

**SECOND SIXTH AMENDED AND RESTATED DECLARATION OF
EASEMENTS, COVENANTS, CONDITIONS, AND RESTRICTIONS
REGARDING VENETIAN VILLAS UNIT OWNERS' ASSOCIATION, INC.**

Note: Underline indicates additions to text,
and ~~Strikethrough~~ indicates deletions in text.

This ~~Second~~ Sixth¹ Amended Declaration is made by ~~Regency Development Corporation, a Florida corporation, hereinafter called "Developer"~~ the Venetian Villas Unit Owners' Association, Inc., 105 Quay Assisi, New Smyrna Beach, Florida 32169²
New Smyrna Beach, Volusia County, Florida, by and through, joined in, approved by,
and ratified by, not less than ~~90%~~ 75%³ of the lot owners in ~~Venetian Villas~~ the Venetian Villas Unit Owners' Association, Inc., in accordance with the amendment provisions contained in Article X, GENERAL PROVISIONS, Section 3, Amendment of that certain Declaration of Easements, Covenants, Conditions and Restrictions, regarding Venetian Villas Unit Owners' Association, Inc. as recorded in Official Records of Volusia County,

¹ The Declaration for Venetian Villas Unit Owners' Association, Inc. was recorded on March 16, 1981 (OR BK 2404 PG 1561); the declaration was amended on December 3, 1982 (BK 2606 PG 0566); the declaration was amended for a second time on February 7, 1985 (BK 2674 PG 0156); the declaration was amended for a third time on November 8, 1985 (OR BK 2753 PG 0159); the declaration was amended for fourth time on June 11, 1985 (OR BK 2811 PG 1205); and for a fifth time on August 10, 1987 (OR BK 3021 PG 1724).

² The Association's Business Office is located at 308 North Orange Street, New Smyrna Beach, Florida, 32168.

³ Article X, Section 3, of the Second Amended Declaration provides that "Hereafter this Declaration may be amended by not less than 75% of lot owners voting at an election held for said purpose." § 720.306 of the Florida Statutes provides: "any governing document of an association may be amended by the affirmative vote of two-thirds of the voting interests of the association."

1 Florida, in Book 2404 3021, Page 1561 1724, and specifically as recorded at Page 1583
2 1746, ~~Public Records of Volusia County, Florida.~~

3 This ~~Second~~ Sixth Amended Declaration supersedes and amends and specifically
4 rescinds any and all provisions in conflict herewith that are contained in that certain
5 Declaration of Easements, Covenants, Conditions and Restrictions regarding Venetian
6 Villas as recorded in Official Records Book 2404, Page 1561, Public Records of Volusia
7 County, Florida [original declaration]; that amendment recorded in Official Records
8 Book 2406, Page 0566, Public Records of Volusia County, Florida [*in fact the first*
9 *amended declaration*]; that ~~second-amended~~ amendment recorded in Official Records
10 Book 2674, Page 0156, Public Records of Volusia County, Florida [*in fact the second*
11 *amended declaration*], and that Amended Declaration of Easements, Covenants,
12 Conditions and Restrictions regarding Venetian Villas, together with that certain
13 prospectus, recorded in the Official Records Book 2753, Page 0159 to Page 0211
14 inclusive, Public Records of Volusia County, Florida [*in fact the third amended*
15 *declaration*]; that amendment recorded in Official Records Book 2811, Page 1205, Public
16 Records of Volusia County, Florida ⁴ [*in fact the fourth amended declaration*]; and, that
17 amendment recorded in Official Records Book 3021, Page 1724, Public Records of
18 Volusia County, Florida [*in fact the fifth amended declaration and erroneously entitled*
19 *second amended declaration*].
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⁴ To include land dedicated that was inadvertently omitted from legal description in the Declaration. This area is the apartments across the street. This appears to be a developer's error.

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NOW, THEREFORE, Developer Venetian Villas Unit Owners' Association, Inc. hereby amends and restates its Declaration of Easement, Covenants, Conditions, and Restrictions and declares that all of the real property described here above shall be held, sold, and conveyed subject to the following Easements, Covenants, Conditions and

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Sixth Amended Declaration
Venetian Villas Unit Owners' Association
Adopted April 8, 2013

1 Restrictions which are for the purpose of protecting the value and desirability of, and
2 which shall run with the said real property (run with the land) and be binding upon all
3 parties having a right, title or interest therein, or any part thereof, their respective heirs,
4 personal representatives, successors and assigns; and which shall inure to the benefit of
5 the Association and each owner thereof, as said terms are hereinafter more particularly
6 defined.

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ARTICLE I

9

10

DEFINITIONS AND CONSTRUCTION

11

12 **Section 1.** “Association” shall mean and refer to Venetian Villas Unit
13 Owners’ Association, Inc., a Florida not-for-profit Corporation, its successors and
14 assigns, said corporation being organized pursuant to Chapter 617, Florida Statutes, and
15 being filed with the Department of State Florida on April 27, 1981.

16

17 **Section 2.** “Common Area” is that property depicted as common area on the
18 map of Venetian Villas as it is recorded in Map Book 38, Pages 13 and 14, Public
19 Records of Volusia County, Florida, and as amended and superseded by that plat of
20 Venetian Villas Block “A” re-plat as it is recorded in Map Book 40, Pages 8, 9, 10,
21 Public Records of Volusia County, Florida. It also includes certain portions of the dock
22 as hereinafter defined.

1 ~~Section 3. "Developer" shall mean and refer to the REGENCY DEVELOPMENT~~
2 ~~CORPORATION, its successors and assigns.~~

3 **Section 3. "Declaration of covenants," or "declaration," means a recorded**
4 written instrument or instruments in the nature of covenants running with the land which
5 subject the land comprising the community to the jurisdiction and control of an
6 association or associations in which the owners of the parcels, or their association
7 representatives, must be members.

8
9 **Section 4. "Docking Facilities"** ~~are those docking facilities that have been~~
10 ~~made available by the Developer. That portion of the docking facilities, that is to say,~~
11 ~~specifically, the dock or pier that is easterly of and parallel to the property comprising~~
12 Venetian Villas, along with the walkways thereto and lying westerly thereof, shall be
13 considered as part of the common area. Those walkways or stringers that are
14 perpendicular to the Venetian Villas and lie easterly of the common walkway or pier,
15 together with the water surrounding and vessel tied thereto (the slip) shall be considered
16 private property. ~~The private property shall be sold separately and at such additional~~
17 ~~costs as set by the Developer, and on a first come first served basis, to lot owners. Once~~
18 sold, [T]he private docking facility shall be considered as personally appurtenant to a
19 particular lot and may not be assigned, sold or sublet by the owner thereof other than to
20 another lot owner, unless sold, assigned or sublet along with the particular lot to which
21 the private docking facility is appurtenant. The maintenance and upkeep of the common
22 area portion of the docking facility shall be the responsibility of the Association. The

1 maintenance and upkeep of the portion of the docking facilities that are considered
2 private shall be the responsibility of the particular owner of the said private docking
3 facility. Roofs and/or hoists shall not be allowed as docking facilities.

