ORDINANCE NO. 12-14

AN ORDINANCE AMENDING LEE COUNTY LAND DEVELOPMENT CODE, CHAPTERS 14, 30, 33, AND 34 TO PROVIDE REFERENCES TO THE MATLACHA PLANNING COMMUNITY AND AMENDING CHAPTER 33 TO CREATE ARTICLE VI FOR NEW DEVELOPMENT REGULATIONS SPECIFIC TO THE MATLACHA PLANNING COMMUNITY, INCLUDING ZONING HEIGHT, BULK, SETBACK AND OTHER STANDARDS DESIGNED SPECIFICALLY FOR MATLACHA RESIDENTIAL NEIGHBORHOODS; AND AMENDING APPENDIX I TO PROVIDE A NEW MAP 16 DEPICTING THE MATLACHA PLANNING COMMUNITY.

WHEREAS, Florida Statutes Section 125.01(1)(h) authorizes counties to establish, coordinate, and enforce zoning regulations necessary for the protection of the public; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, has adopted a comprehensive Land Development Code (LDC); and,

WHEREAS, the LDC contains regulations applicable to the development of land in Lee County; and,

WHEREAS, the Board of County Commissioners created the Greater Pine Island Plan, codified under Goal 14 of the Lee County Comprehensive Land Use Plan (Lee Plan); and,

WHEREAS, the Greater Pine Island Plan Policy 14.3 states that County regulations, policies, and discretionary actions will recognize certain unique characteristics of Greater Pine Island that justify different treatment of existing and future residential areas than in mainland Lee County, and that Matlacha is noted for its unique island village character that necessitates a distinct regulatory treatment; and,

WHEREAS, the Greater Pine Island Plan Policy 14.5.3 states that the County will evaluate the effects of county regulations on designated historic districts and other districts of local concern, and will modify such regulations where necessary to protect both the interests of owners of historic structures and the health, safety, and welfare of the general public; and,

WHEREAS, a new Article VI of LDC Chapter 33 will create relevant zoning height, bulk, setback and other standards designed specifically for Matlacha residential neighborhoods. These new standards take into account the small platted lots of the
community, correct the problem of almost mandatory variances for residential home construction and amend building height, lot coverage, set back and other zoning standards to support harmonious neighborhood character and waterbody views; and,

WHEREAS, the Community plan amendments to the Lee Plan include policies that should be implemented through amendments to the Lee County Land Development Code; and,

WHEREAS, Goal 24 of the Lee Plan mandates that the County maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner; and,

WHEREAS, the Board of County Commissioners, through the creation of LDC Chapter 33, has begun to centralize LDC provisions that are applicable only to certain planning communities within the County; and,

WHEREAS, the creation of new Articles VI in LDC Chapter 33 will provide specific, centralized regulations for the Matlacha Planning Community; and,

WHEREAS, regulations applicable to the Matlacha Community will be more readily understood and uniformly applied if codified in the new Article in LDC Chapter 33; and,

WHEREAS, Lee Plan Policies 14.5.3, 24.1.9, 52.1.1 and 110.6.2 require county staff and private citizen committees to review existing development regulations to determine whether the regulations can be further fine tuned and streamlined in order to meet the Goals, Objectives, and Policies of the Lee Plan; and,

WHEREAS, the proposed development regulations are designed to meet the Goals and Objectives of the Lee Plan; and,

WHEREAS, the LDCAC has reviewed the proposed amendments to the LDC on June 10, 2011 and July 8, 2011, and recommended their adoption; and,

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the Code on July 13, 2011, and recommended their adoption; and,

WHEREAS, the Local Planning Agency reviewed the proposed amendments on August 22, 2011, and found them consistent with the Lee Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:
SECTION ONE: AMENDMENT TO LDC CHAPTER 14
Lee County Land Development Code Chapter 14 is amended as follows with strike through identifying deleted text and underline identifying new text.

Chapter 14 Environment and Natural Resources

ARTICLE I. IN GENERAL

Sec. 14-1. Planning community regulations.

