

REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: December 5, 2022

Agenda Item: 7M	Prepared by: L. Suzanne Pritchard, PLA, AICP, CFM
Agenda Section: New Business: Ordinance. First Reading	Date: November 30, 2022
Subject: Amendments to Chapter 23, Zoning, of the Code of Ordinances of North Myrtle Beach, South Carolina regarding standards for oceanfront decks and dune walkovers [ZTX-22-7]	Division: Planning and Development

Proposal:

To allow standardized access to the public beach and prevent view obstructions to ocean, staff is proposing an amendment to the zoning ordinance. A proposed ordinance has been attached for Council's review.

Planning Commission Action:

The Planning Commission conducted a public hearing on November 15, 2022 and voted unanimously to recommend approval to City Council as submitted. There was no public comment.

Action:

Approve or deny the proposed ordinance on first reading

Reviewed by Division Head	Reviewed by City Manager	Reviewed by City Attorney
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Council Action:
Motion By _____ 2nd By _____ To _____

ORDINANCE

AN ORDINANCE OF THE CITY OF NORTH MYRTLE BEACH PROVIDING THAT THE CODE OF ORDINANCES, CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA, BE AMENDED BY REVISING CHAPTER 23, ZONING, ARTICLE II. – ZONING DISTRICTS AND DEVELOPMENT REGULATIONS, § 23-31. – OVERLAY ZONES, SUBSECTION (1), CPO (COASTAL PROTECTION OVERLAY) ZONE OF SAID CODE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA, IN COUNCIL DULY ASSEMBLED, THAT:

Section 1:

That *Section 23-21. – Overlay zones. Subsection (1) CPO (Coastal Protection Overlay) Zone.*, be amended to read as follows (*new matter underlined, deleted matter struck-through*):

(1) *CPO (Coastal Protection Overlay) Zone.*

(a) *Purpose:* The Coastal Protection Overlay Zone is applicable to all development on private property east of Ocean Boulevard. The purposes of the district are to control erosion, preserve and maintain the beach and its environs, safeguard property, and promote safety and the welfare of the community.

(b) *Application:* The CPO Zone is not a primary use district. Where applicable, it is an additional zoning overlay specifying supplemental development regulations. All private property lying east of Ocean Boulevard, in addition to the requirements of the applicable primary zoning district in which it is located, shall comply in full with the supplemental regulations contained in this section.

(c) *Permitted uses:* Uses are not determined by this zone; but are permitted by the "underlay" or primary zoning district in effect. Within the R-4 District, for example, only those uses permitted therein are permitted in the "CPOR-4" District, subject to the additional requirements and standards of this section. Subject to the primary zoning district regulations and South Carolina Ocean and Coastal Resource Management (OCRM) guidelines, the following uses on private property may be allowed:

1. Principal and accessory uses permitted by the primary district and allowed by the South Carolina Beach Management Act as amended.
2. Sand fencing, subject to the following:
 - (a) Placement of fencing shall be above the highest wave upbrush line.
 - (b) No fencing shall be parallel or perpendicular to Ocean Boulevard but rather V-shaped and angled.

(c) No fencing shall impede public access on or to the beach.

(d) Any fencing in a state of disrepair shall be removed by the property owner.

(e) The maximum height shall be four (4) feet above grade.

(f) The supportive posts shall be three (3) to four (4) inches in diameter with one and one-fifth ($1\frac{1}{5}$) inch by three-eighths ($\frac{3}{8}$) inch wood slats at a spacing of approximately one and one-half ($1\frac{1}{2}$) inches held together with galvanized steel stay wires.

3. Public utilities and other public works provided that the structures must serve an overriding public interest.

4. Walkways and dune crossovers may be built ~~only~~ in accordance with South Carolina Ocean and Coastal Resource Management (OCRM) guidelines, with the following additional requirements:-

(a) All portions of a walkway or dune crossover that are higher than 1 (one) foot above grade shall be set back at least 5 (five) feet from all side property lines.

