

The Charter for The Village of Matlacha-Pine Island is created to read:

This act, together with any future amendments thereto, shall be known and may be cited as The Village of Matlacha-Pine Island Charter, hereinafter referred to as “Charter.”

## Preamble

We the people of The Village of Matlacha-Pine Island, under the constitution and laws of the State of Florida, in order to secure the benefits of local self-government and to provide for an honest and accountable Council-Manager government and to preserve our unique community quality and character, do hereby adopt this Charter and confer upon the Village the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation. We the people are committed to support a small government with the goal of keeping taxes low and the Island affordable.

## **ARTICLE I – CORPORATE NAME; CREATION/PURPOSE OF THE CHARTER; CREATION AND ESTABLISHMENT OF THE VILLAGE OF MATLACHA-PINE ISLAND.**

### **Section 1.01. Corporate Name.**

The municipality hereby established shall be known as The Village of Matlacha-Pine Island, Florida (“Village”).

### **Section 1.02. Creation/Purpose of the Charter.**

This act, together with any future amendments thereto, may be known as the “Charter of The Village of Matlacha-Pine Island” (the “Charter”).

It is in the best interests of the public health, safety, and welfare of the residents of the Matlacha-Pine Island area to form a separate municipality for the Matlacha-Pine Island area with all the powers and authority necessary to provide adequate and efficient municipal services to its residents.

It is intended that this Charter and the incorporation of the Matlacha-Pine Island area will serve to preserve and protect the character, natural resources, and quality of life of the community and to maintain the vision established by the Greater Pine Island Community Plan as adopted by the Lee County Commission on January, 2002 and as amended March 2016 with an effective date of April 2016.

It is the intent of this Charter and the incorporation of the Village to secure the benefits of self-determination and affirm the values of representative democracy, citizen participation, strong community leadership, professional management and regional cooperation.

**Section 1.03. Creation and Establishment of The Village of Matlacha-Pine Island.**

This Charter shall take effect upon approval by a majority vote of those qualified electors residing within the corporate limits of the proposed Village of Matlacha-Pine Island as described in Article III of this Charter, voting in a referendum election to be called by the Lee County Commission to be held November 6, 2018, in accordance with the provisions of law relating to elections currently in force, except that this section shall take effect upon becoming a law.

For the purpose of compliance with Section 200.066, Fla. Stats., relating to assessment and collection of ad valorem taxes, The Village of Matlacha-Pine Island is hereby created and established effective December 31, 2018.

**ARTICLE II – POWERS OF THE VILLAGE; FORM OF GOVERNMENT.**

**Section 2.01. Powers of the Village.**

The Village shall have all available governmental, corporate, and proprietary powers possible for a Village to have under the State Constitution and laws of this state as fully and completely as though they were specifically enumerated in this Charter, and may exercise them, except where prohibited by law. Through the adoption of this Charter, it is the intent of the electors of the Village that the municipal government established herein shall have the broadest exercise of home rule powers permitted under the State Constitution and laws of the state. This Charter and the powers of the Village shall be construed liberally in favor of the Village.

## **Section 2.02. Construction.**

The powers of the Village under this Charter shall be construed liberally in favor of the Village, and the specific mention of particular powers in the Charter shall not be construed as limiting the general powers granted in this Charter in any way.

## **Section 2.03. Form of Government.**

The form of government established by this Charter shall be a Council-Manager form, with the Council to consist of five Village Council (“Council”) members elected by the all the voters of The Village of Matlacha-Pine Island in a non-partisan election from five single member districts but shall reside within the District for which they stand for election. The Council will constitute the governing body of the Village, with the duties and responsibilities hereinafter provided. The Council shall appoint a Village Manager to be the chief administrative officer of the Village and who shall serve at the pleasure of the Council.

## **Section 2.04. Intergovernmental Relations.**

The Village may participate by contract or otherwise with any governmental entity of this state or any other state or states or the United States in the performance of any activity which one or more such entities have the authority to undertake.

## **ARTICLE III – CORPORATE BOUNDARIES.**

### **Description:**

All that Part of Pine Island, Township 44 South Range 22 East Sections 28, 29, 32, 33, 34, and Township 45 South Range 22 East Sections 2- 5, together with All that parts laying on Little Pine Island, West Island, Matlacha, and Mainland, Township 44 South Range 22 East Sections 14-16, 21-27, 34-36, Township 44 South Range 23 East Sections 18 and 19, Township 45 South Range 22 East Sections 1,2 ,and 3, together with that Area laying southerly of the City of Cape Coral Territorial Limit, More Specifically Matlacha Shores Subdivision-Plat Book 10, Page 29-, Matlacha Shores First Addition -Plat Book 10 page 42-, and Matlacha Isles – Plat Book 16, Page 133, Together with the unplatted area lying southerly of the above referenced subdivisions, together with Government Lot 4 of Section 32 Township 44 South Range 22 East (Called Demere Key).

Less and except Following 3 Parts;

- 1- All of that part of unit 58, Plat Book 23, Pages 128 through 147, Cape Coral, lying in Section 18, Township 44 South, Range 23 East, and all of that part of unit 59, Plat Book 19, Pages 140 through 153, Cape Coral, also lying in Section 18, Township 44 South, Range 23 East.
- 2- The West half of the east half of the northeast quarter of the Northeast quarter (W 1/2 E1/2 NE 1/4 NE 1/4) of Section 19 Township 44 South, Range 23 East,
- 3- Lot 18 of Tract 2, of recorded map, being the west half of the east half of the east half of the northeast quarter of the northeast quarter (W 1/2 E1/2 E1/2 NE 1/4 NE 1/4) of Section 19, Township 44 South, Range 23 East.