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5 **Section 5. "Family" shall mean one or more persons related by blood,**
6 **marriage, adoption, or guardianship, or not more than four persons not so related, living**
7 **in one household.**⁶

8
9 **Section 6. "Invited Guest" shall mean any person who is invited by a lot**
10 **owner to an owner's residence to visit that lot owner.**

11
12 **Section 7. 5. "Lot" shall mean those lots that have been depicted on the plat of**
13 **Venetian Villas as it is recorded in Map Book 38, Page 13 and 14 of the Public Records**
14 **of Volusia County, Florida as amended and superseded on certain plat or map of**
15 **Venetian Villas Block "A", Replat, as it is recorded in Plat Book 40, Pages 8 , 9, and 10**
16 **Public Records of Volusia County, Florida, whether improved or unimproved. A lot shall**
17 **not include any common area.**

18
19 **Section 8. 6. "Mortgage" shall mean any mortgage, deed of trust, or other**
20 **instrument transferring any interest in any lot, or any portion thereof, as security for the**
21 **performance of any obligation.**

22

⁶ See, City of New Smyrna Beach, Florida, *Land Development Regulations* for definition of *family*.

1 **Section 9. 7. "Mortgagee"** means any person named as an obligee under any
2 mortgage as hereinabove defined or as any successor in interest to such person under
3 such mortgage.

4
5 **Section 10. 8. "Owner"** shall mean and refer to the record owner, whether or not
6 one or more persons or entities, or whether a natural person or artificial legal entity, or a
7 fee simple title to any lot which is a part of the property, but excludes those having an
8 interest merely as a security for performance of an obligation.

9
10 **Section 11. 9. "Property"** shall mean and refer to certain real property
11 hereinabove described as Venetian Villas, Block "A", together with all improvements
12 and fixtures thereon and appurtenant.

13
14 **Section 12. 10. "Recorded"** means filed for record in the Public Records of
15 Volusia County, Florida.

16
17 **Section 13. "Trade or Business"** means any activity carried on for the
18 production of income from selling goods or performing services., except and excluding
19 Home Occupations that are allowed under §801.06 of the City of New Smyrna Beach
20 Land Development Regulations.⁷

⁷ §801.06. Home occupations. A. A home occupation shall be permitted as an accessory use in all residential districts, provided that: (1) Such occupation shall be conducted entirely within the dwelling unit used as the residence and shall not occupy more than 20 percent of the cumulative floor area; (2) No persons other than members of the household shall be engaged in such occupation; (3) The use of the

1 **Section 14. 11. Interpretation.** Unless the context otherwise requires the
2 use herein of the singular shall include the plural and vice versa, and the use of one
3 gender shall include all genders; and the use of the term “including” shall mean
4 “including, without limitation.” This Declaration shall be liberally construed in favor of
5 the party seeking to enforce the provisions herein to effectuate the purpose of protecting
6 and enhancing the value, marketability, and desirability of the property by providing a
7 common plan for the development and preservation thereof. The headings used herein
8 are for indexing purposes only and shall not be used as a means of interpreting or
9 construing the substantive provisions hereof.

10

dwelling unit for the home occupation shall be clearly incidental and secondary to the use of the dwelling for residential purposes, and such use shall not change the residential character thereof; (4) There shall be no structural additions, enlargements or exterior alterations to the residence or premises, signs, or other visible evidence of such home occupation; (5) No additional and separate entrance incongruent with the residential structural design shall be constructed for the purpose of conducting the home occupation; (6) No advertisement directs consumers to the home or is located at the home; (7) The home occupation shall not generate the visitation by clients, customers, salesmen, suppliers or any other persons to the premises which results in vehicular traffic generation of more than one vehicle at any one time, or of more than a total of 12 vehicles per day; (8) No provision for off-street parking or loading facilities, other than the requirements of the residential district in which the use is located, shall be permitted; no part of a required yard shall be used for such off-street parking or loading purposes; and no additional driveways to serve such home occupation shall be permitted; (9) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference outside the dwelling. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises; (10) No home occupation shall interfere with the residential uses of adjoining property; (11) A home occupation shall be required to have a city occupational license. B. The following types of occupations are allowed to use a residence address for an occupational license. However, no advertising shall direct consumers to the residence and all vehicles used for the business shall be parked inconspicuously on their property: (1) Contractors and subcontractors. (2) Lawn care and maintenance businesses. (3) Home, office, condominium, business cleaners. (4) Gardeners and care takers.

ARTICLE II

GENERAL PROVISIONS

Section 1. Owners' Easements of Enjoyment. Every owner shall have the right and easement of enjoyment in and to the common area which shall be appurtenant to and shall pass with the title of every lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of recreational facilities situated upon the common area.

(b) The right of the Association to suspend the voting rights and right to use recreational facilities as hereinafter is more particularly provided. ~~by an owner for any period during which any assessment against his lot remains unpaid; and for a period not exceeding sixty (60) days for any infraction of its published rules and regulations.~~

(c) The right of the Association to dedicate or transfer all or any part of the common area to any public agency, authority, or utility for such purpose and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer is signed by two-thirds (2/3rds) ~~of each class~~ of the members has been recorded.

1 (d) The right of the Association to impose reasonable charges and fees for
2 the upkeep of the common area, to provide for adequate utilities within the
3 common area, and to provide for such other services as should be deemed
4 advisable and advantageous for the lot owners as a whole.

5
6 **Section 2. Delegation of Use.** Any owner may delegate, in accordance with
7 the Bylaws of the Association, his right of enjoyment to the common area and facilities,
8 to the members of his family, his tenants, or contract purchasers who reside on property.

9
10 **Section 3. Owners' Other Easements.** Each owner shall have an easement
11 for pedestrian ingress and egress over and across the common area. Each owner shall
12 have an easement to use for guest parking purposes any area so designated within the
13 common area for such purposes. Each owner shall have an easement and right to use
14 such area within the common area as may be set aside and designated for use for garbage
15 and trash disposal and mailboxes. All such rights and easements granted by this
16 Declaration shall be appurtenant to, and pass with, title to the lot. Easements for
17 balconies for buildings on lots 29, 30, 43 and 44 existed over the adjoining lots to the
18 extent of the encroaching balconies.

1 Section 4. Antennas: Satellite Dishes and Antennas.⁸ ~~No television or radio~~
2 ~~masts, towers, polls, antennas, arrows, wires, or appurtenances thereof, shall be erected,~~
3 ~~constructed or maintained on any lot in such manner to be visible from the exterior of~~
4 ~~said lot without limitation of the foregoing, all television antenna shall be erected and~~
5 ~~maintain completely inside the improvement of each lot and shall be of the attic type or~~
6 ~~such other type as may from time to time be permitted under the Association's rules~~
7 ~~regulations.~~ No exterior visible antenna, radio masts, towers, poles, aerials, satellite
8 dishes, or other similar equipment shall be placed on any lot or other portion of Venetian
9 Villas Unit Owners' Association, Inc. without the prior written approval thereof being
10 first had and obtained from the Association. The Association may require, among other
11 things, that all such improvements be screened, and that bushes be placed around satellite
12 dishes which are in-ground, so that they are not visible from adjacent lots, or from the
13 Common Areas. Satellite dishes may also be placed on the side wall of the home with
14 approval from the Association. No owner shall operate any equipment or device which
15 will interfere with the radio or television reception of others. Only one (1) flagpole and
16 one (1) satellite dish per lot shall be permitted subject to approval by the Association.
17

⁸ Section 207 of the Telecommunications Act of 1996, the Federal Communications Commission adopted the Over-the-Air Reception Devices ("OTARD") rule concerning governmental and nongovernmental restrictions on viewers' ability to receive video programming signals from direct broadcast satellites ("DBS"), broadband radio service providers (formerly multichannel multipoint distribution service or MMDS), and television broadcast stations ("TVBS"). The rule (47 C.F.R. Section 1.4000) has been in effect since October 1996, and it prohibits restrictions that impair the installation, maintenance or use of antennas used to receive video programming. The rule applies to video antennas including direct-to-home satellite dishes that are less than one meter (39.37") in diameter (or of any size in Alaska), TV antennas, and wireless cable antennas. The rule prohibits most restrictions that: (1) unreasonably delay or prevent installation, maintenance or use; (2) unreasonably increase the cost of installation, maintenance or use; or (3) preclude reception of an acceptable quality signal.