Activities in the following communities must also comply with the regulations set forth in chapter 33 pertaining to the specific community

(a) Estero Planning Community.
(b) Greater Pine Island.
(c) Page Park.
(d) Caloosahatchee Shores.
(e) Lehigh Acres.
(f) North Fort Myers.
(g) Matlacha.

Balance of provisions remains unchanged.

SECTION TWO: AMENDMENT TO LDC CHAPTER 30
Lee County Land Development Code Chapter 30 is amended as follows with strike through identifying deleted text and underline identifying new text.

Chapter 30 Signs

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 30-56. Planning community regulations.

Applications and permit approvals for signs and sign structures associated with projects located in the following planning communities must also comply with the regulations set forth in Chapter 33 pertaining to the specific planning community.

(a) Estero Planning Community.
(b) Greater Pine Island.
(c) Page Park.
(d) Caloosahatchee Shores.
(e) Lehigh Acres.
(f) North Fort Myers.
(g) Matlacha.

Balance of provisions remains unchanged.
SECTION THREE: AMENDMENT TO LDC CHAPTER 33
Lee County Land Development Code Chapter 33 is amended as follows with strike through identifying deleted text and underline identifying new text.

Chapter 33 Planning Community Regulations

ARTICLE VI. MATLACHA RESIDENTIAL OVERLAY

DIVISION 1. IN GENERAL

Sec. 33-1450. Applicability.

The provisions of this article apply to all residential development located within Matlacha’s Island Harbor, and the southern portion of the Crows Subdivisions, with the exception of residential properties located within the Matlacha Historic District (see Map 16 in Appendix I).

Sec. 33-1451. Definitions.

The following definitions are in addition to those set forth in other chapters of the Code and are applicable to the provisions contained in this article only. If, when construing the specific provisions contained in this article, these definitions conflict with definitions found elsewhere in this Code, then the definitions set forth below will control. Otherwise the definitions contained elsewhere in this Code will control. If a term is not defined, the term must be given its commonly understood meaning unless there is a clear indication of an intent to construe the term differently from its commonly understood meaning.

Building Coverage means the horizontal area measured from the outside of the exterior walls of the principal and accessory buildings on a lot, excluding non-ground floor porches, balconies and similar areas without central heating and cooling.

Building Height means the maximum vertical extent of the building as measured at a 90-degree vertical angle from the Design Flood Elevation to the roof peak.

Design Flood Elevation means the required elevation of lowest floor in A zones and lowest horizontal structural member in V zones.

Lot Coverage means that portion of the lot area, expressed as a percentage, occupied by the principal residential structure and detached garage or accessory shed structures. Ground floor porches, patios, decks, that are lower than the minimum FEMA flood elevation, along with swimming pools, driveways and walkways, are excluded in the determination of lot coverage.

Substantial improvement has the same meaning as provided in section 6-333.
Vertical Plane means a facade height measurement beginning at the minimum Design Flood Elevation and measured at a 90 degree vertical angle from the horizontal, extending to the intersection of the soffit to the vertical building facade so as to limit the maximum vertical extent of the building's side facades.

Sec. 33-1452. Variances.

(a) Variances. Variances within the Matlacha Overlay District for building coverage, building height, and vertical plane regulations are limited as follows:

(1) Substantially Improved Construction and New Construction. Variances from building coverage, building height, and vertical plane regulations are prohibited for substantially improved construction as defined in section 33-1451 and new building construction as defined in section 6-333.

(2) Construction that is not Substantially Improved and Existing Construction. Variances from building coverage, building height, and vertical plane regulations are permitted for building construction that is not substantially improved if the improvement costs do not exceed 50% of the market value, as established under Chapter 6, Article IV Flood Hazard Reduction.