And

All Land Laying in Pine Island and, Bokeelia/Bocilla Islands (2 Island by Shell Cut/Shell Pass), Township 43 South Range 22 East, Township 44 South Range 22 East; Southerly Limited to the South Line of Section 21, Township 44 South, Range 22 East, Easterly and Northerly to the Pine Island Boundary, and Westerly and North Westerly in 2 Course Limited to; 1- Stringfellow Road Center Line, From intersection of Southerly Line of Section 21 Township 44 South to the Intersection With East Line of Section 25 Township 43 South Range 21 East and, 2- along the East section Line, From Intersection of Stringfellow Road Center line with east Line of Section 25, Township 43 South Range 21 East, to The Point of intersecting with Pine Island Boundary.

And

All Land Laying in Pine Island, Bokeelia/Bocilla Islands, and Burgess Island/Little Bocilla Island Township 43 South Range 21 East, Township 43 South Range 22 East, Township 44 South Range 21 East, and Township 44 South Range 22 East; Southerly Limited to the South Line of Section 20 and 21, Township 44 South, Range 22 East, Westerly and Northerly to the Pine Island Boundary, and Easterly and North Easterly in 2 Course Limited to; 1- Stringfellow Road Center Line, From intersection of Southerly Line of Section 21 Township 44 South to the Intersection With East Line of Section 25 Township 43 South Range 21 East and, 2- along the East section Line, From Intersection of Stringfellow Road Center line with east Line of Section 25, Township 43 South Range 21 East, to The Point of intersecting with Pine Island Boundary.

And

All Land Laying in Pine Island, Township 45 South Range 22 East, Township 46 South Range 22 East; Northerly Limited to the North Line of Section 9 and 10, Township 45 South, Range 22 East, Westerly and Southerly to the Pine Island Boundary, and Easterly and North Easterly Limited to Stringfellow Road Center Line. Together with all land within the Perimeter boundaries of Galt Island Subdivision, as Described In Plat Book 51, Pages 33-36, Located on Galt Island in Pine Island Sound in Lee County, Sections 27,28, 33, and 34, Township 45 South, Range 22 East.

And

All Land Laying in Pine Island, Township 45 South Range 22 East, Township 46 South Range 22 East, Township 46 South Range 22 East; Northerly Limited to the North Line of Section 10 and 11 Township 44 South, Range 22 East, Easterly and Southerly to the Pine Island Boundary, and Westerly and North Westerly Limited to Stringfellow Road Center Line.

## **ARTICLE IV – VILLAGE COUNCIL.**

### **Section 4.01. General Powers and Duties.**

All powers of the Village shall be vested in the Council, except as otherwise provided by law or this “Charter” and the Council shall provide for the exercise thereof and for the performance of all duties and obligations permitted by or imposed on the Village by law.

### **Section 4.02. Composition; Eligibility; Terms.**

#### 1. Composition.

There shall be a Village Council made up of five Council members. One Council member shall be elected from each of the Village’s Five Districts by all the voters of the Village in a non-partisan election.

#### 2. Eligibility.

- a. Each candidate for the office of Village Council Member shall be a qualified elector of the Village;
- b. Each candidate for Council shall have been a resident of the Village for a minimum period of one year prior to qualifying for office;
- c. Each Council Member must reside in the District they represent for the duration of his/her term.

#### 3. Terms.

The term of office for Council Members shall be four years with the three Council members receiving the most votes serving a four year term and the other two Council members receiving a two year term. No Council member shall serve more than two consecutive terms. After one year out of office, a former Council Member may re-qualify for a seat on the Council. For purposes of calculating term limits as provided herein, partial terms shall not be counted towards term limits.

### **Section 4.03. Mayor; Vice-Mayor.**

#### 1. Mayor.

At the first regularly scheduled meeting following the Village's regular election, the Council, by a majority vote, shall elect from its membership a Mayor. The Mayor shall serve as chairperson during the meetings of the Council and shall serve as the head of municipal government for the purpose of the execution of legal documents as required by ordinance and as the public voice of the Council. The Mayor shall also serve as the ceremonial head of the Village. The term of the Mayor shall be for one year unless re-elected for an additional term at the Council reorganization meeting following the election of Council members.

#### 2. Vice-Mayor.

At the first regularly scheduled meeting following the Village's regular election, the Council, by a majority vote, shall elect from its membership a Vice-Mayor who shall serve as Mayor during the absence or disability of the Mayor and, if a vacancy of the Mayor occurs, shall become interim Mayor until the next regularly scheduled election. The term of the Vice-Mayor shall be for one year unless re-elected for an additional term at the Council reorganization meeting following the election of Council members.

### **Section 4.04. Compensation.**

The salary of each Council member, except for the Mayor, shall be \$6,000 per year, payable in equal monthly installments. The salary of the Mayor shall be \$9,000 per year, payable in equal monthly installments. An ordinance increasing or decreasing compensation of the Council may be adopted at any time; however, if the Council takes action to change the level of compensation, the salary of council members shall not be adjusted until after the first day following the next regular municipal election. The Council may provide for reimbursement of actual expenses incurred by its members, including the Mayor, while performing their official duties.