1 **Section 5. Garage Doors.** It is the intent that garage doors shall not be left
2 open in such a manner that the interior of the garage will be exposed to the general public
3 or to the other lot owners for any more time than is necessary. Therefore, garage doors,
4 unless the garage is screened in with a screen that covers the entire garage door opening,
5 shall be open only for the purpose, and for the time necessary, to gain entry or exit from
6 the garage with a vehicle or any other item of personalty.

7
8 **Section 6. Use of Unit.** Each lot shall be used for single-family purposes
9 only and no trade or business of any kind shall be carried on therein except upon the
10 written consent of the Association and under such conditions as the Association shall
11 determine. Notwithstanding the forgoing, home occupations that are allowed under the
12 New Smyrna Beach Land Development shall be permitted. The lease or rental of a lot
13 for single-family residential purposes shall not be construed as a violation of this
14 covenant.

15
16 **Section 7. Use of Common Area.** There should be no obstruction of the
17 common area, nor shall anything be kept or stored on any part of the common area by any
18 lot owner or other person without the prior written consent of the Association, ~~except as~~
19 ~~specifically provided herein, provided, however, that nothing herein contained in this~~
20 ~~Section shall prevent the Developer from the exclusive use of the northwest office~~
21 ~~(manager's office), of the clubhouse for sales purposes so long as there are Class A and~~

1 ~~Class B memberships.~~ Nothing shall be altered on, constructed in, or removed from the
2 common area except upon the prior written consent of the Association.

3
4 **Section 8. Right of Owners to Peaceably Assemble.** All common areas and
5 recreational facilities serving the Association shall be available to lot owners in the
6 Association served thereby and their invited guests for the use intended for such common
7 areas and recreational facilities. The Association may adopt reasonable rules and
8 regulations pertaining to the use of such common areas and recreational facilities. The
9 Association shall not unreasonably restrict any lot owner's right to peaceably assemble or
10 right to invite public officers or candidates for public office to appear and speak in
11 common areas and recreational facilities.⁹

12
13 **Section 9. 8. Prohibition of Damage and Certain Activities.** Nothing shall be
14 done or kept on any of the property that would result in the increase of the rate of
15 insurance on the property or any part thereof over what the Association, but for such
16 activity, would pay, without the prior written consent of the Association. Likewise
17 nothing shall be done or kept on any property which would violate any state statute,
18 county or city ordinance, rule, regulation, permit or any other validly imposed
19 requirement by any governmental body. No damage to, or waste of, the common area, or
20 of the exterior of any lot or building thereon shall be committed by any owner or tenant
21 or any invitee of any owner; and each owner shall indemnify and hold the Association

⁹ See generally, §720.304 (1), Florida Statutes.

1 and other owners harmless against all loss resulting from such loss or waste caused by
2 him or his tenant or invitees to the Association or to the other owners. No noxious,
3 destructive or offensive activity shall be permitted on any lot or in the common area nor
4 shall anything be done therein which may be or may become an annoyance or nuisance to
5 any other owner or to any such person at any time lawfully residing on the property.

6
7 **Section 10. 9. Signs Prohibited.** No sign of any kind shall be displayed to the
8 public view on any lot or the common area without the prior written consent of the
9 Association, except customary name and address signs and a lawn sign of not more than
10 five (5) square feet in size advertising the property for sale or rent, provided the same are
11 in accordance with the rules and regulations adopted by the Association.
12 Notwithstanding the forgoing, any parcel owner may display a sign of reasonable size
13 provided by a contractor for security services within 10 feet of any entrance to the
14 home.¹⁰

15
16 **Section 11. 10. Clotheslines prohibited.** No owner shall permit any clotheslines
17 to be displayed on any lot or the common area upon which articles of clothing ~~or~~ are
18 hung.

19
20 **Section 12. 11. Parking.** Except as herein provided, no owner shall park, store,
21 keep, repair or restore any boat or trailer anywhere upon the property except in an

¹⁰ §720.304(6), Fla. Stat. (2012).

1 enclosed garage. An automobile, motorcycle, truck not exceeding ~~one-half (1/2)~~ three-
2 quarters (3/4) ton capacity may be parked on the driveway portion of a lot. The
3 following shall apply to the temporary parking of motor homes, travel trailers, pop-up
4 campers trailers, utility trailers, motorcycle trailers, boat trailers, and recreational
5 vehicles. No motor homes, travel trailers, pop-up campers trailers, utility trailers,
6 motorcycle trailers, boat trailers, or recreational vehicles may parked on the driveway
7 portion of a lot for a period of in excess of 72 hours within a 7 day period; or, a
8 community parking spaces for more than 72 hours in a 7 day period; or, at any time on
9 the unpaved portions of the common area. ¹¹ An owner parking motor homes, travel
10 trailers, pop-up campers trailers, utility trailers, motorcycle trailers, boat trailers, or
11 recreational vehicles as allowed on their lot for less than 72 hours within 7 day period; or,
12 community parking spaces no for less than 72 hours in a 7 day period, shall comply with
13 all applicable city ordinances. This prohibition, however, shall not prohibit an owner
14 from maintaining a boat within his designated slip at his designated docking facility. Use
15 of all guest parking areas in the common areas shall be subject to such rules and
16 regulations as may, from time to time, be adopted by the Association.

17
18 **Section 13. 12. Animals.** No animals, livestock, or other poultry of any kind
19 shall be raised, bred, or kept on any portion of the property, except that dogs, cats and
20 other customary household pets, ~~not exceeding 20 pounds~~, may be kept on lots subject to
21 the rules and regulations adopted by the Association, provided that they are not kept,

¹¹ New Smyrna Beach, Fla., Land Development Regulations, §802.04 and §802.05 controls the parking of recreational equipment.

1 bred, or maintained for any commercial purpose. The Association may prohibit the
2 keeping of any pet anywhere on the property which Association reasonably determines
3 may constitute a threat to the safety or health of or well-being of persons lawfully upon
4 the property. All owners at all times shall comply with all rules, regulations,
5 ordinances,¹² statutes, and laws adopted, promulgated, or enforced by any public agency
6 having jurisdiction of the property and related to animals.

7
8 **Section 14 13. Rubbish.** No rubbish, trash, garbage or other waste materials
9 shall be kept or permitted upon any lot except inside the improvements on such lot.
10 Rubbish, trash, garbage and other waste materials shall be kept for pickup only in
11 designated areas of common area and shall be placed in a sanitary container approved by
12 the Association.

13
14 **Section 15 14. Mail Boxes.** Mail boxes shall be placed only in the designated
15 areas in the common area.

16
17 **Section 16 15. Alterations on Exterior of Buildings Prohibited.** No exterior
18 alterations of any building or on any lot, including painting, shall be permitted except
19 upon the written consent of the Association, unless done by the Association.

20

¹² New Smyrna Beach, Fla., Code of Ordinances, Chapter 18, Animals, Article VII, Danger Dog Determination and Appeal Process, Sections 18-281 to Section 18-283; adopted pursuant to Chapter 767 of the Florida Statutes.

