

LEE COUNTY ORDINANCE NO. ____

AN ORDINANCE RELATED TO AN UNINCORPORATED AREA OF LEE COUNTY, FLORIDA: CREATING A MUNICIPAL SERVICE BENEFIT UNIT (MSBU) FOR THE SUNSET COVE CHANNEL MARKER OPERATION AND MAINTENANCE SPECIAL IMPROVEMENT UNIT; SETTING FORTH THE PURPOSE AND DEFINING THE BOUNDARIES; ESTABLISHING THE BOARD OF COUNTY COMMISSIONERS AS THE GOVERNING BODY OF THE MSBU; PROVIDING FOR THE GENERAL POWERS FOR THE MSBU; NAMING AND CREATION OF A FUND; PROVIDING FOR THE POWER TO LEVY SPECIAL ASSESSMENTS, LIENS AND COLLECTIONS; USE OF NON-AD VALOREM ASSESSMENTS; ESTABLISHING A REVERTER, PROVIDING FOR SEVERABILITY; ALTERNATIVE OR SUPPLEMENTAL AUTHORITY; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, residents within the boundaries described below presented to the Board of County Commissioners of Lee County, a petition expressing their desire to form a municipal service taxing or benefit unit; and

WHEREAS, requisite notice and publication have been provided to permit the Board of County Commissioners to conduct a public hearing to consider the adoption of this ordinance; and

WHEREAS, the Board of County Commissioners of Lee County held a public hearing to establish this Municipal Service Benefit Unit (MSBU); and

WHEREAS, all persons having an interest in the MSBU, and the public at large, were given an opportunity to be heard at such hearing.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that:

SECTION 1.
CREATION OF THE UNIT, PURPOSE AND BOUNDARIES

Pursuant to the powers granted to the Board of County Commissioners of Lee County, Florida, hereinafter referred to as the "Board", by the Constitution of the State of Florida and the Florida Statutes, in particular, §125.01, Florida Statute, the Board hereby creates a Municipal Service Benefit Unit to be known as the SUNSET COVE Operation and Maintenance Special Improvement Unit. Unless expressly mandated by State Statute, any and all procedures, administrative or otherwise, which were required to be followed prior to the enactment of this Ordinance, will be waived or considered directory in nature and noncompliance with the procedure will have no effect upon the validity of this Ordinance, constitutional or otherwise.

The purpose of the Sunset Cove Operation and Maintenance Special Improvement Unit will be to provide channel marker replacement and/or repair and maintenance located within the boundaries of the Unit as provided by funding from annual budget of the MSBU. The boundaries of the Unit will be as follows:

SEE ATTACHED EXHIBIT "A" FOR THE ASSESSMENT ROLL WITH LEGAL DESCRIPTION, BEING INCORPORATED HEREIN BY REFERENCE.

SECTION 2. THE GOVERNING BODY

The Board will be the governing body of the Sunset Cove Operation and Maintenance Special Improvement Unit created pursuant to this Ordinance. The Board may appoint an Advisory Committee, composed of five property owners from within the boundaries of the MSBU. The method of appointment and term of office will be set by the Board.

SECTION 3. THE GENERAL POWERS

The governing body will have all the powers necessary or convenient to carry out the purpose of this Ordinance and such additional rights and powers as are provided by the Constitution of the State of Florida and the laws of the State of Florida as granted to counties. The governing body will also have all powers not otherwise prohibited by law and these powers will include, but are not limited to, the power to:

1. Sue or be sued, complain or defend in the name of the County in any and all courts or administrative agencies;
2. Acquire by grant, purchase, gift, devise, exchange or in any other lawful manner any property, real or personal, or any estate or interest therein upon such terms and conditions as the governing body may determine;
3. Enter into contracts with any public, private or municipal firm, person or corporation for the furnishing of the improvements within the boundaries of this Unit;
4. Levy and collect special charges, special assessments, or taxes within the Unit;
5. Borrow and expend money and issue bonds, revenue certificates, and other obligations of indebtedness in such manner and subject to such limitations as may be provided by law;

6. Levy and collect without referendum non-ad valorem taxes for the providing of municipal services within the Unit; and
7. Adopt rules and regulations governing the Unit.

SECTION 4.
NAMING AND CREATION OF A FUND

There is hereby created a fund to be known as the “*Sunset Cove Operation and Maintenance Special Improvement Unit*” from which the costs of specified municipal service may be paid, either in whole or in part. This fund will contain all special charges, special assessments, taxes, interest and other monies collected or otherwise obtained pursuant to this Ordinance or any subsequent resolution thereto.

