



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: June 4, 2024, Work Meeting

AGENDA ITEM: Proposed Code Text Amendment(s) governing Private Outdoor Recreation Facilities/Sports Courts. Guidance from City Council sought.

WORK MEETING – ITEM 1

Staff seeks guidance from the City Council following the City Council’s April 19, 2024, resolution before proceeding to Planning Commission and City Council with proposed code change(s) governing Private Outdoor Recreation Facilities/Sports Courts.

BACKGROUND:

At the City Council’s regularly scheduled meeting of April 16, 2024, the City Council considered Ordinance 2024-08 prohibiting artificial lighting on outdoor sports and recreation courts.

City Council passed the following resolution:

Motion: Council Member Drury moved to deny Ordinance 2024-08, regarding outdoor lighting and glare, with the following conditions: • Directed staff to propose a code change for lighting and outdoor recreation to match the timeframes of the sound code to be turned off by 10 p.m. • Recommend that the City change its lighting code to address shielding and light definitions for recreational lighting. • Recommended that the City change the Building Code to require a building permit not only for the lights but for a

sports court installation. • The City would address the issues of fence height, light height, and light placement and make that a part of the approval process. • Recommended that the Council allocate funds in the 2025 fiscal year budget to hire or contract for full-time or seasonal code enforcement staff for enforcement of this issue and other code enforcement tasks. • The Council would discuss setbacks for sports courts. Second: Council Member Simons seconded the motion.

The resolution passed with one dissenting vote.

ANALYSIS

City Council directed staff to propose a code text amendment or amendments to accomplish the following:

- Restrict hours of use to make consistent with the City’s noise ordinance,
- Address shielding/restrictions for recreational lighting,
- Require a permit for construction of private recreation facilities/sports courts,
- Address issues of fence height, light pole height and placement, and
- Consider setbacks

OPTION 1:

To make it easiest for residents to identify what kind of Private Outdoor Recreation Facilities/Sports Courts are permitted on their property, this information could be added to descriptions of permitted uses in each of the Residential Zones.

This option would require amending Chapter 16.07 (R-1-7 Residential Zone), Chapter 16.08 (R-1-9 Residential Zone), Chapter 16.09 (R-1-11 Residential Zone), Chapter 16.10 (R-1-15 Residential Zone), Chapter 16.11 (R-1-22 Residential Zone) and Chapter 16.12 (RA-1-45 Residential Zone) and would require going before Planning Commission for a recommendation and then the City Council for approval.

OPTION 2:

A second option is to create a new section of code governing Private Outdoor Recreation Facilities/Sports Courts akin to staff’s proposal last September.

By way of example, the City Council could amend Chapter 16.13 (Supplementary Requirements in Zones):

16.13.500 Private Outdoor Recreation Facility (PRF)

- A. Definitions: “Private Outdoor Recreation Facility” or “PRF” shall mean any privately owned outdoor sports court or recreation facility (not including driveways used exclusively for access to an attached garage) designed for athletic and/or recreational purposes, including but not limited to tennis courts, handball courts, pickleball courts, racquetball courts, basketball courts, etc., whether fenced or unfenced.

- B. Permits Required: A Private Outdoor Recreation Facility permit is required for construction of any PRF. Consistent with current code, a Midway City Building Permit is required for construction of any artificial lighting and/or electrical service associated with a PRF.

- C. Setback Requirements: The minimum setback requirement for a PRF is one hundred (100) feet from the lot lines of adjacent properties.

- D. Height and Pole Limitations: The height of any fencing surrounding a PRF is limited to ten (10) feet from natural grade. The number of poles used to support artificial lighting is limited to four (4), with height not to exceed twenty (20) feet from natural grade. Shielding may be required to comply with the Midway City Lighting Code.

- E. Fees Prohibited: No fee may be charged for the use of a PRF.

- F. Use Limitations. Commercial use of a PRF is prohibited. PRFs and any associated lighting shall not be used between the hours of 10 P.M. and 6 A.M. Use of PRFs must comply with the Midway City Code including, but not limited to, Noise and Nuisance limitations as defined under the Code.

NOTES:

The language excluding driveways in the definition is meant to address the Council’s concern that this ordinance should not apply, for example, to a basketball hoop in a driveway or on a garage, which are illuminated by house lighting.

The proposed language requires a new facility permit for construction of the court, as well as a building permit for any lighting or electric service to the facility as required by

code. The intent is that by requiring a facility permit for the Court construction, staff will have greater opportunity to inform residents of the permit requirements for electrical prior to residents investing in such installations.

Setback requirements have been discussed in previous council meetings and appear to establish the minimum requirements based upon current data and technology to comply with the City's current noise and nuisance ordinance.

The proposed language includes fencing and pole guidance per the Council's request. We have included notice language regarding shielding to provide notice to residents of the lighting ordinance, but the lighting ordinance itself contains the governing language regarding lighting requirements and shielding.

The prohibition on fees and commercial use is to prevent commercial use in residential zones.

Specifics may be tailored per guidance from the City Council.

This option requires Planning Commission review and City Council approval.

OPTION 3

The third option is to amend the lighting code at Chapter 5.02.080 (D) to add a new subsection (5) to prohibit artificial lighting of Private Outdoor Recreation Facilities/Sports Courts.

This option does not require Planning Commission review.

DISCUSSION:

Option 1 is the most challenging and time-consuming option. Option 3 is the simplest. The City Council has already reviewed versions of Options 2 and 3.

Before taking further action, staff seeks direction from the City Council generally as to the option it prefers to pursue and more specifically as to the provisions it wishes incorporated into the option employed.

POSSIBLE FINDINGS:

- Construction of Private Outdoor Recreation Facilities/Sports Courts is becoming increasingly frequent in Midway.
- Private Outdoor Recreation Facilities/Sports Courts have many benefits, including promoting healthy forms of exercise, but also result in increasing complaints regarding noise and light trespass.
- Incorporating a permitting process for Private Outdoor Recreation Facilities/Sports Courts will assist in providing the City with notice of intent to construct such facilities and an opportunity to inform residents of the applicable code provisions earlier in the process.
- Setback requirements should assist compliance with existing lighting and noise ordinances.
- Limits on lighting pole height and density, as well as informing residents that shielding may be required to comply with the existing Midway City Lighting Code, should help facilitate code compliance and better inform residents seeking to construct such facilities of applicable code provisions prior to making significant investments in such installations.
- Making hours of use consistent with the noise ordinance should aid compliance with the current noise and nuisance ordinance.
- Prohibiting fees and commercial use of such facilities should help prevent unauthorized commercial uses in residential zones.
- As population and density increase, it is reasonable to expect construction of Private Outdoor Recreation Facilities/Sports Courts, and associated light and noise issues, to increase apace.

ALTERNATIVE ACTIONS:

If the City Council seeks to pursue Option 1 or 2, no action is sought as the matter must first be taken to the Planning Commission. If Council seeks to pursue Option 3, the permitted actions are as follows:

1. Approval (conditional). This action can be taken if the City Council finds the proposal complies with the requirements of the Land Use Code.
 - a. Accept staff report

- b. List accepted findings
 - c. Place condition(s) if needed
- 2. Continuance. This action can be taken if the City Council finds that there are unresolved issues.
Accept staff report
 - a. List accepted findings
 - b. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - c. Date when the item will be heard again
- 3. Denial. This action can be taken if the City Council finds that the request does not comply with the ordinance.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

PROPOSED CONDITIONS: None