~~Section 16. Provisions Inoperative as to Initial Construction. Nothing contained in this Second Amended Declaration shall be interpreted or construed to prevent the Developer, its transferees, or its or their contractors, or subcontractors, from doing or performing on all or any part of the property owned or controlled by the Developer, its transferees whenever the Developer determines to be reasonable necessary or advisable in connection with the completion of the project, including, without limitations:~~

~~A. Directing, construction, and maintaining their on such structures as may be reasonably necessary for the conduct of Developers business of completing the project and establishing the property as a residential community and disposing of same and parcels by sale, lease or otherwise; or~~

~~B. Maintaining such sign or signs thereon as may be reasonably necessary in connection with the sale, lease, or other transferring of the property and parcels or lots.~~

~~C. In addition to the above, the Developer retains the right, for as long as both Class A and B membership, to utilize the Northwest office (manager's office) of the clubhouse for sales purposes.~~

~~As used in this section, term "transferees" specifically does not include purchasers of lots improved as completed residences.~~

1 **Section 17. Rules and Regulations.** No owner shall violate the rules and
2 regulations for the use of the common area as the same are from time to time adopted by
3 the Association. The prohibitions and restrictions contained in this article shall be self-
4 executing without implementation by rules and regulations, but the foregoing shall not be
5 construed as an implied prohibition against the Association's ~~extending the scope of such~~
6 ~~prohibitions and restrictions by~~, from time to time, adopting the rules and regulations
7 consistent with this ~~Second~~ Sixth Amended Declaration.

8
9 **Section 18. Ownership Rights Limited to Those Enumerated.** No transfer
10 of title to any lot shall pass to the owner thereof any rights in and to the common area
11 except as are expressly enumerated herein. In the event any lot is shown or described as
12 bounded by a body of water, then any and all riparian rights appertaining and appurtenant
13 thereto that particular lot shall be subject to and inferior to the rights of the Association to
14 utilize the riparian water for a common area (the pier).

15
16 **Section 19. City Access and Utility Easements.** The ~~Developer~~ Venetian
17 Villas Unit Owners' Association, Inc. grants the City of New Smyrna Beach, Florida,
18 easements in, to and upon the property for the purposes of providing municipal services,
19 including, but not limited to, fire and police protection and garbage and trash collection;
20 and the ~~Developer~~ Venetian Villas Unit Owners' Association, Inc. grants to the City of
21 New Smyrna Beach Utilities Commission easements in, to and over the property for the

1 purposes of furnishing and making repairs to and replacement upon utilities, including,
2 but not limited to, electricity, water and sewer.

3
4 **Section 20. Recreational Facilities.** Recreational facilities shall be considered
5 common area and shall consist of a pool, ~~sauna~~, and clubhouse.

6
7 **ARTICLE III**

8
9 **MEMBERSHIP AND VOTING RIGHTS**

10
11 **Section 1. Membership.** Every owner of the lot which is subject to
12 assessment shall be a member of the Association. If title to a lot is held by more than one
13 person, each of the persons shall be members. An owner of more than one lot shall be
14 entitled to one membership for each lot owned by him. Each membership shall be
15 appurtenant to the lot upon which it is based and shall be transferred automatically by the
16 conveyance of that lot. No person or entity, other than an owner ~~or Developer~~, may be a
17 member of the Association, and a membership in the Association may not be transferred
18 except in connection with the transfer of title to a lot; provided, however, the foregoing
19 shall not be construed to prohibit the assignment of a membership and voting rights by an
20 owner who is a contract seller to his vendee who is in possession.

1 **Section 2. Voting.** The Association shall have ~~two (2) classes~~ one class of
2 voting membership:

3 (a) ~~Class "A."~~ Members. ~~Class A members~~ Members shall be lot owners
4 and shall be entitled to one vote for each lot owned ~~;~~ ; ~~provided, however, that for~~
5 ~~so long as there is Class B membership, the Developer shall not be a Class A~~
6 ~~member.~~ When more than one person holds an interest in any lot all persons shall
7 be members. The vote for such lot shall be exercised as they among themselves
8 determine, but in no event shall there be more than one vote cast with respect to
9 any lot. There shall be no split vote. Prior to the time of a meeting at which a
10 vote is to be taken, each co-owner shall file the name of the voting co-owner with
11 the Secretary of the Association in order for that person to be entitled to vote at
12 such meeting, unless the co-owners have filed a general voting authority with the
13 Secretary applicable to all votes until rescinded.

14
15 ~~(b). Class B. The Class B members shall be the Developer who shall be~~
16 ~~entitled to for votes for each lot owned by the Developer. At such time as 80% of~~
17 ~~the lots have been sold and conveyed by the Developer, the Class B membership~~
18 ~~shall cease and shall automatically be converted to Class A membership.~~

19
20 **Section 3. Amplification.** The provisions of this Declaration are
21 amplified by the Articles of Incorporation and by the Bylaws of the Association;
22 provided, however, no such amplification shall substantially alter or amend any of

1 the rights or obligations of the owners set forth herein. If in the event of any
2 conflict between this ~~Second~~ Sixth Declaration and the Articles of Incorporation
3 or the Bylaws this ~~Second~~ Sixth Amended Declaration shall control.

4
5 **ARTICLE IV**

6
7 **RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

8
9 **Section 1. Common Area.** The Association, subject to the rights of the
10 owners set forth in this ~~Second~~ Sixth Amended Declaration, shall be responsible for the
11 exclusive management, control, and maintenance of the common area and all
12 improvements thereof (including the furnishing and equipment related thereto), shall
13 keep the same in good, clean, substantial, attractive and sanitary condition, order and
14 repair. Without limiting the generality of the foregoing, the Association shall be
15 specifically responsible for:

16 (a) Maintenance or replacement of any trees, shrubs, or landscaped areas
17 installed or created by the Developer, and that were later assumed by the
18 Association as per the project;

19
20 (b). Maintenance, repair, replacement of any lighting fixtures, mailboxes,
21 garbage and trash disposal dumpsters or cans;

1 (c) Maintenance, repair or replacement required because of occurrence of
2 any fire, wind, vandalism or any other casualty;

3 (d) Maintenance, repair and replacement of any recreational facility or part
4 thereof;

5 (e) Maintenance, repair and replacement of any furnishings, in, to or upon
6 any lot that is owned by the Association for the use of a manager or other
7 administrative personnel.

8
9 **Section 2. Exterior Maintenance of Lots.** In addition to the maintenance of
10 the common area, the Association shall provide exterior maintenance upon each lot
11 which is subject to an assessment hereunder, as follows: painting, repair, replacement and
12 care for roofs, gutters, down spouts, exterior building surfaces and walks installed by the
13 Developer and later that were assumed by the Association or installed by the Association
14 as part of the project, and replacement thereof except as herein expressly limited. The
15 Association shall maintain, but not be required to replace any driveway installed by the
16 Developer and later that were assumed by the Association as part of the project. The
17 Association shall maintain the lawn areas of each lot. The Association's duty of exterior
18 maintenance shall not be extended to, nor include any of the following:

19
20 (a) Landscaping upon any lot (except trees which shall be done by the
21 association and paid for as a common expense);
22

1 (b) Maintenance, repair or replacement of glass surfaces or screening;

2
3 (c) Replacement of exterior doors, including garage doors;

4
5 (d) Maintenance, repair or replacement required because of the occurrence
6 of any fire, wind, vandalism or other casualty.