### **Section 4.05. Council Meetings.**

1. The Council shall schedule a minimum of twelve regular meetings each year. Special meetings may be held at the call of the Mayor or a majority of the Council members. At least a 24 hour notice will be provided to each Council Member for Special Meetings. Except as authorized by law, all meetings shall be open to the public and shall be advertised seven days before the meeting in a local newspaper.
2. Three members of the Village Council shall normally constitute a quorum for the conduct of business. Unless a quorum is present no action may be taken except to adjourn.
3. All Council members present shall vote on all matters before the Village Council except on those matters on which a Council member announces a conflict of interest or the Village Attorney determines that there is a conflict of interest.

#### **Section 4.06. Prohibitions.**

1. Neither the Council, nor any individual member of the Council, shall in any manner attempt to dictate the employment or removal of any employee other than the Village Manager, Village Attorney, and Village Clerk. Council is free to make inquiries of Village employees, but no individual member of the Council shall give orders to any officer or employee of the Village. Recommendations for the improvements in Village government operations shall come through the Village Manager, but each member of the Council shall be free to discuss or recommend improvements to the Village Manager, and the Council is free to direct the Village Manager to implement specific recommendations for improvement in Village government operations.
2. No present, future or former elected Village official shall hold any compensated appointive office or employment with the Village until one year after leaving office.

#### **Section 4.07. Vacancies; Forfeiture of Office; Filling of Vacancies.**

1. Vacancies.

A vacancy in the office of Council, Mayor or Vice-Mayor shall occur upon the death of the incumbent, inability to fulfill the duties of the office, movement of residence outside the District, resignation, appointment to another public office, judicially determined incompetence, or removal or forfeiture of office as described in this Article.

## 2. Forfeiture of Office.

A member of the Council may forfeit the office, if the member:

- a. Lacks at any time during the term of office any qualification for the office prescribed by this Charter or by law;
- b. Violates any express prohibition of this Charter;
- c. Is convicted of a felony or criminal misdemeanor which misdemeanor involves the office of Village Council;
- d. Is found to have violated any standard of conduct or code of ethics established by law for public officials or has been suspended from office by the Governor, unless subsequently reinstated as provided by law; or
- e. Misses three consecutive regularly scheduled Council meetings unless excused by the Council.

If any of these events should occur, a hearing shall automatically be conducted at the next regularly scheduled Council meeting, and the member may be declared to have forfeited office by majority vote of the Council.

## 3. Filling of Vacancies.

A vacancy on the Council, except for the position of Mayor, shall be filled as follows:

- a. If a vacancy occurs and the remainder of the unexpired term is 28 months or less, the remaining Council Members shall, within 60 days following the occurrence of such vacancy, by majority vote of the remaining Council Members, appoint a person from



the same district to fill the vacancy for the remainder of the unexpired term.

- b. If the remainder of the unexpired term exceeds 28 months, the remaining Council members shall, within 60 days following the occurrence of such vacancy, by majority vote of the remaining Council members, appoint a person from the same district to fill the vacancy until the next regularly scheduled city election at which time the balance of the term for the seat shall be filled pursuant to Article IX of this charter.
- c. If three or more Council vacancies occur at one time, the remaining Council Members shall, within 60 days following the occurrence of such vacancies, by a majority vote, appoint a person from the same District to fill such vacancies until the next regularly scheduled Village election at which time the balance of the term for the seats shall be filled pursuant to Article IX of this Charter.

#### **Section 4.08. Judge of Qualifications.**

The Council shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a Council Member's office, including whether good cause for absence has been or may be established. The Council shall have the power to set additional written standards of conduct for its members beyond those specified in this charter and may provide for such penalties as it deems appropriate, including forfeiture of office. In order to exercise these powers, the Council shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the Village at least 7 days in advance of the hearing.

The burden of establishing good cause for absences shall be on the Council Member in question; however, any Council Member may, at any time during duly held meeting, move to establish good cause for his or her absence. A Council Member whose qualifications are in question or who is otherwise subject to forfeiture of his/her office shall not vote on such matters.

## **Section 4.09. Investigations.**

The Council may undertake investigations into the affairs of the Village and the conduct of any Village department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the Council shall be a misdemeanor punishable by fines and/or imprisonment as outlined in Chapter 838, Fla. Stats.

The Council shall act on any such findings as it may determine to be in the best interest of the Village.

## **ARTICLE V. ADMINISTRATION.**

### **Section 5.01. Village Manager.**

#### **1. Appointment and Qualifications.**

The Council shall appoint a Village Manager for a set compensation. The Village Manager shall be appointed primarily on the basis of executive and administrative qualifications.

#### **2. Removal.**

The Village Manager may be suspended by a resolution approved by a majority vote of the Council, which shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall immediately be served upon the Village Manager. The Village Manager shall have 5 days to reply thereto in writing, and upon request shall be afforded a public hearing, which shall occur not earlier than 5 days or later than 30 days after such hearing is requested. After the public hearing, if one is requested, and after full consideration, the Council, by a majority vote of its membership, may adopt a final resolution of removal. The Village Manager will continue to receive full salary until the effective date of a final resolution of removal.

#### **3. Residency.**

The Village Manager need not be a resident of the Village at the time of the Manager's appointment and may reside outside the Village while in office, but Village residency is strongly encouraged.

