons in charge of the vehicle are by reason of
18 physical injury incapacitated to such an extent as to
19 be unable to provide for its custody and removal.

20 3. When a vehicle is found being operated upon the streets
21 and is not in proper condition.

22 4. When any vehicle is left unattended upon a street and
23 is so parked illegally as to constitute a definite

1 hazard or obstruction to the normal movement of
2 traffic.

3 5. When the driver of such vehicle is taken into custody
4 by the police department and such vehicle would
5 thereby be left unattended upon a street.

6 6. When removal is necessary in the interest of public
7 safety because of fire, flood, storm or other
8 emergency reason.

9 7. When any vehicle is parked, stopped or left standing in
10 any area officially marked as a tow away zone.

11 b. *Notice of impounding.*

12 1. Whenever an officer removes a vehicle from a street as
13 authorized in [subsection] a., and the officer knows
14 or is able to ascertain the name and address of the
15 owner thereof, such officer shall as soon as
16 practicable give or cause to be given notice to such
17 owner of the fact of such removal, and the reasons
18 thereof, and of the place to which such vehicle has
19 been removed.

20 2. Whenever an officer removes a vehicle from a street
21 under [subsection] a. and does not know or is not
22 able to ascertain the name of the owner, or for any
23 other reason is unable to give the notice to the
24 owner as hereinbefore provided, then the officer

1 shall immediately send or cause to be sent written
2 report of such removal by mail to the motor vehicle
3 commission, and shall file a copy of such notice with
4 the proprietor of any authorized garage in which the
5 vehicle may be stored. Such notice shall include a
6 complete description of the vehicle, the date, time
7 and place from which removed, the reasons for such
8 removal, and the name of the garage or place where
9 the vehicle is stored.

10 3. Upon the impounding of a vehicle, the owner, or
11 individual in possession of the vehicle prior to it
12 being impounded, shall be responsible for all towing
13 and storage charges therefrom. The city is authorized
14 to withhold an impounded vehicle until such time as
15 all towing and storage charges have been paid.

16 c. *Authorized garage.* An "authorized garage" shall be
17 defined as that business or garage which is currently
18 under contract or has obtained a franchise from the
19 city to provide a towing and impounding service or any
20 garage designated by a violator or owner of a vehicle
21 requesting towing or impounding services from the
22 police department of the city.

23 (4) *Immobilizing devices; towing.*

1 a. The chief of police, or his/her designee, is hereby
2 authorized to attach a "Denver boot" or other
3 nondestructive device, which prevents a vehicle from
4 being moved under its own power, to a motor vehicle
5 under the following conditions:

6 1. The motor vehicle has, on at least three (3) prior
7 occasions, been found stopped, standing or parked on
8 any street, alley, thoroughfare, or private property
9 where the public is invited to travel within the
10 city, in violation of a state law or city ordinance
11 for which a parking citation, or other municipal
12 violation has been issued to the owner or operator of
13 the registered vehicle, and to which the registered
14 owner or operator has failed or refused to respond by
15 requesting a court date to contest the parking
16 ticket, or other municipal violation, or by paying
17 any applicable penalties indicated upon the parking
18 tickets, or any fine imposed by court order.

19 2. The registered owner or operator of the motor vehicle
20 has been given written notice, by mail or otherwise,
21 that the provisions of this section will be enforced
22 against the motor vehicle unless not more than five
23 (5) calendar days from the date of receipt of the

1 notice, the owner or operator shall request a court
2 hearing as to all prior violations.

3 3. The registered owner or operator of the motor vehicle
4 has failed or refused to respond to the notice
5 described in subsection [subsection] a.2. above by
6 requesting a court hearing.

7 b. The immobilizing device may be attached to the motor
8 vehicle at any location within the city where the motor
9 vehicle may be found, if the location is in a right-of-
10 way or a place where the public is invited to travel,
11 except that no motor vehicle shall be immobilized
12 within the traveled portion of any street, or in any
13 portion of any street, when immobilization at such
14 place would create a hazard to the public or to
15 traffic.

16 c. At the time that an immobilizing device is attached to
17 a motor vehicle, a notice shall be affixed to the
18 windshield and to the left front window stating that
19 the immobilizing device has been attached and
20 cautioning the operator not to attempt to operate the
21 motor vehicle, or to attempt to remove the immobilizing
22 device. The notice shall inform the owner or operator
23 of the motor vehicle of the citations for which the
24 motor vehicle is immobilized, plus the removal charge

1 for removal of the immobilizing device, and the
2 location to which the owner or operator must go in
3 order to pay the penalties and removal charge and have
4 the immobilizing device removed from the motor vehicle.