7
8 The maintenance, repair or replacement or insurance thereof, as the case may be,
9 of any of the foregoing excluded items, shall be the responsibility of each owner. Should
10 any owner neglect or fail to maintain, repair or replace, as the case may be, any of the
11 foregoing excluded items, the Association, after approval by ~~two-thirds~~ 75% vote of its
12 Board of Directors, may maintain, repair or replace the same, as the cause may be at the
13 owner's expense; and the cost thereof shall be added to and become part of the
14 assessment against such owner's lot. If the need for any maintenance, repair or
15 replacement, as the case may be, pursuant to this section, is caused by willful or negligent
16 act of any owner, or any member of any owner's family or household, or any owner's
17 invitee or tenant, or any member of such tenant's family or household, then the cost
18 thereof shall be added to and become part of the assessment against such owner's lot.
19 The Association shall be subrogated to the rights of each owner with respect to damage
20 caused by any invitee, tenant, or member of such tenant's family or household.

1 **Section 3. Right of Entry.** The Association, through its employees,
2 contractors and agents, is hereby granted a right of entry into and upon each lot to the
3 extent that is reasonably necessary to discharge the Association's duties of exterior
4 maintenance and for any other purpose reasonably related to the Association's
5 performance of any duty imposed or exercise of any right granted by this ~~Second~~ Sixth
6 Amended Declaration, including, without limitation, the discharge of any duty of
7 maintenance or replacement, or both imposed upon the owner. Such right of entry shall
8 be exercised in a peaceful and reasonable manner at all reasonable times and upon
9 reasonable notice whenever the circumstances permit. Entry into any improvement upon
10 any lot shall not be made without the consent of the owner or occupant thereof except
11 when such entry is reasonably necessary for the immediate preservation or protection, or
12 both, of the health or safety, or both, of any person lawfully upon the property or any
13 person's property. An owner shall not arbitrarily withhold consent to such entry for the
14 purposes of discharging any duty or exercising any right granted by the foregoing
15 sections of this article, provided such entry is upon reasonable notice, at a reasonable
16 time, and in a peaceful and reasonable manner.

17

18 **Section 4. Services for Association.** The Association may obtain and pay for
19 the services of any person or entity to manage its affairs, or any part thereof, to the extent
20 it deems advisable, as well as such other personnel as the Association shall determine to
21 be necessary or desirable for the proper operation of the property, whether such personnel
22 are furnished or employed directly by the Association or any person or entity with whom

1 or which it contracts. The Association may obtain and pay for legal and accounting
2 services necessary or desirable in connection with the operation of the property or the
3 enforcement of this ~~Second~~ Sixth Amended Declaration and Bylaws.

4
5 **Section 5. Services for Owners.** The Association may contract, or otherwise
6 arrange, with any person or entity to furnish water, trash collection, sewer services
7 maintenance, replacement, and other common services to all the lots, when such services
8 are not available from the City of New Smyrna Beach, Florida, or from Utilities
9 Commission of the City of New Smyrna Beach, Florida. Any owner may additionally
10 voluntarily contract with the Association for the Association to perform or cause
11 performance of, any service benefiting such owner's lot at the cost and expense of such
12 owner. All sums due the Association pursuant to such contracts shall be added to and
13 become part of the assessment against such owner's lot. Notwithstanding the foregoing,
14 the Association may not contract with any owner to provide any services at such owner's
15 expense which is the duty of the Association to provide at its own expense under any
16 provision of this ~~Second~~ Sixth Amended Declaration.

17
18 **Section 6. Personal Property for Common Use.** The Association may
19 acquire and hold tangible and intangible personal property and may dispose of the same
20 by sale or otherwise subject to the restrictions as may from time to time be provided in
21 the Association's Bylaws

22

1 **Section 7. Rules and Regulations.** The Association may from time to time
2 adopt, alter, amend and rescind reasonable rules and regulations governing the use of lots
3 and the common area, which rules and regulations shall be consistent with the rights and
4 duties established herein. The association shall adopt and enforce reasonable rules and
5 regulations regarding security that may be provided within the Association property. The
6 association with respect to the areas subject to their ownership or control, shall enforce
7 the restrictions and covenants contained herein, as well as their rules and regulations
8 promulgated hereunder and shall undertake and perform all acts and duties necessary and
9 incident to enforcing such restrictions, covenants, rules and regulations, all in accordance
10 with the provisions of this Declaration and the Articles of Incorporation and By-Laws of
11 the Association.

12
13 **Section 8. Management and Enforcement Authority.** In the
14 administration, operation, and management as herein designated to the Association and in
15 the enforcement of the applicable Covenants and Restrictions, the Association, in
16 addition to any authority granted elsewhere herein, shall have and is hereby granted with
17 respect to areas of the Association's ownership and control, full power and authority: (a)
18 to enforce all applicable provisions of this Declaration; (b) to levy and collect
19 assessments in accordance herewith; and (c) in order to carry out the purposes of the
20 Association, to adopt, promulgate, and enforce reasonable rules and regulations
21 governing the use and enjoyment of the areas of the Association's ownership and/or
22 control. The Association may institute, maintain, settle, or appeal actions or hearings in

1 its name on behalf of all members concerning matters of common interest to the
2 members, including, but not limited to, the common areas; roof or structural components
3 of a building, or other improvements for which the association is responsible;
4 mechanical, electrical, or plumbing elements serving an improvement or building for
5 which the association is responsible; representations of the developer pertaining to any
6 existing or proposed commonly used facility; and protesting ad valorem taxes on
7 commonly used facilities. The association may defend actions in eminent domain or
8 bring inverse condemnation actions. Before commencing litigation against any party in
9 the name of the association involving amounts in controversy in excess of \$100,000, the
10 Association must obtain the affirmative approval of a majority of the voting interests at a
11 meeting of the membership at which a quorum has been attained.¹³

12
13 **Section 9. 8. Implied Rights.** The Association may exercise any other right or
14 privileges given to it expressly by this Declaration, its Articles of Incorporation, or its
15 Bylaws, and every other right or privilege reasonably to be implied from the existence of
16 any rights or privilege to be granted herein or reasonably necessary to effectuate the
17 exercise of any right or privileges granted herein.

18
19 **Section 10. 9. Restrictions on Capital Improvements.** Except for replacement
20 or repair of those items installed by the Developer and later that were assumed by the
21 Association as part of the work, and except for personal property to be related to the

¹³ See generally, §720.303(1) of the Florida Statutes.

1 maintenance of the common area, the Association may not authorize capital
2 improvements to the common area unless written approval is obtained from eighty
3 percent (80%) 75% of the owners.

4

5

ARTICLE V

6

7

OBLIGATION OF DEVELOPER

8

9 ~~Section 1. Duty to Construct Improvements. The Developer agrees to~~
10 ~~construct improvements on each lot in accordance with the terms and conditions called~~
11 ~~for in the contract for sale and purchase and specifications or improvements pertaining to~~
12 ~~that particular lot. In addition, the Developer has constructed such common area and~~
13 ~~improvements thereof as will properly provide for the services and amenities for various~~
14 ~~lot owners. In no case, and under no circumstances, shall there be an agreement between~~
15 ~~the Developer and the lot owner that construction of any building or improvement upon~~
16 ~~said lot shall commence later than one year from transfer by the Developer to the owner~~
17 ~~of title to a particular lot.~~

18

ARTICLE V

COVENANT FOR ASSESSMENTS

Section 1. Creation of a Lien and Personal Obligation for Assessments.