#### 4. Powers and Duties of the Village Manager.

The Village Manager shall:

- a. Appoint, suspend, demote, or dismiss any Village employee under the Village Manager's jurisdiction in accordance with law, and may authorize any department head to exercise these powers with respect to subordinates in that department;
- b. Direct and supervise the administration of all departments of the Village except the office of the Village Attorney;
- c. Attend all Village Council meetings unless excused by Council, and shall have the right to take part in discussions, but not vote;
- d. See that all laws, Charter provisions, ordinances, resolutions, and other acts of the Council subject to enforcement are faithfully executed, and perform such other duties as are specified in this Charter and City Code;
- e. Submit the annual budget, budget message, and capital program to the Council and shall keep the Council fully advised as to the financial condition and future needs of the Village, and shall make such recommendations to the Council concerning the affairs of the Village as the Village Manager deems appropriate. The Village Manager shall promptly communicate with the Council his/her reasonable expectation of any significant deviations from an expenditure identified within the annual budget. The definition of "significant deviations" shall be determined by Council;
- f. Shall designate a qualified Village employee to exercise the powers and perform the duties of Village Manager during any temporary absence or incapacity of the Village Manager. The Council may revoke such designation at any time and appoint another qualified person, other than a currently seated Council

Member, to serve as acting Village Manager until the Village Manager returns or his/her incapacity shall cease;

- g. With the consent of Council, shall appoint an employee to serve as Village Clerk.

### **Section 5.02. Village Attorney.**

There shall be a Village Attorney, who shall be a member of the Florida Bar in good standing, appointed by the Council and who shall serve as per the terms of a contract to be negotiated by majority of Council Members and as the chief legal advisor to the Council and Village administrators, departments and agencies. The Village Attorney shall attend all Council meetings unless excused by Council and shall perform such professional duties as may be required by law or by the Council in the furtherance of law. The Council may remove the Village Attorney for any reason by a majority vote of its members.

### **Section 5.03. Village Clerk.**

There shall be a Village Clerk who shall be appointed by the Village Manager with the consent of the Council. The Village Clerk shall serve at the pleasure of the Village Manager and shall:

- a. Give notice of Council meetings to its members and the public;
- b. Keep the journal and minutes of the proceedings of the Council and its committees, which shall be public records;
- c. Authenticate by signature and record all ordinances and resolutions passed by Council;
- d. Be the custodian of the Village seal;
- e. Have the power to administer oaths;

- f. Perform such other duties as may be assigned by the Village Manager.
- g. The Village Clerk shall present the Council with an agenda for each meeting.

## **ARTICLE VI – DEPARTMENTS; PERSONNEL; PLANNING.**

### **Section 6.01. Committees; Boards; Departments.**

The Council may establish or terminate such committees, boards, or departments, as it determines necessary for the efficient administrative operation of the Village; such committees, boards, or departments, shall be created and disbanded by ordinance.

### **Section 6.02. Personnel.**

Consistent with all applicable state and federal laws, the Council shall provide by ordinance for the establishment, regulation, and maintenance of a system governing personnel policies necessary for the effective administration of employees of the Village's committees, boards, or departments.

### **Section 6.03. Planning.**

Consistent with all applicable state and federal laws with respect to land use, development and environmental protection, the Village Council shall:

- a. Designate an agency or agencies to execute the planning functions with such decision making responsibilities as may be specified by ordinance or Florida Statutes;
- b. Adopt a comprehensive plan and ensure that zoning and other land use control ordinances are consistent with the plan, all in accordance with Florida Statutes. The Greater Pine Island Community Plan approved by the Lee County Commission will serve as the initial comprehensive plan of the Village;

- c. Adopt zoning and/or development regulations, to be specified by ordinance, to implement the plan.

## **ARTICLE VII – ORDINANCES AND RESOLUTIONS.**

### **Section 7.01. Ordinances.**

#### 1. Definitions.

As used in this Charter, the following words shall have the following meanings:

Ordinance – an official legislative action of the Council, which action is a regulation of general and permanent nature and enforceable as a local law.

Resolution – an expression of the Council concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the Village.

### **Section 7.02. Adoption of Ordinances.**

The procedure for adoption of ordinances and resolutions shall be as provided by Section 166.041, Fla. Stats.

### **Section 7.03. Emergency Ordinances.**

To meet a public emergency affecting life, health, property, or the public peace, the Council may, except where prohibited by general law, adopt one or more emergency ordinances. Such emergency ordinances may not: levy taxes, grant, renew, or extend a franchise; regulate the rate charged by any utility for its services; or authorize the borrowing of money except as provided in this charter. No emergency ordinance or resolution shall be enacted which establishes or amends the actual zoning map designation of a parcel or parcels of land or that changes the list of permitted, conditional, or prohibited uses within a zoning category. An emergency ordinance shall be plainly designated as an emergency ordinance and shall contain, after the enacting of the clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance shall become effective upon adoption and automatically stand repealed as of the

61st day following the date on which it was adopted. This shall not prevent reenactment of such ordinance under regular procedures, or if the emergency continues to exist, in the manner specified in this Section.

## **ARTICLE VIII – FINANCIAL MANAGEMENT.**

### **Section 8.01. Fiscal Year.**

The fiscal year of the Village shall begin on the first day of October and end on the last day of September of each year.

### **Section 8.02. Submission of the Budget and the Budget Message.**

On or before the 15<sup>th</sup> day of July of each year, the Village Manager shall submit to the Council a budget in accordance with state law. It shall outline the financial policies of the Village for the ensuing fiscal year; describe the important features of the budget; indicate any major changes from the current year in financial policy, including any changes in budgetary accounting methods from the current years expenditures and revenues together with the reasons for such changes; summarize the Village's debt position; and include such other material as the Village Manager deems necessary.

