

## **ORDINANCE #12-2021**

### **AN ORDINANCE ADDING CHAPTER 111 CONSTRUCTION, GENERAL REQUIREMENTS OF THE CODE OF THE CITY OF MARGATE CITY, COUNTY OF ATLANTIC AND STATE OF NEW JERSEY**

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

#### **Article I – Swimming Pools**

**SECTION 1.** Section 1- Policy Statement shall be as follows:

§111-1. Policy Statement. It is found and determined that the construction of pools, spas and other water containing structures for recreation and use constructed by pneumatically applied concrete mixture reinforced with steel rebar and commonly referred to as “gunite” material has increased significantly over the past several years. The spraying of such gunite material produces air pollution and water pollution to an extent that the Governing Body has determined to enact legislation to control and otherwise mitigate the negative impact of such construction. Therefore, the following provisions, regulations and prohibitions of this Chapter are implemented to protect the public health, safety and welfare of the citizens of Margate.

§111-2. Definitions and Standards as used in this Chapter.

1. Pneumatic – The spraying of gunite or other material commonly referred to as a concrete mixture in pools or spas.
2. Pool(s) – A water filled enclosure, permanently constructed or portable, maintained for swimming or bathing.
3. Pool, Spa – A permanently fixed warm water reservoir with separate detached pump, filter controls and heating components. Spas may be attached or separated from on-ground or in-ground.
4. Swimming Pool – See definition of “Pool” “Pool, spa”. The term swimming pool when used in this section shall mean in-ground, above ground and on-ground pools, spas, decking and all appurtenances thereof used for recreational purposes.

§111-3. Summer work restricted. It shall be unlawful for the construction of pools, spas and other water containing structures from June 15<sup>th</sup> to September 15<sup>th</sup> of each year.

§111-4. Required Permits. The installation of a swimming pool or spa or other construction involving the pneumatic application of concrete mixture shall require the following:

- a. Contractor shall obtain a construction permit issued by the Construction Official in accordance with the New Jersey Uniform Construction Code (UCC).
- b. As a prior condition of approval for the issuance of a construction permit, the contractor shall obtain a zoning permit issued by the Zoning Officer.
- c. If dewatering activity is required at the construction site, a further permit will be required from the Margate City Engineer or designee and in accordance with Section 227-22 *et seq* of the Margate Municipal Code. A precondition for the issuance of the permit shall be the issuance of the Zoning and Construction Permits.
- d. A minimum of 48 hour notice to the Margate Police Department whenever construction equipment is to block a street or a traveling lane of a public street.
- e. Permit Application shall be submitted on forms provided by the City for that purpose.
- f. Provision shall be made by Applicant to provide coverage by way of curtains or other suitable temporary structure in order to prevent sprayed material from exiting the property and otherwise spreading to adjoining properties. Said provision must be approved by the Construction Official.
- g. Prior to work commencing with respect to dewatering and/or construction by pneumatic applied concrete mixture, the Construction Department shall be notified with a minimum of 48 hours' notice so that the proposed dewatering and/or construction may be inspected by a Municipal designated inspector for compliance with all provisions of the Ordinance.
- h. Written notice to all contiguous property owners shall be given by Applicant by regular and certified mail at least ten (10) days prior to commencement of construction of pneumatic applied concrete mixture. Said notice shall be given by certified and regular mail or by personal delivery to the contiguous property owner and/or occupants. Proof of such notice shall be given to the Construction Department for verification prior to commencement of work.
- i. It shall be the responsibility of the contractor to remove all dirt and debris from the sidewalk, street and public right-of-way area on a daily basis and at the conclusion of construction and/or installation of the pool or whenever any City Official deems it necessary during construction and/ or installation.

- j. The failure of the contractor to remove dirt and debris as required by this section will subject the contractor to the penalty provisions, both administrative and otherwise, as provided herein. Additionally, should the City be required to perform such clean-up, the contractor shall be responsible for the cost of City employees and equipment computed on a time and material cost basis provided, however, that the minimum amount shall not be less than \$250. Such sum shall be payable upon demand. Any contractor who owes any outstanding reimbursement costs to the City will be denied any MCDPW Permit for any future project until such time as all such costs imposed by the City have been paid in full.
- k. All construction and construction type activity shall conform to the requirements of the New Jersey Uniform Construction Code and all other State or Federal law that may be applicable and to the regulations promulgated thereunder and shall further conform to all other City Ordinances.

§ 111-5. Administrative Penalties and Assessment.

- a. Any person violating this section shall be subject to such Administrative Penalties and Assessments as authorized by the New Jersey Uniform Construction Code. The City's Construction Official shall impose and assess an administrative penalty for each day that a violation continues unabated, and each day shall be treated as a separate and distinct violation.
- b. Each day that a violation continues shall be treated as a separate violation and the penalty authorized under the UCC shall be imposed by the Construction Official.
- c. Such penalties shall be recovered by the City through a Penalty Enforcement Action in accordance with N.J.S.A. 2A:58-11 and N.J.S.A. 52:27D-138. c. Any Administrative Penalty imposed under this section shall be in addition to, and not in place of, any other penalty established in this section or by this Code.

§ 111-6. Violations and Penalty. Any person violating any of the provisions of this section shall, upon conviction, be subject to one or more of the following:

a. For a First Offense:

- 1. A fine in the minimum amount of \$100 not to exceed the sum of one thousand (\$1,000) dollars; and/or
- 2. Incarceration for a term not to exceed ninety (90) days; and/or
- 3. A period of community service for a period not exceeding ninety (90) days.

b. For a Second or Subsequent Offense:

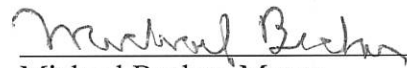
1. A fine in the minimum amount of one hundred (\$100) dollars and not to exceed the sum of two thousand (\$2,000) dollars; and/or
2. Incarceration for a term not to exceed ninety (90) days; and/or
3. By a period of community service for a period not exceeding ninety (90) days.

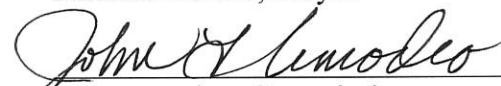
§ 111-7. Violations Occurring Within One Year.


Any person convicted of violating this section within one year of the date of a previous violation and who was fined for the previous violation, shall be sentenced by the Court to an additional fine as a repeat offender. The additional fine imposed by the Court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the section, but shall be calculated separately from the fine imposed for the violation of the section. (See N.J.S.A. 40:49-5)

**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 3.** 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: August 19, 2021

Enactment: September 2, 2021