(b) Walkways and dune crossovers shall be constructed perpendicular to the rear property line at a 90-degree angle to said property line, with the exception of necessary ramps and landings.

5. Elevated sundecks, patios, walkways, gazebos, stairs, lighting, picnic tables, seating, and portable structures, whether stand-alone or integrated into a walkway or dune crossover, are permissible landward of the OCRM Setback Line.

6. Where permitted by primary zoning district, portable bars, suntan sales, etc.

7. Accessory swimming pools, subject to primary district regulations and South Carolina Ocean and Coastal Resource Management (OCRM) guidelines.

8. New armoring devices may only be allowed for structures existing on the effective date of this chapter as permitted by the South Carolina Office of Ocean and Coastal Resource Management (OCRM).

9. Fences subject to the regulations of section 23-107(3).

(d) Nonconforming uses and buildings: In addition to nonconforming regulations contained in the South Carolina Beach Management Act as amended, uses and buildings made nonconforming by the State Act shall be regulated by the provisions of Article VIII "Nonconforming Uses," of the North Myrtle Beach Zoning Regulations. Additionally, to maintain the City of North Myrtle Beach policy of retreat, the following shall apply to those nonconforming uses and buildings:

1. Except for single-family residential, a nonconforming building or structure shall not be repaired, rebuilt, or altered after deterioration and/or damage exceeding seventy-five (75) percent of its replacement cost except in conformity with the provisions of this chapter.
2. No new building or addition exceeding twenty-five (25) feet above grade shall be allowed on a lot containing another principal use building, seaward of the South Carolina oceanfront setback line.
3. In the event that a hurricane, explosion, fire, or other disaster shall damage any parking lot so that the repair cost of parking lot exceeds sixty (60) percent of its replacement cost, reconstruction shall be allowed only if all applicable regulations of the primary zoning district are met.
4. Nothing in this section is intended to prevent or limit the ability of a property owner to make normal repairs or to perform maintenance necessary to keep nonconforming structures in a safe and sound condition in their present location.

(e) *Special exceptions:* Fishing piers may be approved as special exceptions by the board of zoning appeals, together with any requirements it deems necessary and appropriate to ~~insure~~ ensure that the purposes and objectives of this chapter are promoted, provided such piers are first approved by the South Carolina Office of Ocean Coastal Resource Management (OCRM).

(f) *Reserved.*

Section 2:

That the North Myrtle Beach Planning Commission has provided the required public notice of this request and has held the necessary public hearings in accordance with applicable State Statutes and City Ordinances.

DONE, RATIFIED AND PASSED, THIS _____ DAY OF _____, 2022.

ATTEST:

Mayor Marilyn Hatley

City Clerk

APPROVED AS TO FORM:

City Attorney

FIRST READING: 12.5.2022
SECOND READING: _____

REVIEWED:

City Manager

ORDINANCE: _____

6G. ZONING ORDINANCE TEXT AMENDMENT ZTX-22-7: City staff has initiated an amendment to the zoning ordinance revising the standards for oceanfront decks and dune walkovers.

Background:

To allow to standardized access to the public beach and prevent view obstructions to ocean, staff is proposing an amendment to the zoning ordinance.

Proposed Changes:

The proposed amendment addresses a section in *Chapter 23, Zoning, Article II. – Zoning Districts and Development Regulations, Sec. 23-31. – Overlay Zones, Subsection (1) CPO (Coastal Protection Overlay) Zone*, and would appear in the Ordinance as follows (new matter underlined, deleted matter struck):

(1) CPO (Coastal Protection Overlay) Zone.

(a) *Purpose:* The Coastal Protection Overlay Zone is applicable to all development on private property east of Ocean Boulevard. The purposes of the district are to control erosion, preserve and maintain the beach and its environs, safeguard property, and promote safety and the welfare of the community.

(b) *Application:* The CPO Zone is not a primary use district. Where applicable, it is an additional zoning overlay specifying supplemental development regulations. All private property lying east of Ocean Boulevard, in addition to the requirements of the applicable primary zoning district in which it is located, shall comply in full with the supplemental regulations contained in this section.