### **Section 8.03. Budget.**

The budget shall provide a complete financial plan of all Village funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the Village Manager deems desirable or the Council may require for effective management and an understanding of the relationship between the budget and the Village's strategic goals. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated revenue, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated revenue and expenditures of the current fiscal year and actual revenue and expenditures of the preceding fiscal year.

It shall indicate in separate sections:

- a. The proposed goals and expenditures for the current operations during the ensuing fiscal year, detailed for each fund by department or by other organization unit, and program, purpose or activity, method of financing such expenditures, and methods to measure outcomes and performance related to the goals;
- b. Proposed longer-term goals and capital expenditures during the ensuing fiscal year, detailed for each fund by department or by other organization unit when practical, the proposed method of financing each such capital expenditure, and the methods used to measure outcomes and performance related to the goals; and
- c. The proposed goals, anticipated revenue and expenses, profit and loss for the ensuing year for each utility or other enterprise fund or internal service fund operated by the Village, and methods to measure outcomes and performance related to goals. For any fund, the total of proposed expenditures shall not exceed the total of estimated revenue plus carried forward fund balances exclusive of required reserves.

#### **Section 8.04. Village Council Action on Budget.**

The Council shall adopt the budget by resolution on or before the 30<sup>th</sup> day of September of each year. If the Council fails to adopt a budget by this date, the budget proposed by the Village Manager shall go into effect.

#### **Section 8.05. Administration of Budget.**

The Council shall provide, by ordinance, the procedures for administering the budget.

#### **Section 8.06. Budget Amendments After Adoption.**

1. Supplemental Appropriations.



If, during or before the fiscal year, the Village Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

## 2. Emergency Appropriations.

To address a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of Section 7.01(3) of this charter. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time.

## 3. Reductions of Appropriations.

If, at any time during the fiscal year, it appears probable to the Village Manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the Village Manager shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by the Village Manager and recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may, by ordinance, reduce or eliminate one or more appropriations.

## 4. Transfer of Appropriations.

At any time during the fiscal year, the Council may by resolution transfer part or all of the unencumbered appropriation balance from one department, fund, service, strategy or organizational unit to the appropriation for other departments or organizational units or a new appropriation. The Village Manager may transfer funds among programs within a department, fund, service, strategy or organizational unit and shall report such transfers to the Council, in writing, within 10 days of the transfer.

## 5. Limitation; Effective Date.

No appropriation for debt service may be reduced or transferred, and no appropriations may be reduced below any amount required by law to be appropriated, or by more than the unencumbered balance thereof. The supplemental and emergency appropriations and reduction of transfer of appropriations authorized by this section may be made effective immediately upon adoption.

**Section 8.07. Capital Program; Council Action on Capital Program; Public Records.**

1. Capital Program.

In conjunction with the submission of the budget, the Village Manager shall prepare and submit to the Council a 5-year capital program to include cost estimates, time schedules, methods of financing, and estimated annual costs of operation and maintenance for such capital improvements. This shall be revised and extended each year depending on which capital improvements are still pending or in process of construction or acquisition.

2. Council Action on Capital Program.

The Council shall publish in one or more newspapers of general circulation within the Village a summary of the capital program and a notice of not less than two public hearings on the capital program. The Council, by resolution, shall adopt the capital program with or without amendments after the public hearings and on or before the 15<sup>th</sup> day of August of the then current fiscal year.

3. Public Records.

Copies of the budget, capital program, and appropriation and revenue ordinances shall be public records and shall be made available to the public at suitable and published access places in the Village, and shall be available for purchase at a reasonable price.

**Section 8.08. Independent Audit.**

The Council shall provide for an annual independent audit of all Village accounts and pursuant to Florida Statutes may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public

accountant or a firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the Village government or in any of its officers. Residency in the Village shall not be construed as a prohibited interest.

## **ARTICLE IX – NOMINATIONS AND ELECTIONS.**

### **Section 9.01. Nonpartisan Elections; Electors; Qualifying.**

#### 1. Nonpartisan Elections.

All elections shall be conducted on a nonpartisan basis without any designation of political party affiliation.

#### 2. Electors.

Any person who is a resident of the Village, who has qualified as an elector of this State, and who registers as prescribed by law, shall be an elector of the Village.

#### 3. Qualifying.

- a. Each candidate for Village Council shall be a qualified elector of the Village and must be registered in the District for which they are standing for election that they wish to represent for at least 365 days preceding the election for which the person seeks to qualify.
- b. Any elector of the Village who wishes to become a candidate for Village Council shall qualify with the Lee County Supervisor of Elections for the initial election; thereafter, candidates shall qualify with the Village Clerk by providing proof of voter registration, current address, and/or one year residency.
- c. Qualifying period for candidates for Village Council shall begin at noon on the second Monday in January of odd numbered years and end at noon on the Friday immediately following.

### **Section 9.02. Elections.**

## 1. Adoption of Florida Election Code.

All elections required under any article or section of this Charter shall be conducted in accordance with the provisions of the Florida Election Code, Chapters 97-107, Fla. Stats., in its entirety and as it is subsequently amended, except as otherwise provided in this Charter.

The Council, by ordinance, may adopt such election procedures as are necessary and as provided by the Florida Election Code, Chapters 97-107, Fla. Stats.

