

## **REQUEST FOR CITY COUNCIL CONSIDERATION**

Meeting Date: September 18, 2023

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| Agenda Item: 6C                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Prepared by:<br>L. Suzanne Pritchard, PLA, AICP, CFM |                           |
| Agenda Section:<br>Unfinished Business: Ordinance. Second Reading                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Date: September 11, 2023                             |                           |
| Subject: Amendments to Chapter 23, Zoning, of the Code of Ordinances of North Myrtle Beach, South Carolina regarding allowed structures projecting into required yards [ZTX-23-1]                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Division: Planning and Development                   |                           |
| <p><b><u>Proposal:</u></b><br/>Staff is proposing a text amendment to the Zoning Ordinance revising the structures allowed to encroach into side yards to create consistency within the zoning ordinance between various types of mechanical equipment. Currently, pool equipment is not allowed to project into required side yards unlike HVAC units and generators. There are no more deleterious effects from pool equipment than the currently allowed mechanical appliances, provided sound criteria are met. At the time of permitting, manufacturers specifications for pool equipment can be used to verify that proposed equipment meets a decibel level no higher than 70 dB. For reference, a whisper is 30 dB and normal conversation is 60 dB. A proposed ordinance has been attached for Council's review.</p> <p><b><u>Planning Commission Action:</u></b><br/>The Planning Commission conducted a public hearing on July 18, 2023 and voted unanimously to recommend approval to City Council as submitted. There was no public comment.</p> <p><b><u>Recommended Action:</u></b><br/>Approve or deny the proposed ordinance on second reading</p> |                                                      |                           |
| Reviewed by Division Head                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Reviewed by City Manager                             | Reviewed by City Attorney |
| <p>Council Action:<br/>Motion By _____ 2<sup>nd</sup> By _____ To _____</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                      |                           |

## 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 VII—GENERAL AND SUPPLEMENTAL REGULATIONS, § 23-105— STRUCTURES PROJECTING INTO REQUIRED YARDS, 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 23-105. – Structures projecting into required yards.*, be amended to read as follows (*new matter underlined, deleted matter struck-through*):

#### **Sec. 23-105. Structures projecting into required yards.**

The following structures within the limits set forth may project into required yards:

- (1) Buttress or chimney, not more than twelve (12) inches; projecting roof overhang, not more than twenty-four (24) inches into front yard or rear yard.
- (2) Unenclosed steps not extending more than three (3) feet into a front or rear yard provided other applicable building codes are complied with.
- (3) Retaining wall of any necessary height, but not closer than eighteen (18) inches to a street line.
- (4) A protective hood or door overhang over a doorway may extend not more than three (3) feet into the required minimum front and rear yards.
- (5) HVAC units, swimming pool equipment, and non-portable electric generators.
  - a. In one- and two-family dwellings, HVAC units, swimming pool equipment certified by the manufacturer to not exceed 70 decibels of sound at a five-foot distance during operating conditions, and non-portable electric generators may encroach into side yard and rear yard setback areas, provided there shall be a minimum five-foot separation between any two (2) HVAC units, swimming pool equipment, or generators so encroaching.
  - b. In all other cases HVAC units, swimming pool equipment, and non-portable electric generators must meet the setbacks of the zoning districts.

#### **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 \_\_\_\_\_, 2023.

ATTEST:

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

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

APPROVED AS TO FORM:

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

FIRST READING: 8.21.2023  
SECOND READING: 9.18.2023

REVIEWED:

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

ORDINANCE: 23-52

**6F. ZONING ORDINANCE TEXT AMENDMENT ZTX-23-1:** City staff has initiated an amendment to the zoning ordinance revising the allowed structures projecting into required yards.

**Proposed Changes**

Staff is proposing a text amendment to the Zoning Ordinance revising the structures allowed to encroach into side yards to create consistency within the zoning ordinance between various types of mechanical equipment. Currently, pool equipment is not allowed to project into required side yards unlike HVAC units and generators. There are no more deleterious effects from pool equipment than the currently allowed mechanical appliances, provided sound criteria are met. At the time of permitting, manufacturers specifications for pool equipment can be used to verify that the proposed equipment meets the proposed 70 dB level. For reference, a whisper is 30 dB and normal conversation is 60 dB.

The proposed amendment addresses one existing section in *Chapter 23, Zoning*, and would appear in the Ordinance as follows (new matter underlined, deleted matter struck).

**Sec. 23-105. Structures projecting into required yards.**

The following structures within the limits set forth may project into required yards:

- (1) Buttress or chimney, not more than twelve (12) inches; projecting roof overhang, not more than twenty-four (24) inches into front yard or rear yard.
- (2) Unenclosed steps not extending more than three (3) feet into a front or rear yard provided other applicable building codes are complied with.
- (3) Retaining wall of any necessary height, but not closer than eighteen (18) inches to a street line.
- (4) A protective hood or door overhang over a doorway may extend not more than three (3) feet into the required minimum front and rear yards.
- (5) HVAC units, swimming pool equipment, and non-portable electric generators.
  - a. In one- and two-family dwellings, HVAC units, swimming pool equipment certified by the manufacturer to not exceed 70 decibels of sound at a five-foot distance during operating conditions, and non-portable electric generators may encroach into side yard and rear yard setback areas, provided there shall be a minimum five-foot separation between any two (2) HVAC units, swimming pool equipment, or generators so encroaching.
  - b. In all other cases HVAC units, swimming pool equipment, and non-portable electric generators must meet the setbacks of the zoning districts.

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 August 21, 2023.

**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-23-1] 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-23-1] to the Mayor and City Council with a recommendation of denial.

OR

- 3) I move (an alternate motion).