(c) *Permitted uses:* Uses are not determined by this zone, but are permitted by the "underlay" or primary zoning district in effect. Within the R-4 District, for example, only those uses permitted therein are permitted in the "CPOR-4" District, subject to the additional requirements and standards of this section. Subject to the primary zoning district regulations and South Carolina Ocean and Coastal Resource Management (OCRM) guidelines, the following uses on private property may be allowed:

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2. Sand fencing, subject to the following:
 - (a) Placement of fencing shall be above the highest wave upbrush line.
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 - (c) No fencing shall impede public access on or to the beach.
 - (d) Any fencing in a state of disrepair shall be removed by the property owner.
 - (e) The maximum height shall be four (4) feet above grade.
 - (f) The supportive posts shall be three (3) to four (4) inches in diameter with one and one-fifth (1½) inch by three-eighths (¾) inch wood slats at a spacing of approximately one and one-half (1½) inches held together with galvanized steel stay wires.
3. Public utilities and other public works provided that the structures must serve an overriding public interest.
4. Walkways and dune crossovers may be built ~~only~~ in accordance with South Carolina Ocean and Coastal Resource Management (OCRM) guidelines, with the following additional requirements:-

(a) All portions of a walkway or dune crossover that are higher than 1 (one) foot above grade shall be set back at least 5 (five) feet from all side property lines.

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5. Elevated sundecks, patios, walkways, gazebos, stairs, lighting, picnic tables, seating, and portable structures, whether stand-alone or integrated into a walkway or dune crossover, are permissible landward of the OCRM Setback Line.

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8. New armoring devices may only be allowed for structures existing on the effective date of this chapter as permitted by the South Carolina Office of Ocean and Coastal Resource Management (OCRM).

9. Fences subject to the regulations of section 23-107(3).

(d) *Nonconforming uses and buildings:* In addition to nonconforming regulations contained in the South Carolina Beach Management Act as amended, uses and buildings made nonconforming by the State Act shall be regulated by the provisions of Article VIII "Nonconforming Uses," of the North Myrtle Beach Zoning Regulations. Additionally, to maintain the City of North Myrtle Beach policy of retreat, the following shall apply to those nonconforming uses and buildings:

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2. No new building or addition exceeding twenty-five (25) feet above grade shall be allowed on a lot containing another principal use building, seaward of the South Carolina oceanfront setback line.

3. In the event that a hurricane, explosion, fire, or other disaster shall damage any parking lot so that the repair cost of parking lot exceeds sixty (60) percent of its replacement cost, reconstruction shall be allowed only if all applicable regulations of the primary zoning district are met.

4. Nothing in this section is intended to prevent or limit the ability of a property owner to make normal repairs or to perform maintenance necessary to keep nonconforming structures in a safe and sound condition in their present location.

(e) *Special exceptions:* Fishing piers may be approved as special exceptions by the board of zoning appeals, together with any requirements it deems necessary and appropriate to ~~insure~~ ensure that the purposes and objectives of this chapter are promoted, provided such piers are first approved by the South Carolina Office of Ocean Coastal Resource Management (OCRM).

(f) *Reserved.*

According to § 23-4, *Amendments*, of the Zoning Ordinance, the advertisement requirement for Zoning Ordinance amendments is 15 days, and that advertisement notice has been met. The amendment is presented

to the Planning Commission for a recommendation that will be forwarded to City Council at their next meeting scheduled for December 5, 2022.

Planning Commission Action:

The Planning Commission may recommend approval, recommend approval with modifications and/or conditions, or recommend denial of the proposal as submitted.

Alternative Motions

- 1) I move that the Planning Commission forward the Zoning Ordinance Text Amendment [ZTX-22-7] to the Mayor and City Council with a recommendation of approval.
OR
- 2) I move that the Planning Commission forward the Zoning Ordinance Text Amendment [ZTX-22-7] to the Mayor and City Council with a recommendation of denial.
OR
- 3) I move (an alternate motion).