Each owner of each lot, by acceptance of a deed thereof, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessment or charges; and (2) special assessment for capital improvements, such assessments to be established and collected as herein provided; and (3) special assessments against any particular lot which are established pursuant to the terms of this Declaration; and (4) all excise taxes, if any, which may be imposed on all or any portion of the foregoing. All such assessments, together with interest and all costs and expenses of such collection, including reasonable attorney's fees shall be charged upon the land and shall be a continuing lien upon the lot upon which each assessment is made. A lot owner's obligation to pay homeowners' association assessments is a covenant running with the land and is enforceable by the association as a property right. Each assessment, together with interest and all cost and expenses of collection, including reasonable attorney's fees shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an owner's successors in title unless expressly assumed by them.

1 **Section 2. Purpose of Assessments.** The assessments levied by the
2 Association shall be used exclusively to promote the recreation, health, safety and general
3 welfare of the residents of the property; for the improvement and maintenance of the
4 common area, and of the exterior of the buildings situated upon the property, for payment
5 of all taxes assessed to the Association, if any, in respect to the common area, or the
6 improvements of personal property thereon, and for utility charges thereon; and for the
7 Association's general activities and operations in promoting the recreation, health, safety
8 and general welfare of the residents of the property.

9
10 **Section 3. Annual Assessment.** The annual assessment at the present time
11 and until changed in accordance with this Declaration, shall be ~~six hundred (\$600)~~
12 \$2,483.00, payable at the rate of ~~\$50.00~~ \$207.00 per month.

13
14 (a) From and after ~~January~~ October 1, of each year, the annual assessment
15 may be increased during that year to reflect the increase, if any, in the Consumer
16 Price Index for all Urban Consumers (CPI-U) and Urban Wage Earners and
17 Clinical Workers (CPI-W): U.S. City Index, 1982-84 = 100 ~~for all items~~
18 published by the Bureau of Labor Statistics of the United States Department of
19 Labor; or, if publication of said index is discontinued, in the most nearly
20 comparable successor index thereto. No decrease in the annual assessment shall
21 be required because of any decrease in the Consumer Price Index.

22

1 (b) From and after ~~January~~ October 1, of each year, the annual assessment
2 may be increased by more than the increase in the Consumer Price Index, as
3 herein provided, by vote of two-thirds (2/3rds) ~~of each class of members who are~~
4 ~~voting in person or by proxy~~ of all members at a meeting duly called for such
5 purpose.

6
7 (c) The Board of Directors may fix the annual assessment at an amount
8 not in excess of the amount set forth in subparagraph (a) of this section.

9
10 **Section 4. Special Assessments for Capital Improvements.** In addition to
11 the annual assessments authorized above, the Association may levy, in any assessment
12 year, a special assessment applicable to that year only for the purpose of defraying, in
13 whole or in part, the cost of any construction, reconstruction, or repair or replacement of
14 capital improvement upon the common area, including fixtures and personal property
15 related thereto, or the property, provided that such assessment shall have the assent of
16 two-thirds (2/3rds) of the vote ~~of each class of voting members who are voting in person~~
17 ~~or by proxy~~ of all members at a meeting duly called for this purpose.

18
19 **Section 5. Notice of Meetings.** ~~Written notice of any meeting called for the~~
20 ~~purpose of taking any action authorized under section 3 or 4 hereof shall be sent to all~~
21 ~~members not less than 30 days nor more than 60 days in advance of the meeting. At the~~
22 ~~first such meeting called, the presence of members or of proxies entitled cast 60% of all~~

1 the votes of each class of membership shall constitute a quorum. If the required quorum
2 is not present, another meeting may be called subject to the same notice requirement, and
3 the required quorum for the subsequent for meeting shall be one half (1/2) of the required
4 quorum at the preceding meeting. The sets of the meeting shall be held more than sixty
5 (60) days following the preceding meeting. The bylaws shall provide the manner of
6 giving notice to members of all member meetings and meetings of the Board of
7 Directors.¹⁴

8
9 **Section 6. Uniform Rate of Assessment.** Both special assessments for
10 capital improvements, and annual assessments, may shall be fixed at a uniform rate for all
11 lots and may be collected on a monthly basis.¹⁵ ; ~~provided, however, the foregoing~~
12 ~~requirement of uniformity shall not prevent special assessments against any particular lot~~
13 ~~which are established pursuant to the terms of this Declaration~~

14
15 ~~**Section 7. Developer's Assessment.** Notwithstanding the foregoing~~
16 ~~requirement of uniformity, or any other provision of this Declaration, or the Association's~~
17 ~~Articles of Incorporation, or Bylaws to the contrary, and for as long as there is a Class A~~
18 ~~membership and a Class B membership, the annual assessment against any lot owned by~~
19 ~~the Developer that is substantially completed and which has flooring installed, shall be~~
20 ~~assessed in an amount equal to that assessed against the lot owned by a Class A member~~
21 ~~of the Association. The assessment for a undeveloped lot shall be set at an amount not~~

¹⁴ See generally, §720.306(5) of the Florida Statutes.

¹⁵ See §720.308(1), Florida Statutes.

1 ~~less than nor more than 25% of that paid by a dwelling unit owned by a Class A member.~~
2 ~~Notwithstanding anything to the contrary in this Declaration, the assessment for lots of by~~
3 ~~the Developer, whether improved or not, shall not be made unless and until the Second~~
4 ~~Sixth Declaration has been recorded upon the Public Records of Volusia County, Florida~~
5 ~~and join in and consented to by not less than 90% of the lot owners.~~

6
7 ~~Upon termination of the Class B membership in the Association, as herein provided, the~~
8 ~~annual assessment against any lot owned by the Developer shall be 100% of the amount~~
9 ~~herein established against a lot owned by a class A member of the Association, other~~
10 ~~than the Developer. Upon transfer of title of the Developer of lot to an owner, such lot~~
11 ~~shall be assessed in an amount established against lots owned by Class A members of the~~
12 ~~Association, prorated as of, and commencing with, the date of transfer of title.~~
13 ~~Notwithstanding foregoing, those lots from which the Developer derives income or holds~~
14 ~~an interest as mortgagee or contract seller, shall be assessed at the same amount as~~
15 ~~hereinabove established for lots owned by Class A members of the Association, prorated~~
16 ~~as of, and commencing with the month following execution of the rental agreement or~~
17 ~~mortgage, or contract purchasers entry into possession, as the case may be.~~

18
19 **Section 7. Estoppel Certificates.** Within 15 days after the date on which a
20 request for an estoppel certificate is received from a lot owner or mortgagee, or his or her
21 designee, the Association shall provide a certificate signed by an officer or authorized
22 agent of the Association stating all assessments and other monies owed to the association

1 by the parcel owner or mortgagee with respect to the parcel. The Association may charge
2 a fee for the preparation of such certificate, and the amount of such fee must be stated on
3 the certificate. Any person other than a parcel owner who relies upon a certificate
4 receives the benefits and protection thereof. A summary proceeding pursuant to §51.011
5 Florida Statutes may be brought to compel compliance with this section, and the
6 prevailing party is entitled to recover reasonable attorney's fees. The authority to charge
7 a fee for the certificate shall be established by a written resolution adopted by the board
8 of directors or provided by a written management, bookkeeping, or maintenance contract
9 and is payable upon the preparation of the certificate. If the certificate is requested in
10 conjunction with the sale or mortgage of a parcel but the closing does not occur and no
11 later than 30 days after the closing date for which the certificate was sought the preparer
12 receives a written request, accompanied by reasonable documentation, that the sale did
13 not occur from a payor that is not the parcel owner, the fee shall be refunded to that payor
14 within 30 days after receipt of the request. The refund is the obligation of the parcel
15 owner, and the association may collect it from that owner in the same manner as an
16 assessment as provided in this section.¹⁶

17
18 **Section 8. Monthly Payments of Annual Assessment.** Annual and special
19 assessments may be collected on a monthly basis, on the first day of the month. Written
20 notice of the annual assessment, or of a special assessment, shall be sent to each owner
21 subject thereto. The owner shall upon demand, and for a reasonable charge, be entitled to

¹⁶ See, § [REDACTED] Florida Statutes.