## 2. Elections.

- a. The regular election of Council Members beginning 2019 will be the first Tuesday in March on each odd numbered year.
- b. Electors certified by Lee County Supervisor of Elections may vote for one candidate per their designated District for District One to District Five. The candidate receiving the highest number of votes in the District shall be elected to such seat.
- c. The four year term of office for an elected Council member shall begin on the second Tuesday following the Council election, and end on the Monday immediately preceding commencement of the following term. The two year term of office for an elected Council member shall begin on the second Tuesday following the Council election, and end on the Monday immediately preceding commencement of the following term.

## 3. Village Canvassing Board

The canvassing board shall consist of the Mayor or Council Member designated by the Mayor, the Village Clerk and the Lee County Supervisor of Elections who shall canvass the results. The election results shall be publicly announced after the election.

### **Section 9.03. Council Districts; Redistricting.**

1. There will be Five Village Council Districts. The Districts One to District Five shall be as roughly equal in permanent population as practicable, according to the population figures available from the most recent Lee County population estimate determined by the decennial United States census who reside within Village boundaries.

**Legal Descriptions for Five (5) Village Council Districts are as follows:**

Legal Descriptions for Five (5) Village Council Districts located within the boundary of The Village of Matlach-Pine Island. Population figures are from 2010 US Census using census block level data. The Bearings and distances are based on “The State Plane Coordinates System” Florida Zone West NAD 83 (CORS).

**DISTRICT 1-LEGAL DESCRIPTION**

All Land Laying in Part of Pine Island, Township 44 South Range 22 East Sections 28, 29, 32, 33, 34, and Township 45 South Range 22 East Sections 2- 5, together with All Land laying in Little Pine Island, West Island, Matlacha, and Mainland, Township 44 South Range 22 East Sections 14-16, 21-27, 34-36, Township 44 South Range 23 East Sections 18 and 19, Township 45 South Range 22 East Sections 1-3, together with that Area laying southerly of the City of Cape Coral Territorial Limit, More Specifically Matlacha Shores Subdivision-Plat Book 10, Page 29-, Matlacha Shores First Addition -Plat Book 10 page 42-, and Matlacha Isles – Plat Book 16, Page 133, Together with the unplatted area lying southerly of the above referenced subdivisions.

Less and except;

- 4- All of that part of unit 58, Plat Book 23, Pages 128 through 147, Cape Coral, lying in Section 18, Township 44 South, Range 23 East, and all of that part of unit 59, Plat Book 19, Pages 140 through 153, Cape Coral, also lying in Section 18, Township 44 South, Range 23 East.
- 5- The West half of the east half of the northeast quarter of the Northeast quarter (W 1/2 E1/2 NE 1/4 NE 1/4) of Section 19 Township 44 South, Range 23 East,
- 6- Lot 18 of Tract 2, of recorded map, being the west half of the east half of the east half of the northeast quarter of the northeast quarter (W 1/2 E1/2 E1/2 NE 1/4 NE 1/4) of Section 19, Township 44 South, Range 23 East.

**DISTRICT 2-LEGAL DESCRIPTION**

All Land Laying in Pine Island and, Bokeelia/Bocilla Islands (2 Island by Shell Cut/Shell Pass), Township 43 South Range 22 East, Township 44 South Range 22 East; Southerly Limited to the South Line of Section 21, Township 44 South, Range 22 East, Easterly and Northerly to the Pine

Island Boundary, and Westerly and North Westerly in 2 Course Limited to; 1- Stringfellow Road Center Line, From intersection of Southerly Line of Section 21 Township 44 South to the Intersection With East Line of Section 25 Township 43 South Range 21 East and, 2- along the East section Line, From Intersection of Stringfellow Road Center line with east Line of Section 25, Township 43 South Range 21 East, to The Point of intersecting with Pine Island Boundary.

### **DISTRICT 3-LEGAL DESCRIPTION**

All Land Laying in Pine Island, Bokeelia/Bocilla Islands, and Burgess Island/Little Bocilla Island Township 43 South Range 21 East, Township 43 South Range 22 East, Township 44 South Range 21 East, and Township 44 South Range 22 East; Southerly Limited to the South Line of Section 20 and 21, Township 44 South, Range 22 East, Westerly and Northerly to the Pine Island Boundary, and Easterly and North Easterly in 2 Course Limited to; 1- Stringfellow Road Center Line, From intersection of Southerly Line of Section 21 Township 44 South to the Intersection With East Line of Section 25 Township 43 South Range 21 East and, 2- along the East section Line, From Intersection of Stringfellow Road Center line with east Line of Section 25, Township 43 South Range 21 East, to The Point of intersecting with Pine Island Boundary.

### **DISTRICT 4-LEGAL DESCRIPTION**

All Land Laying in Pine Island, Township 45 South Range 22 East, Township 46 South Range 22 East; Northerly Limited to the North Line of Section 9 and 10, Township 45 South, Range 22 East, Westerly and Southerly to the Pine Island Boundary, and Easterly and North Easterly Limited to Stringfellow Road Center Line.

### **DISTRICT 5-LEGAL DESCRIPTION**

All Land Laying in Pine Island, Township 45 South Range 22 East, Township 46 South Range 22 East, Township 46 South Range 22 East; Northerly Limited to the North Line of Section 10 and 11 Township 44 South, Range 22 East, Easterly and Southerly to the Pine Island Boundary, and Westerly and North Westerly Limited to Stringfellow Road Center Line.