(b) Unless prohibited in Sec. 33-1452(a), a variance from this Article may be approved if the following criteria are met:

(1) there are exceptional or extraordinary conditions or circumstances that exist which are inherent in the land, structure or building involved and those exceptional or extraordinary conditions or circumstances create a hardship on the property owner;

(2) the exceptional or extraordinary conditions or circumstances are not the result of the actions of the applicant;

(3) strict compliance of the regulations would not permit the property owner's reasonable use of the property;

(4) the variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties located within the Matlacha Overlay area; and

(5) Granting the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(c) In addition to the application submittal items identified within LDC 34-203(f), the following items are required to be submitted for property rezoning, variance requests:
(1) A graphic exhibit drawn to scale that depicts all existing residential structures within 100 feet of the perimeter boundary of the site that includes identifying those structures front, side and rear setback dimensions.

(2) Architectural elevations at measurable scale for all four sides of the proposed new residential structure.

(3) Photographs at minimum 5 inch by 7 inch of the subject property and all existing properties with residential structures within 100 feet of the perimeter boundary of the site.

Sec. 33-1453 through 33-1455. Reserved.

DIVISION 2. DEVELOPMENT STANDARDS AND SPECIFICATIONS

Sec. 33-1456. Applicability.

(a) The development standards and specifications requirements of this Division will only apply to all new single-family, duplex, two family-attached, mobile homes and manufactured homes constructed after the effective date of this article within the Island Harbors S./D. and the southern portion of the Crows S./D., excluding residential homes located within the Matlacha Historic Overlay District. The following requirements are not intended to affect a property owner’s right to build back as provided under the Lee Plan build-back policy.

(b) The provisions of this Division will apply to existing single-family, duplex, two family-attached, mobile home, and manufactured homes and substantially improved homes when the costs of reconstruction, rehabilitation, addition, or other alteration of the structure, or portions thereof, exceed 50% of the current market value of the structure before the “start of construction” of the improvement. This Division will not apply to interior remodels of an existing structure when the remodel does not affect the outward appearance of the structure. This Division will apply to replacement of existing air conditioning units only when the replacement unit is planned to be moved from its current location.

Sec. 33-1457. Roof Standards.

(a) The primary residential structure must use hip or gable roofs.

(b) For the primary residential structure, flat roofs and mansard roofs are prohibited; unless the building is single story.

(c) The use of dormers is acceptable above the vertical plane.
Sec. 33-1458. Building Height and Vertical Plane.

The maximum vertical plane of a building may not exceed 21 feet, measured from the minimum design flood elevation. The maximum building height of a building may not exceed 32 feet, measured from the Design Flood elevation to the roof peak. See Fig. 1.

![Diagram of Building Height and Vertical Plane]

Figure 1 (Building Height and Vertical Plane)

Sec. 33-1459. Foundation Standards.

Foundations for construction or reconstruction of new residential buildings may not utilize lot fill that exceeds 1.5 feet in height. The 1.5-foot height will be measured from the existing average site grade elevation.


(a) Pool cages may not exceed twelve feet in height as measured from the lot's street grade elevation to the point of attachment of the cage structure to the house facade (Figure 2). Pool cages may not exceed fourteen feet in height as measured from the lot's street grade elevation to the peak top of the pool cage.

(b) Pool deck height may not exceed 30 inches above design flood elevation.
Sec. 33-1461. Air Conditioning Standards.

(a) Excluding the replacement of an AC unit, a landscape buffer is required around air conditioning units placed within the front yard. All plantings within the buffer must be native, must be located around three sides of the air conditioning unit at a minimum single row, and must be planted and maintained at a minimum height of 36 inches, or equal to the height of the AC unit, so to provide for noise attenuation and visual screening.

(b) The location and placement of all air conditioning units, along with buffering if required, are to be depicted on the building permit plan.

(c) Rear yard and roof mounted air conditioning units are prohibited.

Sec. 33-1462. Corner Lot Setbacks.