1 a certificate signed by an officer of the Association, setting forth whether the assessment
2 or assessments against the specific lot have been paid, and, if not, the amount of
3 delinquency thereof.

4
5 **Section 9. Liens for Assessments.** All sums assessed to any lot pursuant to
6 this Declaration, together with interest, at the highest legal rate of interest, including
7 reasonable attorney's fees, shall be secured by a lien on such lot in favor of the
8 Association. Except for liens secured by a first mortgage, all other lienors acquiring liens
9 on any lot after recordation of this Declaration on the Public Records of Volusia County,
10 Florida, shall be deemed to have consented that such lien shall be inferior to the liens for
11 assessments, as provided herein, whether or not such consent is specifically set forth in
12 the instruments creating such liens. The recordation of this Declaration on the Public
13 Records of Volusia County, Florida, shall constitute notice to all subsequent purchasers
14 and creditors, or either, of the existence of the lien created in favor of the Association,
15 and priority thereof and shall place upon each subsequent purchaser or creditor, other
16 than a first mortgagee, the duty of inquiring of the Association as to the status of the
17 assessments against any lot within the property.

18
19 **Section 10. Effect of Nonpayment of Assessments, Remedies of the**
20 **Association.** Any assessment not paid within 30 days after the due date shall bear
21 interest from the due date at the highest legal rate of interest. Any assessment not paid
22 within 30 days after the due date, a twenty-five dollar (\$25.00) late fee shall be charged

1 for each month until the assessment is paid in full. The Association may bring an action
2 at law against the owner personally obligated to pay the same or foreclose a lien against
3 the property. No owner may waiver otherwise avoid liability for the assessment provided
4 for herein by nonuse of the common area, or abandonment of his lot. A suit to recover
5 ~~monthly~~ money judgment for unpaid assessments hereunder shall be maintainable
6 without foreclosure or waiving the lien securing the same.

7
8 **Section 11. Foreclosure.** Liens for sums assessed pursuant to this Declaration
9 may be enforced by a judicial foreclosure by the Association in the same manner in
10 which mortgages or real property may be foreclosed in Florida. In any such foreclosure,
11 the owner shall be required to pay all costs and expenses of foreclosure, including
12 reasonable attorney's fees. All such costs and expenses shall be secured by the lien
13 foreclose. The owner shall also be required to pay to the Association any assessments
14 against the lot which shall become due during the period of foreclosure, and the same
15 shall be secured by the lien foreclosed and accounted for as of the date of the owner's title
16 is divested by foreclosure. The Association shall have the right to bid at the foreclosure
17 or any other legal sale to acquire the lot foreclosed, and thereafter to hold, convey, lease,
18 rent, encumber, use and otherwise deal with the same as the owner thereof for the
19 purposes of resale only. The Association, or its successor or assignee, that acquires title
20 to a lot through the foreclosure of its lien for assessments is not liable for any unpaid
21 assessments, late fees, interest, or reasonable attorney's fees and costs that came due
22 before the Association's acquisition of title in favor of any other Association, as defined

1 in or §720.301(9) Florida Statutes, which holds a superior lien interest on the lot. The
2 Association shall not be liable to pay annual or special assessments on lots acquired
3 through foreclosure.¹⁷ In the event the foreclosure sale results in a deficiency, the court
4 ordering the same may, in its discretion, enter a personal judgment against the owner
5 thereof for such deficiency in the same manner as provided foreclosure of mortgages in
6 the State of Florida. After a judgment of foreclosure has been entered, the lot owner
7 during occupancy of the unit shall be required to pay a reasonable rental if so ordered by
8 the Court. If unit is rented or leased during the pendency of a foreclosure action,
9 Association shall be entitled to the appointment of a receiver to collect the rent. The
10 Association shall have a cause of action against unit owners to secure payment to the
11 Association by unit owners of all charges, costs, and expenses the Association that cannot
12 be secured as assessments, regular or special. The charge shall bear interest at the highest
13 lawful rate and shall carry with it costs and attorneys' fees, including costs and fees or
14 appeal, incurred in collection.

15
16 **Section 12. Homesteads.** By acceptance of a deed, the owner of each lot shall
17 be deemed to acknowledge conclusively that the obligations evidenced by the
18 assessments provided for in this Declaration are for the improving and maintenance of
19 any homestead maintained by such owner on such owner's lot.

20

¹⁷ See §720.3085(2)(d) of the Florida Statutes.

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Sixth Amended Declaration
Venetian Villas Unit Owners' Association
Adopted April 8, 2013

1 line between the lot, shall constitute a party wall, and to the extent inconsistent with the
2 provisions of this Article, the general rules of law regarding party walls and liability for
3 property damage due to negligence or willful acts or omissions shall apply thereto.

4 The walls and trellises located on the property lines that separate the balconies
5 and patios on the waterfront unit lots owners' properties; and the trellises located on the
6 property lines separating the non-waterfront units lots owners' properties are herein
7 defined as party walls for the purposes of this declaration and said walls and trellises
8 shall be repaired and maintained by the adjoining property owners as party walls as
9 provided for in this article.

10
11 **Section 2. Sharing of Repair and Maintenance.** The cost of reasonable
12 repair and maintenance of a party wall shall be shared by the owners who make use of the
13 wall in proportion to such use.

14
15 **Section 3. Destruction by Fire or other Casualty.** If the party wall is
16 destroyed or damaged by fire or other casualty and it is not covered by insurance, any
17 owner who has used the party wall may restore it; and if the owners thereafter make use
18 of the wall, they shall contribute to the cost of restoration thereof in proportion to their
19 use without prejudice, however, to the right of any such owner the call for larger
20 contribution from the others under any rule or law regarding liability for negligence or
21 willful acts or omissions.

22

Section 4. Weatherproofing. Notwithstanding any other provisions of this article, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against the elements.

Section 5. Right of Contribution Runs with the Land. The right of any owner to contribution from any other owner under this article shall be appurtenant to the land and shall pass to such owner's successors in title.

ARTICLE VII-VIII

ARCHITECTURAL CONTROL

~~Section 1. Notwithstanding any provision in this Declaration, the Developer retains the sole and exclusive right to maintain architectural control and cost control of the improvements situated on each lot and within the property until such time as each and every lot with the property has had a building constructed thereon, unless waived by the Developer, except, however, the remainder of building 4 (lots 45 to 54) Venetian Villas subdivision, which presently has five units, will be architecturally constructed and completed like the 10-unit building on the South of building 4 (and this completion requirement may not be amended, as set forth in Article X, section 3 thereof).~~

1 **Section 1. Architectural Review Committee.** The Board of Directors shall
2 serve as the members of the Architectural Review Committee. The Architectural Review
3 Committee shall review and approve plans and specifications for the location, size, type,
4 or appearance of any structure or other improvement prior to said structure or
5 improvement being constructed, maintained or repaired on a lot; and, shall enforce
6 standards for the external appearance of any structure or improvement located on a lot.¹⁸

7
8 **Section 2. Owner's Absolute Duty to Rebuild.** In the event that the lot
9 owner's residential unit is destroyed by fire, flood, storm event, structural failure, riot,
10 civil insurrection, war, or any other cause that renders the lot owner's residential unit
11 uninhabitable for residential purposes, the lot owner shall have a duty: (a) to clear his or
12 her lot of debris within 30 days of the event causing the destruction of his or her
13 residential unit; and, (b) to reconstruct his or her residential unit and receive a certificate
14 of occupancy within one year of the event causing the destruction his or her residential
15 unit. In the event of the destruction of a residential structure on a lot owners lot, the
16 Association may enter upon the lot owner's lot and erect on the lot owner's lot temporary
17 structures to secure the lot, to support adjacent structures, and to restore public utilities.
18 Any reconstruction shall be in accordance with the plans and specifications of the
19 original improvements subject to modification to conform with the then current
20 governmental restrictions and codes, if necessary, and in compliance with the
21 architectural criteria (as to adopted color palette, etcetera) for Venetian Villas. A copy of

¹⁸ See generally, §720.3035 of the Florida Statutes.