2. In the year 2019, and in odd-numbered years after each decennial United States census thereafter, and at any time required by law, the Council may redivide the Village into Five Districts as roughly equal in permanent population as practical.

#### **Section 9.04. Recall.**

The qualified voters of the Village shall have the power to remove from office an elected official for unethical or illegal conduct or actions resulting in the endangerment of the public health and safety, malfeasance of office, or dereliction of duties. In order to recall a Council Member, at least 25 percent of the total number of electors registered to vote in the last regular Village election within the District shall be needed to sign a petition to recall the Council Member from his or her District seat. If said number of signatures is collected and certified by the Lee County Supervisor of Elections, then a special recall election shall be held no later than 90 days after such certification. A recall election shall be held as provided for by the Florida Election Code.

### **ARTICLE X – INITIATIVE AND REFERENDUM.**

#### **Section 10.01. Power to Initiate and Reconsider Ordinances.**

The powers of initiative and referendum are hereby reserved to the qualified registered voters of the Village. The provisions of the election laws of the state, as they currently exist or may hereafter be amended or superseded, shall govern the exercise of the powers of initiative and referendum under this charter.

### **ARTICLE XI – GENERAL PROVISIONS.**

#### **Section 11.01. Code of Ethics.**

It is essential to the proper conduct and operation of the Village that the officers and employees of the Village be independent and impartial and for their office not to be used for private gain other than the remuneration provided by law or by ordinances. It is declared to be the policy of the Village that its officers and employees are agents of the people and hold their position for the benefit of the public. Therefore, all Village officers and employees shall adhere to the Standards of Conduct as set forth under Chapter 112, Part III, Fla. Stats., as amended from time to time.

#### **Section 11.02 Amendments to Charter.**

1. Amendments

The charter may be amended in accordance with the provisions for charter amendments as specified in the Municipal Home Rules Powers Act, Chapter 166, Fla. Stats., or as otherwise may be provided by general law. The Council may, by ordinance, or the qualified registered voters of the Village may, by petition signed by 10 percent of the electors registered to vote in the last regular Village election, submit to the electors of the Village a proposed amendment to any part or all of the Charter. The form, content, and certification of any petition to amend shall be established by ordinance.

2. Election.

The Council shall place the proposed amendment contained in the ordinance or petition to a vote of the electors of the Village at the next Village election or at a special election called for such purpose.

3. Adoption of Amendment.

If a majority of the registered voters of the Village vote in favor of a proposed Charter amendment, the amendment shall become effective at the time fixed in the amendment or, if no time is therein fixed, 30 days after its adoption by the voters.

**Section 11.03. Severability as to this Charter.**

If any provisions of this Charter, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Charter which can be given effect without the invalid provisions or application, and to this end the provisions of this Charter are declared severable.

**ARTICLE XII – REFERENDUM ELECTION; TRANSITION.**

**Section 12.01. Referendum Election.**

The referendum election called for by this act shall be held on November 6, 2018, at which time the following question shall be placed upon the ballot:



Shall Chapter \_\_\_\_, laws of Florida, creating The Village of Matlacha-Pine Island and providing for its Charter be approved?

YES \_\_\_\_\_

NO \_\_\_\_\_

In the event the question is answered affirmatively by a majority of voters voting in the referendum, the provisions of the Charter will take effect as provided for in this Charter. The referendum election shall be conducted by the Lee County Supervisor of Elections in accordance with the Florida Election Code as may be amended from time to time and the cost of such election shall be funded by Lee County.

**Section 12.02. Initial Election of Council.**

Following the adoption of this charter, The Lee County Commission shall call an election to be held on March 5, 2019, for the election of five Village Council Members. The election shall be conducted by the Lee County Supervisor of Elections in accordance with the Florida Election Code and the cost of such election shall be funded by Lee County.

Between noon on 71<sup>st</sup> day to noon on the 76<sup>th</sup> day prior to the election any individual who wishes to run for one of five initial seats on the Council shall qualify with the Lee County Supervisor of Elections in accordance with the provisions of this Charter and general law.

For the initial elections, the county canvassing board shall certify the results of the elections in accordance with general law.

The three (3) Council Members receiving the highest number of votes from District One through District Five shall be elected to four year terms and the other two (2) Council Members shall be elected to the initial two year terms. The Council Members elected to the initial two year term may serve, if re-elected, an additional four year term, which will constitute two terms for term limit purposes.

**Section 12.03. Schedule.**

1. First Election of Council Members.

At the time of its adoption, this Charter shall be in effect to the extent necessary in order that the first election of members of the Village Council may be conducted in accordance with the provisions of this Charter.

## 2. Time of Taking Full Effect.

This Charter shall be in full effect for all purposes on and after the date of the first meeting of the newly elected Village Council provided in Section 11.03.

## 3. First Council Meeting.

On the 19<sup>th</sup> day of March, 2019 following the first election of the Village Council under this Charter, the newly elected members of Council shall meet at a location to be determined.

- a. The initial Council shall have the authority and power to enter into contracts, arrange for the hiring of legal counsel, begin recruiting applicants for Village Manager, provide for necessary Village offices and facilities and do such other things as it deems necessary and appropriate for the Village.

### **Section 12.04. First Year Expenses.**

The Council, in order to provide moneys for the expenses and support of the city, shall have the power to borrow money necessary for the operation of municipal government until such time as a budget is adopted and revenues are raised in accordance with the provisions of this Charter.