The front, side, and rear yard setbacks will be located in accordance with Figure 2 for the following corner lots:

Second Addition to Island Harbors PB 9 PG 107
- Bayshore & Island - Lot 105
- Bayshore & Island - Lot 133
- Cay Cove & Island - Lot 104
- Cay Cove & Island - Lot 88
- Broadwater & Island - Lot 87
- Broadwater & Island - Lot 76
- Harborview & Island - Lot 75
- Harborview & Island - Lot 68

Third Addition to Island Harbors PB 10 PG 97
- Bayshore & Island - Lot 149
- Bridgeview & Island - Lot 150
- Bridgeview & Island - Lot 184
- Clyde & Island - Lot 191

Fourth Addition to Island Harbors PB 10 PG 98
- Clyde & Island - Lot 228
- Geary & Island - Lot 229
- Geary & Island - Lot 273
- Bruce & Island - Lot 289

Fifth Addition to Island Harbors PB 10 PG 99
- Bruce & Island - Lot 335
• Velma & Island - Lot 336
• Velma & Island - Lot 379
• Janet & Island - Lot 386

Sixth Addition to Island Harbors Unit One PB 10 PG 119
• Janet & Island - Lot 416

Sixth Addition to Island Harbors Unit Two PB 12 PG 93
• Cheryl & Island - Lot 454
• Triggerfish & Island - Lot 455
• Triggerfish & Island - Lot 466
• Island - Lot 467

Figure 2 (s. 33-1462)
Sec. 33-1463. Property Development Regulations Table.

The property development in the Matlacha Residential Overlay district must comply with the following development regulations:

<table>
<thead>
<tr>
<th>Matlacha Overlay Development Standards</th>
<th>Lot Area Less than 2,499 Sq.Ft.</th>
<th>Lot Area From 2,500 to 6,499 Sq.Ft.</th>
<th>Lot Area More than 6,500 Sq.Ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Area</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Lot Coverage:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ground Floor Lot Coverage</td>
<td>Maximum 40%</td>
<td>Maximum 40%</td>
<td>Maximum 40%</td>
</tr>
<tr>
<td>Second Floor Building Coverage</td>
<td>Maximum 80% of Ground Floor Lot Coverage</td>
<td>Maximum 80% of Ground Floor Lot Coverage</td>
<td>Maximum 80% of Ground Floor Lot Coverage</td>
</tr>
<tr>
<td>Height (5)</td>
<td>Maximum 32 Feet</td>
<td>Maximum 32 Feet</td>
<td>Maximum 32 Feet</td>
</tr>
<tr>
<td>Vertical Plane (5)</td>
<td>Maximum 21 Feet</td>
<td>Maximum 21 Feet</td>
<td>Maximum 21 Feet</td>
</tr>
<tr>
<td>Setbacks:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front Yard</td>
<td>Minimum 18 Feet</td>
<td>Minimum 18 Feet (3)(6)</td>
<td>Minimum 20 Feet (1)(8)</td>
</tr>
<tr>
<td>Side Yard</td>
<td>Minimum 5 Feet</td>
<td>Minimum 7.5 Feet</td>
<td>Minimum 7.5 Feet</td>
</tr>
</tbody>
</table>

Notes:
1. For lot depth greater than 80 feet, the Front Yard Setback is 20 feet.
2. For lot depth greater than 90 feet, the Front Yard Setback is 25 feet.
3. For lot depth less than 50 feet, the Rear Yard and Rear Yard Waterbody Setbacks are 10 feet.
4. For lot depth greater than 50 feet, the Rear Yard and Rear Yard Waterbody Setbacks are 12 feet.
5. See Sec. 34-1458, Figure 1.

SECTION FOUR: AMENDMENT TO LDC CHAPTER 34
Lee County Land Development Code Chapter 34 is amended as follows with strike through identifying deleted text and underline identifying new text.

CHAPTER 34 ZONING
ARTICLE I. IN GENERAL

Sec. 34-6. Compliance with specific planning community requirements.

If the subject property is located in one of the following communities, the owner/applicant will be required to demonstrate compliance with the requirements applicable to the specific community as outlined in chapter 33.

(1) Estero Planning Community.
(2) Greater Pine Island.
(3) Page Park.
(4) Caloosahatchee Shores.
Balance of provisions remains unchanged.

