



FILED  
DEC 16 2009  
CLERK OF COUNTY

**ORDINANCE NO. 2009- 70**

**AN ORDINANCE AMENDING COLLIER COUNTY ORDINANCE 2001-43, AS AMENDED (THE VANDERBILT BEACH BEAUTIFICATION MUNICIPAL SERVICE TAXING UNIT); AMENDING SECTION THREE, PURPOSE AND GOVERNING BODY; PROVIDING FOR A NEW SECTION GOVERNING THE CONVERSION OF OVERHEAD UTILITY DISTRIBUTION FACILITIES TO UNDERGROUND SERVICE; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR EFFECTIVE DATE.**

WHEREAS, on July 31, 2001, the Board of County Commissioners adopted Ordinance No. 2001-43, establishing the Vanderbilt Beach Beautification Municipal Service Taxing Unit; and

WHEREAS, the Vanderbilt Beach Beautification Municipal Service Taxing Unit Advisory Committee requested that the Board of County Commissioners amend and revise Section Three of Collier County Ordinance No. 2001-43; and

WHEREAS, on December 15, 2009, the Board of County Commissioners as the governing body of the Vanderbilt Beach Beautification Municipal Service Taxing Unit approved the amendment to Ordinance No. 2001-43.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA,** that Collier County Ordinance No. 2001-43, as amended, is hereby further amended to read as follows:

**SECTION ONE: Amendment to Section Three Purpose and Governing Body**

Section Three, Purpose and Governing Body of Collier County Ordinance No. 2001-43 is hereby amended to read as follows:

**SECTION THREE.**            **Purpose and Governing Body**

The MSTU is created for the purpose of: (1) Providing curbing, watering facilities, plantings and maintenance of the median strips and right-of-way edges of roadways within the MSTU; (2) Providing traffic calming improvements, street lighting, and sidewalks within the MSTU; (3) Beautification and maintenance of other public areas within the MSTU as determined by the Advisory Committee; and (4) providing for the Burial of Power Lines within the MSTU, including providing underground trenching and burial of utility lines from the street or transformer to private residences and, as needed, arranging to locate the burial of such power lines alongside any existing utility easements, as well as, connecting service and/or disconnecting service to the external portions of the residences required as part of converting overhead utility distribution facilities to underground service ~~but excluding the expenditure of MSTU funds for any additional wiring or installation of improvements or upgrades to connect service to residences required by current code or resulting from any other hardware nonconformity.~~ The governing body of the MSTU shall be the Board of County Commissioners of Collier County, Florida.

**SECTION TWO:**            **Conversion of Overhead Utility Distribution Facilities to Underground Service**

(a)    The conversion of overhead utility distribution facilities to underground service is intended to provide aesthetic benefits, enhancing both the property values and quality of life of the residents of the MSTU, and would reduce instances of power outages resulting from overhead power lines from both natural and man-made occurrences thereby promoting the health, safety, and welfare of those residents.

(b)    The MSTU shall notify each property owner that the existing overhead utility distribution service will be disconnected for conversion to underground facilities at least sixty

(60) days (hereinafter referred to as the "notice") prior to a specified date(s) certain of the actual underground conversion. The notice shall be served by certified mail, addressed to the owner or owners of the property described as their names and addresses are shown upon the records of the county tax assessor, or other such public records filed in Collier County, Florida, and shall be deemed complete and sufficient when so addressed and deposited in the United States mail. In the event such notice is returned by postal authorities, a copy of the notice is to be served by a law enforcement officer, or other lawfully authorized process server, upon the occupant of the land or any agent of the owner thereof. In the event that personal service upon the occupant of the land or upon any agent of the owner thereof cannot be performed after reasonable search by a law enforcement officer or other lawfully authorized process server, the notice shall be served by physical posting on said property.

(c) Within sixty (60) days from the date of the MSTU's notice that overhead utility distribution facilities are ready to be converted to underground distribution facilities, owners and occupants of property within the MSTU shall allow access to their premises and cooperate with the contractor retained for the project so that the conversion of the overhead facilities underground can be accomplished.

(d) Whenever overhead utility distribution facilities are converted underground, such facilities shall remain underground and may not thereafter be converted to overhead facilities, except with the prior approval of the governing body, and only in instances necessary to promote the health, safety and welfare of the MSTU residents.

(e) This article may be enforced by all available means authorized by law. The MSTU, through its governing body, shall take any and all steps necessary to ensure the health,

safety, and welfare of all residents within the MSTU during the underground conversion of utilities.

**SECTION THREE:            Conflict and Severability**

In the event this Ordinance conflicts with any other Ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

**SECTION FOUR:            Inclusion in The Code of Laws and Ordinances**

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

**SECTION FIVE:            Effective Date**

This Ordinance shall be effective upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida this 15th day of December, 2009.

ATTEST:  
DWIGHT E. BROCK, Clerk

By: *Michelle Lynn*  
Deputy Clerk

Attest as to Chairman's  
signature on

BOARD OF COUNTY COMMISSIONERS  
OF COLLIER COUNTY, FLORIDA

By: *Donna Fiala*  
DONNA FIALA, CHAIRMAN

Approved as to form and  
Legal sufficiency:

*Scott R. Teach*  
Scott R. Teach  
Deputy County Attorney

This ordinance filed with the  
Secretary of State's Office the  
18<sup>th</sup> day of December, 2009  
and acknowledgement of that  
filing received this 30<sup>th</sup> day  
of December, 2009  
By: *Michelle Lynn*  
Deputy Clerk

STATE OF FLORIDA)

COUNTY OF COLLIER)

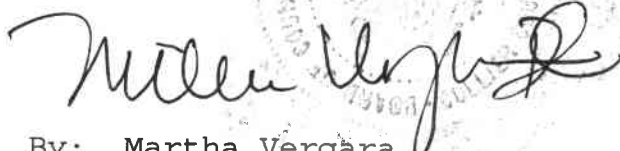
I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true and correct copy of:

**ORDINANCE 2009-70**

Which was adopted by the Board of County Commissioners on the 15th day of December, 2009, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 17th day of December, 2009.

DWIGHT E. BROCK  
Clerk of Courts and Clerk  
Ex-officio to Board of  
County Commissioners



By: Martha Vergara,  
Deputy Clerk