SECTION 5.
LEVYING SPECIAL ASSESSMENTS, LIENS AN COLLECTIONS

- A) Any special assessment levied pursuant to this Ordinance will be levied only after of Notice of Intent to Adopt a proposed Resolution to Assess will be published in a newspaper of general circulation within Lee County at least Twenty (20) days prior to the public hearing on the proposed Ordinance.

The method of apportioning the special assessment among the parcels of land within the MSBU will be based upon a finding by the Board that the chosen method of apportionment is a fair and reasonable distribution of the cost of the municipal service improvements in proportion to the special benefit received by each parcel of land. The assessment roll may be amended at the public hearing.

- B) The special assessment will be due and payable, and interest and penalties for late payment will accrue thereon from such date as the Board may provide.
- C) An assessment roll will be prepared and will be attached to the proposed Ordinance. This assessment roll will consist of all record legal titleholders of parcels of land within the boundaries of the MSBU and will state the apportioned assessment for that parcel of land. A copy of this assessment roll is attached hereto and labeled as Exhibit “A.”

- D) The assessment made by the Board as provided for herein will constitute a lien against all parcels of land so assessed. Upon failure of any property owner to pay any apportioned assessment when due and payable, the Board may cause to be brought the necessary legal proceedings to enforce payment thereof with all accrued interest and penalties, together with all legal costs incurred including reasonable attorney's fees, to be assessed as part of the cost. In that event of a default on payment of any assessment when due and payable, or any accrued interest on the assessment, the entire assessment with interest and penalties will immediately become due and payable and subject to foreclosure. The foreclosure proceedings may be prosecuted to a sale and conveyance of the property involved in said proceedings as now provided by law and suits to foreclose mortgages; or, in the alternative, said proceedings may be instituted and prosecuted by any other lawful process or procedure then available for the enforcement of the lien pursuant to any general law of the State relative to the enforcement of the municipal lien. Enforcement of this lien through foreclosure proceedings or otherwise will not be construed as the Board's exclusive remedy.

The Board may prosecute any claim, legal or equitable, which it may have against the owner of the special assessed parcel of land who has defaulted on his payment of the assessment.

- E) The property owner, whose property has been assessed, will have the right to petition the Board for correction of any inaccuracy in the assessment or its apportionment within Twenty (20) days of the adoption of the Resolution to Assess. After the lapse of Twenty (20) days from the date of the adoption of the Resolution to Assess, including amendments thereto, all assessments made will be deemed conclusive unless the property owner has filed the petition for administrative review. Failure to exercise this right for an administrative remedy within the time permitted will be deemed a waiver of the property owner's right to object to the assessment or its apportionment.
- F) At the Board's direction, the Uniform Collection for Non-Ad Valorem Special Assessments will be used for the collection of the above-described special assessment.

SECTION 6. USE OF NON-AD VALOREM ASSESSMENTS

Non-Ad Valorem Assessments levied pursuant to this Ordinance will be levied and a budget prepared and adopted by this Board in the same manner as the Board prepares and adopts annual County budgets and levied taxes as provided by law.

SECTION 7. REVERTER

By the creation of this MSBU, the Sunset Cove Operation and Maintenance Special Improvement Unit, consisting of the affected properties within the Unit, will be the entity responsible to provide channel marker replacement and/or repair and maintenance of those channel markers within the boundaries of the Unit.

If the MSBU created under the provisions of this Ordinance is ever terminated or ceased for any reason, the responsibility to provide channel marker replacement and/or repair and maintenance with the boundaries of the Unit will automatically revert to the individual property owners within the Sunset Cove Operation and Maintenance Special Improvement Unit in the same form and manner as existed prior to the creation of the MSBU pursuant to this Ordinance.

SECTION 8. SEVERABILITY

The provisions of this Ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided for. If any of the provisions of this Ordinance are held to be unconstitutional by any court or competent jurisdiction, the decision of such court will not affect or impair any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provision not been included therein.

SECTION 9. ALTERNATIVE OR SUPPLEMENTAL AUTHORITY

This Ordinance will not be construed as repealing or superseding any other ordinance or law and is to be construed as alternative or supplemental authority for the exercise of powers provided for herein.

SECTION 10. MODIFICATION

It is the intent of the Board that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications will be incorporated into the final version.

SECTION 11. EFFECTIVE DATE

This Ordinance will take effect upon filing in the Office of the Secretary of State, State of Florida.

Commissioner _____ made a motion to adopt the foregoing Ordinance, seconded by Commissioner _____. The vote was as follows:

John Manning	_____
Cecil Pendergrass	_____
Larry Kiker	_____
Brian Hamman	_____
Frank Mann	_____

DULY PASSED AND ADOPTED this ____ day of _____, 2018.

