

ORDINANCE #09 – 2021

AN ORDINANCE ESTABLISHING CHAPTER 105 “PROHIBITING CONSUMPTION OF CANNABIS, MARIJUANA, AND HASHISH IN PUBLIC AREAS” IN THE CITY OF THE CODE OF THE CITY OF MARGATE CITY, COUNTY OF ATLANTIC, STATE OF NEW JERSEY

WHEREAS, on February 22, 2021, the Governor of the State of New Jersey signed the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act and marijuana decriminalization laws; and

WHEREAS, the new law legalizes and regulates cannabis use and possession for adults who are 21 and older and two companion laws, A1897 and S3454, decriminalizing marijuana and hashish possession and clarifies marijuana and cannabis use and possession penalties for individuals younger than 21 years old; and

WHEREAS, the new law does not preempt the City’s authority to regulate smoking or vaping these items in public; and

WHEREAS, the City retains authority pursuant to N.J.S.A. 40:48-2 to make, amend, repeal and enforce such ordinances, regulations, or rules not contrary to the laws of the State of New Jersey or the United States, as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

WHEREAS, the Commissioners of the City of Margate City having reviewed the matter deems it in the City’s best interests to regulate the use and smoking of marijuana in public areas.

NOW THEREFORE BE IT ORDAINED by the Commissioners of the City of Margate City, County of Atlantic and State of New Jersey as follows:

SECTION 1. The following shall be added to Chapter 105, Cannabis:

Section 105-3 – Prohibition of Public Consumption of Cannabis, Marijuana, and Hashish.

§ 105-3 A- City Policy

The purpose of this Chapter is to regulate conduct in public areas affecting the public health, safety and general welfare by protecting residents of and visitors to the City of Margate City from the nuisance and health hazards of secondhand marijuana smoke, and to provide for the public health, safety and welfare by discouraging the inherently dangerous behavior of smoking marijuana around non-marijuana users; by protecting the public from nonconsensual exposure to secondhand marijuana smoke and marijuana related litter and pollution; and, by affirming the family-friendly atmosphere of public areas in the City of Margate City.

§105-3 B – Definitions

MARIJUANA – “Marijuana” means all parts of the Cannabis plant, whether growing or not; the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, resin, or oil. For purposes of this section, any reference to “Marijuana” shall also include and incorporate by reference regulated Cannabis, Medical Cannabis, unregulated Marijuana and Hashish.

OPEN SPACE – Means any nature areas, greenbelts, and wildlife and vegetation habitat areas open to the public.

OUTDOOR DINING AREAS – Means dining areas that are not enclosed and part of a restaurant, business, nonprofit entity, place of employment, and located in any public place.

PARKS - Means any public parks owned, leased, or utilized by the City of Margate City.

PUBLIC RIGHT OF WAY - Means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the City of Margate City has an interest.

RECREATION AREA - Means any areas open to the general public for recreational purposes, regardless of any fee requirement, including, but not limited to public parks, beach and ocean beach areas, children's play areas, sports fields, playgrounds, tennis and basketball courts, and senior center outdoor areas.

PROMENADE – Means the elevated public pedestrian walkway constructed over the municipal right-of-way.

SCHEDULED PUBLIC EVENTS – Means any scheduled event within the City of Margate City where the public is invited, some of which may require a permit, including, but not limited to, farmers markets, concerts, parades or festivals.

SMOKING – Means the burning of, inhaling from, exhaling the smoke from or the possession of a lighted marijuana cigarette, pipe, vape, or similar device, or other matter or substance which contains marijuana or any other matter that can be smoked, or the inhaling or exhaling of marijuana smoke or vapor from an electronic smoking device.

SMOKING DEVICE – Means any electronic or other device that can be used to deliver cannabis, marijuana, or hashish or other related substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, pipe, or other device used to consume these products. This definition includes “vaping” the above-described products.

§105-3 C – Restriction on Public Consumption of Cannabis, Marijuana and Hashish.

It is unlawful for any person to smoke or otherwise use or consume marijuana in or on any public open space, outdoor dining area, parks, public right-of-way, recreation area, promenade, or the area of any scheduled public event.

§105-3 D – Posting Signs.

A sign shall be clearly, sufficiently and conspicuously posted in public areas. The sign(s) shall state “Smoking Marijuana in Public is Prohibited” or substantially similar language, written in lettering that is not less than ¾ inches in height, and shall contain the citation of this City Code Section.

§105-3 E – Enforcement.

The Margate City Police Department is hereby charged with the enforcement of this section. All members of the Police Department are hereby designated as enforcement officers for the purpose of enforcement of this section.

§105-3 F – Penalties.

Any person who is found guilty of violating this section shall pay fines as follows:

- a. For a first offense, a fine of not less than \$100.00 nor more than \$250.00
- b. For a second or subsequent offense, a fine of not less than \$500.00 nor more than \$1,000.00.

SECTION 2. All ordinances or parts of ordinances inconsistent with any terms of this Ordinance are hereby repealed to the extent of such inconsistency only.

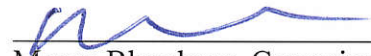
SECTION 8. This ordinance shall take effect upon its final passage and publication as required by law.



Michael Becker, Mayor



John Amodeo, Commissioner



Maury Blumberg, Commissioner

Board of Commissioners of the City of
Margate City, New Jersey

Introduction: June 3, 2021

Enactment: June 17, 2021