

## REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: March 6, 2023

Agenda Item: 6D	Prepared for: Chris Noury, City Attorney
Agenda Section: Unfinished Business: Ordinance. Second Reading	Date: March 1, 2023
Subject: Amendment to Chapter 5, Beaches and Waterways, of the North Myrtle Beach Code of Ordinances, South Carolina	Division: Legal

### **Background:**

These amendments are proposed to make dates consistent within Chapter 5 and also to extend public usage times on the beach for surfboards (in areas not currently designated by ordinance as surf zones) and for the placement of shading devices on the beach. The following two proposed amendments are for the sake of uniformity and ease to the public, in general.

1. Chapter 5, Section 5-5 (a) of the North Myrtle Beach Code of Ordinances reads, “It shall be unlawful for any person to ride a surfboard or skimboard on the public beach or any waters thereto, between the hours of 9:00 a.m. and 4:00 p. m. during the period from May fifteenth to September fifteenth, except in the following designated areas...”

The proposal is to amend Chapter 5, Section 5-5 (a) of the North Myrtle Beach Code of Ordinances to read, “It shall be unlawful for any person to ride a surfboard or skimboard on the public beach or any waters thereto, between the hours of ~~9:00~~ 10:00 a.m. and 4:00 p.m. during the period from May 15 ~~fifteenth to September fifteenth~~ through Labor Day, except in the following designated areas ...”

2. Chapter 5, Section 5-24 (c) of the North Myrtle Beach Code of Ordinances reads, “*Placement of shading devices on the beach from May 15 through September 15.* Other than umbrellas with a center pole no greater than seven (7) feet six (6) inches in height and with a circular shade no greater than nine (9) feet in diameter and shading devices no larger than thirty-six (36) inches in height by thirty-six (36) inches in width and thirty-six (36) inches in depth used to provide shade to persons eighteen (18) months of age or younger, all shading devices including but not limited to: tents, tarps, cabanas, pavilions, sports-brellas or devices similar to sports-brellas, or any material mounted on supports are prohibited from being placed on the beach from May 15 through September 15 ...”

The proposal is to amend Chapter 5, Section 5-24 (c) of the North Myrtle Beach Code of Ordinances to read, “*Placement of shading devices on the beach from May 15 through ~~September 15~~ Labor Day.* Other than umbrellas with a center pole no greater than seven (7) feet six (6) inches in height and with a circular shade no greater than nine (9) feet in diameter and shading devices no larger than thirty-six (36) inches in height by thirty-six (36) inches in width and thirty-six (36) inches in depth used to provide shade to persons eighteen (18) months of age or younger, all shading devices including but not limited to: tents, tarps, cabanas, pavilions, sports-brellas or devices similar to sports-brellas, or any material mounted on supports are prohibited from being placed on the beach from May 15 through ~~September 15~~ Labor Day ...”

The following proposed amendment is to promote a greater degree of protection for the general public while on our beaches.

Currently, Chapter 5, Section 5-11 (c) states, “No motorized watercraft, including jet skis and/or similar devices, shall be launched or beached upon the public beaches between the hours of 9:00 a.m. and 5:00 p.m. from May 15 to September 15 of each year. This prohibition shall not apply to governmental and/or other authorized motorized watercraft. Any exception hereto must have been first authorized and licensed by the city manager or his/her appointed designee.

The proposal is to amend Chapter 5, Section 5-11 (c) to read, “No motorized watercraft including jet skis and/or similar devices, shall be launched or beached upon the public beaches ~~between the hours of 9:00 a.m. and 5:00 p.m. from May 15 to September 15 of each year.~~ This prohibition shall not apply to governmental and/or other authorized motorized watercraft. Any exception hereto must have been first authorized ~~and licensed~~ by the ~~city manager~~ City Manager or his/her appointed designee.