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY
COMMISSIONERS OF
LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Cecil Pendergrass, Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

Office of the County Attorney

Attachments – Exhibit “A” – Assessment Role, including map

022718/1143

STRAP

SITEADDR

SITECITY

LEGAL

1645240500000001A	533 BAYSIDE DR	FORT MYERS	SUNSET COVE PB 10 PG 107 PT LOT 1 DESC IN OR 1297 PG 0397
16452405000410000	600 SUNNYSIDE CT	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 41
16452405000250000	5820 SILVERY LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 25
16452405000400000	604 SUNNYSIDE CT	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT40 LESS OR 308 PG 754
1645240500000001D	541 BAYSIDE DR	FORT MYERS	SUNSET COVE PB 10 PG 107 PT LOT 1 AS DESC OR 0162 PG 0455
16452405000360000	5846 SUNNYSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 36
16452405000320000	5835 SUNNYSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 32
16452405000020000	547 BAYSIDE DR	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 2
16452405000350000	5856 SUNNYSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 35
16452405000240000	5828 SILVERY LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 24
16452405000030000	555 BAYSIDE DR	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 3
16452405000230000	5838 SILVERY LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 23
16452405000040000	561 BAYSIDE DR	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 4
16452405000330000	5847 SUNNYSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 33 LESS OR 3512 PG 2974
16452405000340000	5851 SUNNYSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 34 + OR 3512 PG 2974
16452405000050000	569 BAYSIDE DR	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 5
16452405000310000	5829 SUNNYSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 31
09452405000680000	5804 RIVERSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 68 + OR 2002/311
09452405000670000	5810 RIVERSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 67
16452405000540000	602 TRAVERS AVE	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 54
16452405000630000	5844 RIVERSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 63
16452405000660000	5820 RIVERSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 66
16452405000550000	5807 RIVERSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 55

16452405000530000	610 TRAVERS AVE	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 53
16452405000570000	5823 RIVERSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 57
16452405000520000	618 TRAVERS AVE	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 52
16452405000210000	5848 SILVERY LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOTS 21 + 22
16452405000080000	593 BAYSIDE DR	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 8
16452405000500000	5810 SUNNYSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOTS 50 + 51
16452405000460000	625 SUNNYSIDE CT	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 46 + PT OF LT 45 DESC OR 2087/1862
16452405000620000	5852 RIVERSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 62
16452405000090000	595 BAYSIDE DR	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 9
16452405000140000	5845 SILVERY LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 14
16452405000450000	619 SUNNYSIDE CT	FORT MYERS	SUNSET COVE PB 10 PG 107 LT 45 LESS OR 2087/1862
16452405000600000	5845 RIVERSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 60
16452405000440000	615 SUNNYSIDE CT	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 44
16452405000270000	650 TRAVERS AVE	FORT MYERS	SUNSET COVE PB 10 PG 107 LOTS 27 + 28
16452405000480000	5820 SUNNYSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOTS 48 + 49
16452405000590000	5837 RIVERSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 59
16452405000290000	5813 SUNNYSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 29
16452405000610000	5853 RIVERSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 61
16452405000430000	607 SUNNYSIDE CT	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 43 LESS S 13.18 FT
16452405000100000	603 BAYSIDE DR	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 10
16452405000120000	623 BAYSIDE DR	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 12
16452405000300000	5821 SUNNYSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 30
16452405000130000	12340 MCGREGOR BLVD	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 13
1645240500000001B	525 BAYSIDE DR	FORT MYERS	SUNSET COVE PB 10 PG 107 PT LOT 1 AS DESC OR 1201 PG 1794

16452405000260000	5812 SILVERY LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 26
16452405000370000	5838 SUNNYSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 37
16452405000060000	575 BAYSIDE DR	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 6
16452405000070000	583 BAYSIDE DR	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 7
16452405000390000	608 SUNNYSIDE CT	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 39 + PT DESC OR 308 PG 754
16452405000650000	5828 RIVERSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 65
16452405000560000	5815 RIVERSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 56
16452405000640000	5836 RIVERSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 64
16452405000110000	611 BAYSIDE DR	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 11
16452405000580000	5829 RIVERSIDE LN	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 58
16452405000470000	633 SUNNYSIDE CT	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 47
1645240500000001C	517 BAYSIDE DR	FORT MYERS	SUNSET COVE PB 10 PG 107 PT LT 1 AS DESC OR 1220 PG 1888
16452405000420000	601 SUNNYSIDE CT	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 42 + S 13.18 FT LOT 43
16452405000380000	620 SUNNYSIDE CT	FORT MYERS	SUNSET COVE PB 10 PG 107 LOT 38



Sunset Cove