ARTICLE II. ADMINISTRATION.

Division 6. Applications and Procedures for Changes, Permits, Interpretations and Approvals.

Sec. 34-202. General submittal requirements for application requiring public hearing.

(a) All applications. Every request for actions requiring a public hearing under this chapter must include the following. However, upon written request, on a form prepared by the County, the Director may modify the submittal requirements contained in this section where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request for a waiver or modification must be submitted to the Director prior to submitting the application. A copy of the request and the Director’s written response must accompany the application and will become a part of the permanent file.

(1) thru (9) remain unchanged.

(10) Compliance with specific planning community requirements. If the subject property is located in one of the following planning communities, the owner/applicant will be required to demonstrate compliance with the requirements applicable to the specific community as outlined in Chapter 33.

a. Estero Planning Community.
b. Greater Pine Island.
c. Page Park.
d. Caloosahatchee Shores.
e. Lehigh Acres.
f. North Fort Myers.
g. Matlacha.
SECTION FIVE: AMENDMENT TO LDC APPENDIX I
Lee County Land Development Code Appendix I is amended to include the following Map 16.

**Map 16 - Matlacha Residential Overlay**

**SECTION SIX: CONFLICTS OF LAW**
Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

**SECTION SEVEN: SEVERABILITY**
It is the Board of County Commissioner’s intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

**SECTION EIGHT: CODIFICATION AND SCRIVENER’S ERRORS**
The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code. Sections of this ordinance can be renumbered or relettered and the
word “ordinance” can be changed to “section”, “article,” or other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his designee, without the need for a public hearing.

SECTION NINE: EFFECTIVE DATE
This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The provisions of this ordinance will apply to all projects or applications subject to the LDC unless the application for such project is complete and found sufficient before the effective date hereof.

Commissioner Judah made a motion to adopt the foregoing ordinance, seconded by Commissioner Manning. The vote was as follows:

<table>
<thead>
<tr>
<th>Name</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>John Manning</td>
<td>Aye</td>
</tr>
<tr>
<td>Brian Bigelow</td>
<td>Nay</td>
</tr>
<tr>
<td>Ray Judah</td>
<td>Aye</td>
</tr>
<tr>
<td>Tamara Hall</td>
<td>Nay</td>
</tr>
<tr>
<td>Frank Mann</td>
<td>Aye</td>
</tr>
</tbody>
</table>

DONE AND ADOPTED this 12th day of June, 2012.

ATTEST:
CHARLIE GREEN, CLERK

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

BY: Marcia Wilson
Deputy Clerk

BY: John Manning, Chair

Approved as to form by:

County Attorney’s Office
June 20, 2012

Honorable Charlie Green
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Ms. Marcia Wilson, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated June 18, 2012 and certified copy of Lee County Ordinance No. 12-14, which was filed in this office on June 19, 2012.

Sincerely,

Liz Cloud
Program Administrator

LC/srd
June 26, 2012

Liz Cloud  
Department of State  
Bureau of Administrative Code  
The RA Gray Building  
500 South Bronough St.  
Tallahassee, FL 32399-0250

RE: Ordinance No. 12-14  
Lee County, Florida

Dear Ms. Cloud:

Enclosed is a copy of replacement pages 7 and 10 for Ordinance No. 12-14, adopted by the Board of Lee County Commissioners on June 12, 2012. Please replace pages 7 and 10 with the attached pages so that it correctly reflects the text adopted by the Board of County Commissioners.

Please use the enclosed envelope when sending your acknowledgment of receipt to our office. Thank you for your cooperation.

Sincerely,

Charlie Green, Clerk

Marcia Wilson  
Deputy Clerk

Enclosure
June 29, 2012

Honorable Charlie Green
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Ms. Marcia Wilson, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated June 26, 2012 and replacement pages 7 and 10 of Lee County Ordinance No. 12-14, which were filed in this office on June 28, 2012.

Sincerely,

Liz Cloud
Program Administrator

LC/srd