

1. Requested Motion:

Meeting Date: April 20th, 2009

MRTF has requested that Town Council consider amending the LDC to include the proposed Section 14-12. Initiating the LDC amendment process is a policy decision for Town Council or the Town Manager.

Why the action is necessary:

Response to a resolution passed by MRTF addressing the Town Council.

What the action accomplishes:

Exercise of Town Council authority under LDC Section 34-82.

2. Agenda:

- Consent
- Administrative

3. Requirement/Purpose:

- Resolution
- Ordinance
- Other

4. Submitter of Information:

- Council
- Town Staff
- Town Attorney
- MRTF

5. Background:

On April 2, 2007, Town Council adopted Ordinance 07-03, which modified several sections of the LDC, including parts of Chapters 14 and 27 by a vote of 5-0. Town Council voted 3-2 to exclude the proposed Section 14-12 regarding beach furniture and equipment licensing from the ordinance, however. MRTF is requesting that Town Council consider amending Chapter 14 of the LDC to add the proposed Section 14-12. The proposed amendment will need to go before the LPA for hearing if the Town Council or the Town manager initiates the LDC amendment process.

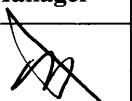
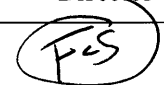
6. Alternative Action:

Take no action.

7. Management Recommendations:

Initiating the LDC amendment process is a policy decision for Town Council under LDC Section 34-82.

8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director
					

9. Council Action:

- Approved
- Denied
- Deferred
- Other

EXHIBIT C

FORT MYERS BEACH LAND DEVELOPMENT CODE

The vote on this Ordinance was taken in two steps. The first vote (as codified previously in this Ordinance) approved passage of Ordinance 07-03 without considering whether to add a proposed new Section 14-12 into Chapter 14. The second vote considered whether to exclude Section 14-12 entirely from Ordinance 07-03. Proposed Section 14-12, as considered during the public hearing, read as follows:

Sec. 14-12. Beach furniture and equipment licenses.

(a) Businesses and/or properties that offer a beach chair service on the beach for rent or complimentary use must apply for one of the following licenses:

- (1) *Beach Furniture Complimentary Use License:* this license applies to properties that offer a beach chair service that is not open to the general public.**
- (2) *Beach Furniture Vending License:* this license applies to businesses and individual properties that offer beach furniture for rental to the general public.**

(b) The following regulations apply to both licenses:

- (1) Beach furniture and equipment shall be set back at least 12 feet landward from the edge of wet sand.**
- (2) Adequate portable garbage receptacles must be located on site during the hours that beach chairs are available for use and must be removed entirely from the beach every night, with the contents legally disposed of.**

(c) The following additional regulations apply to the beach furniture vending license:

- (1) The amount of beach furniture vending licenses is limited to 14.**
- (2) A business is required to obtain a Lee County occupational license**
- (3) If the applicant is not the owner of the property from which the business will be operated, the applicant shall submit a notarized letter of authorization from the owner of the property to the applicant.**
- (4) No person shall operate a beach chair vending business unless covered by a comprehensive general liability insurance policy insuring the public against bodily injury or property damage resulting from or incidental to the operation, use, or rental of beach furniture. At a minimum, the policy shall provide coverage of not less than \$500,000 per occurrence and \$1,000,000 per aggregate. The policy shall list the Town of Fort Myers Beach as an additional insured, and shall provide that coverage can not be canceled or materially altered except after 30 days' written notice has been received by the town, and be written through insurers licensed and authorized to do business in the State of Florida.**

Secs. 14-~~13~~ 12--14-70. Reserved.

A motion was made by Council Member Meador and seconded by Council Member Shenko to exclude Section 14-12 from Ordinance 07-03. Upon being put to a vote, the motion passed, with the vote being as follows:

Herb Acken	aye
Dennis Boback	nay
Larry Kiker	nay
Charles Meador, Jr.	aye
Bill Shenko, Jr.	aye

Accordingly, draft Section 14-12 has been excluded from Ordinance 07-03 as adopted on April 2, 2007.