**Recommended Action:**

Approve or deny the proposed ordinance on second reading

Reviewed by City Manager

Reviewed by City Attorney

Council Action:

Motion By \_\_\_\_\_ 2<sup>nd</sup> 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 SECTION 5-5, SECTION 5-11, AND SECTION 5-24 OF SAID CODE.

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

*Sections 5-5, 5-11, and 5-24. – Codes adopted by reference, be amended to read as follows (new matter underlined, deleted matter struck-through):*

#### **Sec. 5-5. Surfboards.**

- (a) It shall be unlawful for any person to ride a surfboard or skimboard on the public beach or any waters thereto, between the hours of ~~9:00~~10:00 a.m. and 4:00 p.m. during the period from May ~~15~~15 ~~fifteenth to September fifteenth~~through Labor Day, except in the following designated areas:
- (1) Beginning at Hog Inlet and ending at 5th Avenue North with the exception of three hundred (300) feet on either side (i.e., north side and south side) of the Cherry Grove Pier.
  - (2) Beginning at 6th Avenue South and ending at 27th Avenue South.
  - (3) Beginning at the Town of Atlantic Beach southern limit and ending at 46th Avenue South.
- (b) It shall be unlawful to surf within three hundred (300) feet of any pier.
- (c) All surfers shall be required to wear a surfing leash at all times.
- (d) The director of public safety or his/her designee may temporarily prohibit surfboarding and/or skimboarding in the areas designated above for public safety purposes.

(Code 1970, § 6-5; Ord. of 4-20-82; Ord. No. 88-33, 10-4-88; Ord. No. 90-18, § 1, 6-4-90; Ord. No. 04-13, 4-19-04; Ord. No. 14-28, 7-21-14; Ord. No. 19-37, § 1, 10-7-19; Ord. No. 21-02, § 2, 3-1-21)

#### **Sec. 5-11. Operation of boats in manner endangering bathers.**

- (a) It shall be unlawful for any watercraft conducting parasailing activities within one (1) mile seaward of the high-water mark of the shoreline of North Myrtle Beach, to conduct parasailing activities less than one thousand five hundred (1,500) [yards] from the shoreline which shall include the watercraft, towline and rider(s).
- (b) All rental watercraft, motorized watercraft, including jet skis and/or similar devices will be required to be launched or beached only in specified areas so designated by the city for these purposes. Other nonpowered watercraft that are not used for rental or commercial purposes may be launched or beached in areas outside the designated launch areas for motorized watercraft and rental craft.
- (c) No motorized watercraft, including jet skis and/or similar devices, shall be launched or beached upon the public beaches ~~between the hours of 9:00 a.m. and 5:00 p.m. from May 15 to September 15 of each year~~. This prohibition shall not apply to governmental and/or other authorized motorized watercraft. Any exception hereto must have been first authorized and licensed by the ~~city manager~~City Manager or his/her appointed designee.

(Code 1970, § 6-8; Ord. of 6-17-75; Ord. No. 88-18, 6-21-88; Ord. No. 92-28, § 1, 6-1-92; Ord. No. 93-13, § 3, 4-19-93; Ord. No. 10-9, § 1, 6-21-10; Ord. No. 21-02, § 2, 3-1-21)