5 d. The owner or operator of a vehicle which has been
6 immobilized with an immobilizing device shall have the
7 right to request to the city manager, or his/her
8 designee, in writing, an administrative hearing for the
9 purpose of determining whether such vehicle was
10 properly immobilized in accordance with the terms of
11 this section. The hearing shall be held within twenty-
12 four (24) hours of such a request being made, or if a
13 weekend or holiday occurs, shall be held on the next
14 business day. The owner or operator requesting the
15 hearing shall receive notice of its date, time and
16 place at the time the request is made. If, upon the
17 conclusion of the hearing, the city manager determines
18 that the vehicle was properly immobilized in accordance
19 with the terms of this section, the owner or operator,
20 in order to obtain the removal of the immobilizing
21 device, shall either pay the city two hundred dollars
22 (\$200.00), or post a bond in such amount guaranteeing
23 payment within one hundred eighty (180) days. If the
24 city manager determines that the vehicle was not

1 properly immobilized, the immobilizing device shall be
2 removed immediately.

3 The owner or operator shall promise to schedule and attend a
4 court hearing regarding any unsatisfied parking or
5 municipal violations. Should the determination of the
6 court as to the offense be for a penalty less than two
7 hundred dollars (\$200.00), the difference of the amount
8 paid by the owner or operator to the city shall be
9 remitted back to the owner or operator.

10 e. The removal charge for the authorized removal of an
11 immobilizing device shall be the immobilization rate
12 adopted by Broward County, Florida, as may be amended
13 from time to time ~~is hereby established in the amount~~
14 ~~of fifty dollars (\$50.00).~~

15 It shall be unlawful to remove or tamper with an
16 immobilizing device which has been attached to a
17 vehicle, pursuant to city ordinance. It shall also be
18 unlawful for any vehicle to be driven where an
19 immobilizing device has been attached, pursuant to city
20 ordinance. The owner or operator shall be deemed
21 legally responsible for violation of this subsection,
22 and shall be liable for all costs and damages to an

1 immobilizing device should a device be tampered with,
2 or where a vehicle has been driven.

3 f. As an additional remedy, if an immobilizing device
4 remains on a motor vehicle for more than twenty-four
5 (24) hours, any motor vehicle described in subsection
6 a. may be towed from any location where it may be found
7 within the city, if the location is in a right-of-way
8 or a place where the public is invited to travel, and
9 shall be impounded until the registered owner or
10 operator pays all outstanding penalties, the removal
11 charge and the costs of towing and impoundment.

12 g. This section shall be applied retrospectively so that
13 any outstanding citation or summons shall be includable
14 in determining whether the requirements of subsection
15 a.1. have been met.

16 (5) *Manner of parking.* Except as otherwise provided in this
17 section or unless posted otherwise:

18 a. Except where angle parking or parking on one-way
19 streets is permitted by this chapter, every vehicle
20 stopped or parked upon a street shall be stopped or
21 parked in the direction of authorized traffic with the
22 right hand wheels of such vehicle parallel with and
23 within twelve (12) inches of the right hand curb or

gutter pan (Miami curb). No parking is permitted on any swale area where a curb is provided.

b. No person shall park any vehicle upon a street in such a manner or under such conditions to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic.

c. Where curbs or gutter pans are not provided, the parking of a car shall not usurp more than twelve (12) inches of the paved portion of the street.

d. Where a vehicle is parked on a street pursuant to this section, no vehicle may be parked parallel to said vehicle on a swale adjacent to the vehicle parked on the street.

e. No vehicle shall be parked in any area intended to be used as a walkway by the general public, whether located on public or private property. Blocking a clearly defined parking space is prohibited.

(6) *City hall parking.*

a. It shall be unlawful for any individual to park, stop, or allow to stand any motor vehicle in the parking lot in front of city hall located at 5790 Margate Boulevard, unless he is conducting business within said building.

1 b. It shall be unlawful for any individual to park, stop,
2 or allow to stand any motor vehicle in the designated
3 parking spaces reserved for the commissioners of the
4 city at city hall unless said individual is a duly
5 elected or appointed commissioner of the city.

6 (7) *Library parking.* It shall be unlawful for any
7 individual to park, stop, or allow to stand any motor
8 vehicle in the parking lot in front of the Catharine Young
9 Library located at 5810 Park Drive, Margate, Florida,
10 during operational hours, unless said individual is
11 conducting business within said building.

12
13 **SECTION 3:** All ordinances or parts of ordinances in
14 conflict herewith are repealed to the extent of such conflict.

15
16 **SECTION 4:** If any section, sentence, clause, or
17 phrase of this Ordinance is held to be invalid or
18 unconstitutional by a court of competent jurisdiction, then
19 said holding shall in no way affect the validity of the
20 remaining portions of this Ordinance.

21
22 **SECTION 5:** It is the intention of the City
23 Commission that the provisions of this ordinance shall become
24 and be made a part of the City of Margate Code, and that the
25 sections of this Ordinance may be renumbered or relettered and
26 the word "ordinance" may be changed to "section", "article" or
27 such other appropriate word or phrase in order to accomplish
28 such intentions.

29
30 **SECTION 6:** This Ordinance shall become effective
31 immediately upon adoption at its second reading.
32

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