### **Section 12.05. Transitional Ordinances and Resolutions.**

All applicable County ordinances currently in place at the time of passage of the referendum, unless specifically referenced herein, shall remain in place until and unless rescinded by action of the Council, except that a county ordinance, rule, or regulation which is in conflict with an ordinance, rule, or regulation of the Village shall not be effective to the extent of such conflict. Any existing Lee County ordinances, rules, and regulations, as of November 6, 2018, shall not be altered, changed, rescinded, or added to, nor shall any

variance be granted thereto insofar as such action would affect the Village without the approval of the Council.

The Council shall adopt ordinances and resolutions required to effect the transition. Ordinances adopted within 90 days after the first council meeting may be passed as emergency ordinance as provided in this charter except the transitional ordinances shall be effective for no longer than 90 days after adopting and thereafter, may be readopted, renewed, or otherwise continued only in the manner normally prescribed for ordinances.

#### **Section 12.06. Transitional Comprehensive Plan.**

Until such time as the Village adopts a comprehensive plan, the Lee County Comprehensive Plan and the amended Greater Pine Island Community Plan, as the same exists on the day the Village commences corporate existence, shall remain in effect as the Village's transitional comprehensive plan. However, all planning functions, duties, and authority shall thereafter be vested in the Council, which shall be deemed the Local Planning Agency until the Council establishes a separate Local Planning Agency.

#### **Section 12.07. Transitional Land Development Regulations.**

To implement the transitional comprehensive plan when adopted, the Village shall, in accordance with the procedures required by the law of the State of Florida, adopt ordinances providing for land development regulations within the corporation's limits. Until the Village adopts the ordinances:

- a. The comprehensive land use plan and land use development regulations of Lee County and the Greater Pine Island Community Plan, as the same exists on the date the Village commences corporate existence, shall remain in effect as the Village's transitional land development regulations and comprehensive land use plan.
- b. All powers and duties of the Lee County Department of Community Development, Lee County Hearing Examiner, and County Commission of Lee County, as set forth in these

transitional land development regulations, shall be vested in the Council until such time as the Council delegates all, or a portion thereof, to another agency, department, or entity.

- c. Subsequent to the adoption of a local comprehensive plan, subject to general law and after required advertising period, the Council is fully empowered to amend, supersede, enforce, or repeal the transitional land development regulations, or any portion thereof, by ordinance.
- d. Subsequent to the commencement of the Village's corporate existence, no amendment of the comprehensive plan or land development regulations enacted by the Lee County Commission shall be deemed an amendment of the Village's transitional comprehensive plan or land development regulations or otherwise take effect within the Village's municipal boundaries.

#### **Section 12.08. State Shared Revenues.**

The Village of Matlacha-Pine Island shall be entitled to participate in all revenue sharing programs of the State of Florida effective on the date of incorporation. The provisions of Section 218.23(1), Fla. Stats., shall be waived for the purposes of eligibility to receive revenue sharing funds from the date of incorporation through the state fiscal year **2019-2020**. For the purposes of meeting the provisions of Section 218.23(1), Fla. Stats., relating to ad valorem taxation, the millage levied by special districts may be used for indefinite period of time. Initial revised population estimates for calculating eligibility for shared revenues shall be determined by the University of Florida Bureau of Economic and Business Research. Should the Bureau be unable to provide an appropriate population estimate, the Lee County Department of Community Development shall provide the estimate.

#### **Section 12.09. Local Revenue Sources.**

The Village of Matlacha-Pine Island shall be entitled to receive all local revenue sources available pursuant to Florida Statute.

#### **Section 12.10. Local Option Gas Tax Revenues.**

The Village of Matlacha-Pine Island shall be entitled to receive local option gas tax revenues beginning **October 1, 2019**, in accordance with an interlocal agreement if executed prior to June 1, 2019. If said interlocal agreement is not executed prior to June 1, 2019, the distributions shall be in accord with the lane-mile formula contained in Section 336.025(4)(b)1, Fla. Stats.

#### **Section 12.11. Contractual Services and Facilities.**

Contractual services for, police, emergency management, public works, parks and recreation, planning and zoning, building inspection, development review, animal control, and solid waste collection may be supplied by a contract between the Village and Lee County, special districts, municipalities, or private enterprise until such time as the Council, with voter approval, may choose to establish such independent services. Facilities for housing the newly formed municipal operations may be rented or leased until the Village may choose to select more permanent facilities.

#### **Section 12.12. Independent Special Districts.**

It is recognized that certain services within the municipal boundaries are provided by independent special districts whose boundaries lie wholly within the municipal boundaries of The Village of Matlacha-Pine Island and are created by special acts of the Florida Legislature. The municipality with voter approval is empowered to merge the functions of said districts with those of the municipality only upon dissolution of the said district, or upon affirmation of a vote of a majority of the Council and an affirmative vote of the majority of the Council or Board governing the district after meeting all requirements for merger or dissolution in the district's enabling legislation and Chapter 189, Fla. Stats. It is recognized that certain planning and interlocal agreements may be necessary between the Village and such districts and the Council shall endeavor to maximize the benefits of the districts to the fullest extent possible. In the event the Council desires to supplement or duplicate services determined to be inadequate, the Council is fully empowered to do so.

#### **Section 12.13. Elimination of Transition Elements From This Charter.**

Upon completion of the transition phase as contained herein, those section of the charter relating to transition may be eliminated from this charter.

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