## Sec. 5-24. Placing obstructions on the beach.

- (a) *Findings.* The council of the city has made the following findings:
- (1) That the public beach is a public area, which is open and accessible to all persons;
  - (2) That the public beach is maintained and subjected to reasonable regulation by the city in order to promote the health, safety, welfare and morals of all persons using the beach;
  - (3) That the public beach provides a unique area for all persons to pursue peaceful relaxation and quiet enjoyment in a reasonable manner;
  - (4) That the public beach has been and continues to be a unique public recreation area, different in respect to all other public areas within the municipality;
  - (5) That it is desirable and necessary to preserve the unique nature of the public beaches and to protect all persons who utilize the beaches from harm, undue annoyance, disturbance and inconvenience.
- (b) *Hours.* Except for municipal beach service equipment or equipment authorized by franchise agreement, it shall be unlawful between the hours of 7:00 p.m. and 8:00 a.m. for any person to set up and leave unoccupied or unattended any equipment or other items on the public beach including but not limited to shading devices, floats, umbrellas, beach chairs, lounge chairs, life rafts, etc. (collectively, beach wares), so as to interfere with beach cleaning and/or beach concession operations. Regardless of the hours set forth herein and except for municipal beach service equipment or equipment authorized by franchise agreement, no person or company who for a fee or service as part of, or incidental to, its business operations for the sale, rental, lease, use or delivery of beach wares shall deliver to, place upon, set upon, or leave upon the public beach any beach wares.
- (c) *Placement of shading devices on the beach from May 15 through ~~September 15~~ Labor Day.* Other than umbrellas with a center pole no greater than seven (7) feet six (6) inches in height and with a circular shade no greater than nine (9) feet in diameter and shading devices no larger than thirty-six (36) inches in height by thirty-six (36) inches in width and thirty-six (36) inches in depth used to provide shade to persons eighteen (18) months of age or younger, all shading devices including but not limited to: tents, tarps, cabanas, pavilions, sports-brellas or devices similar to sports-brellas, or any material mounted on supports are prohibited from being placed on the beach from May 15 through ~~September 15~~ Labor Day. An umbrella is defined as a collapsible circular shade consisting of a natural or synthetic fabric stretched over hinged ribs radiating from a center pole without grounding lines or ropes.
- (d) No umbrellas or other shading devices may be placed within the emergency vehicle access lane which is the area approximately twenty (20) to twenty-five (25) feet seaward of the dune line and parallel to the shoreline which will be marked by city trash cans, pylons and/or flags. The director of the department of public safety or his/her designee shall have the authority to establish unobstructed emergency access lanes perpendicular to the shoreline for emergency vehicles, personnel and/or other emergency equipment to access the surf or other areas of the beach in the event of an emergency. Emergency access lanes perpendicular to the shoreline shall remain open and unobstructed until the director of public safety or his designee determines the emergency access lane is no longer necessary.
- (e) *Removal, disposal.* Umbrellas, beach chairs, or other beach ware items/equipment remaining unattended on the beach between the hours of 7:00 p.m. and 8:00 a.m. that interfere with beach cleaning and/or beach concession operations will be removed from the beach and disposed of.
- (f) *Sand fencing and dune walkovers.* Sand fences and dune walkovers have been constructed to rebuild and preserve the sand dunes; sand dunes serve as barriers that aid in protecting life and property during hurricanes and or other tidal events. It is prohibited to move, alter, obstruct, interfere with the sand fencing including but not limited to, chaining items to, locking items to, or

connecting items to a sand fence. In addition, no items may be placed, put, chained to, locked to or stored under any dune walkover located on the public beach.

(g) *Other obstructions.* It shall be unlawful to build or erect any fence or other obstruction on the public beach so as to obstruct or impede the free use of the public beach or to interfere with or obstruct any maintenance operation of the beach.

(h) *Penalty.* Violations of this section are punishable as provided in section 1-6.

(Ord. No. 07-32, § 1, 7-9-07; Ord. No. 10-22, 12-12-10; Ord. No. 12-21, 11-5-12; Ord. No. 14-02, 3-17-14; Ord. No. 16-01, 2-1-16; Ord. No. 16-49, § 1, 3-6-17; Ord. No. 21-02, § 2, 3-1-21; Ord. No. 22-25, 6-29-22; Ord. No. 22-31, 7-18-22)

DONE, RATIFIED AND PASSED, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023

ATTEST:

\_\_\_\_\_  
Mayor Marilyn Hatley

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

FIRST READING: 2.20.2023

SECOND READING: 3.06.2023

REVIEWED:

\_\_\_\_\_  
City Manager

ORDINANCE: 23-26