1 the original plans and specifications shall be maintained by the Board of Directors as the
2 official records of the Association.

3 **Section 3. Guidelines.** The guidelines and standards authorized by this
4 Declaration for the use of material, the size of the structure or improvement, the design of
5 the structure or improvement is set forth in Construction Plans for Venetian Villas by
6 Zahn and Sliger, Engineering, Inc., March 16, 1981, Leete & Leete, Architects,
7 November 4, 1992, Keith C. Hock, Architects July 1988, Job No: MF 14-88, Alan Paul
8 Cajacob, Architect which is by reference made a part hereof. The Association shall
9 establish an official color palette for the painting of all structures constructed on the
10 property that is the subject matter of this declaration. The color palette shall include, but
11 not be limited to, the body color of buildings, the colors of front and garage doors, trim
12 colors, the colors of shutters, and the colors of windows. The color palette shall
13 designate the *Sherwin William's Brand Paint Numbers* unless another system of
14 identifying the correct paint color to be used is established by the association. The color
15 palette may amended by a 2/3rds vote of all members called for the purpose of amending
16 the official color palette.

17
18 **Section 4. Limitations of Restrictions.** To the extent that this Declaration
19 or other published guidelines and standards authorized by this Declaration provides
20 options for the use of material, the size of the structure or improvement, the design of the
21 structure or improvement, or the location of the structure or improvement on the lot,
22 neither the Association nor Architectural Review Committee of the Association shall

1 restrict the right of a lot owner to select from the options provided in this Declaration or
2 other published guidelines and standards authorized by this Declaration.

3
4 **Section 5. Policies Inconsistent with Declaration.** Neither the Association
5 nor the Architectural Review Committee of the Association may rely upon a policy or
6 restriction that is inconsistent with the declaration of covenants or other published
7 guidelines and standards authorized by the declaration of covenants, whether uniformly
8 applied or not, in defense of any action taken in the name of or on behalf of the
9 Association against a lot owner.

10
11 **Section 6. United States Flags.** Any owner may display one portable,
12 removable United States flag or official flag of the State of Florida in a respectful
13 manner, and one portable, removable official flag, in a respectful manner, not larger than
14 4 ½ feet by 6 feet, which represents the United States Army, Navy, Air Force, Marine
15 Corps, or Coast Guard, or a POW-MIA flag, regardless of any covenants, restrictions,
16 bylaws, rules, or requirements of the Association.

17
18 **Section 7. Flagpoles.** Any owner may erect a freestanding flagpole no more
19 than 20 feet high on any portion of the owner's lot, regardless of any covenants,
20 restrictions, Bylaws, rules, or requirements of the Association, if the flagpole does not
21 obstruct sightlines at intersections and is not erected within or upon an easement. The
22 owner may further display in a respectful manner from that flagpole, regardless of any

covenants, restrictions, Bylaws, rules, or requirements of the Association, one official United States flag, not larger than 4 ½ feet by 6 feet, and may additionally display one official flag of the State of Florida or the United States Army, Navy, Air Force, Marines, or Coast Guard, or a POW-MIA flag. Such additional flag must be equal in size to or smaller than the United States flag. The flagpole and display are subject to all building codes, zoning setbacks, and other applicable governmental regulations, including, but not limited to, noise and lighting ordinances in the county or municipality in which the flagpole is erected and all setback and locational criteria contained in the governing documents.¹⁹

Section 8. Disability Ramp. Any lot owner may construct an access ramp if a resident or occupant of the lot has a medical necessity or disability that requires a ramp for egress and ingress under the following conditions: The ramp must be as unobtrusive as possible, be designed to blend in aesthetically as practicable, and be reasonably sized to fit the intended use. Plans for the ramp must be submitted in advance to the homeowners' Association. The Association may make reasonable requests to modify the design to achieve architectural consistency with surrounding structures and surfaces. The lot owner must submit to the Association an affidavit from a physician attesting to the medical necessity or disability of the resident or occupant of the lot requiring the access ramp. Certification used for §320.0848, Florida Statutes shall be sufficient to meet the affidavit requirement.²⁰

¹⁹ See generally, §720.304(2) of the Florida Statutes.

²⁰ See generally, §720.304(5) of the Florida Statutes.

4

13

15

17

²² See generally, §720.3075(4)(a) of the Florida Statutes.

~~Association, the Class A members shall be entitled to elect one member to the Board of
Directors of the Association.~~

Section 1. Administration. The administration of the Association shall be by
the Board of Directors, and its powers and duties shall be as set forth herein and in the
Articles of Incorporation and the Bylaws.

Section 2. Election to the Board or Directors and Officers. The members,
directors, and officers of the Association, the manner of their selection, their respective
rights and duties, and other matters regarding the Association are as set forth in the
Articles of Incorporation and Bylaws.

Section 3. Fiscal Management. The fiscal management of the Association,
including budget, fiscal year, charges, assessments, and collection of assessments, shall
be as set forth herein and in the Bylaws.

ARTICLE IX X

GENERAL PROVISIONS

Section 1. Enforcement. ~~The Association, or any owner, shall have the right
to enforce, by any proceeding at law or inequity, all restrictions, conditions, covenants,~~

1 ~~reservations, liens and charges now or hereinafter imposed by, or pursuant to, the~~
2 ~~provisions of this Declaration. In the event that the Association or any other owner~~
3 ~~enforces the provisions hereof against the Association or any owner, then the cost~~
4 ~~expenses of such enforcement, or the defense thereof, including reasonable attorney's~~
5 ~~fees, shall be awarded to the prevailing party.~~ Each lot owner and the owner's tenants,
6 guests, and invitees, and the Association, are governed by, and must comply with Chapter
7 720 of the Florida Statutes (the Florida Homeowners' Association Act), this Declaration,
8 the Bylaws, and the Rules of the Association. Each lot owner shall be jointly and
9 severally liable for any and all fines that have been lawfully imposed by the Association
10 upon a lot owner's tenants, guests, or invitees for violations of Chapter 720 of the Florida
11 Statutes (the Florida Homeowners' Association Act); this Declaration, the Bylaws, and
12 the Rules of the Association. Actions at law or in equity, or both, to redress alleged
13 failure or refusal to comply with these provisions may be brought by the Association or
14 by any owner against: the Association; an owner; any director or officer of an
15 Association who willfully and knowingly fails to comply with these provisions; and any
16 tenants, guests, or invitees occupying a lot or using the common areas. The prevailing
17 party in any such litigation is entitled to recover reasonable attorney's fees and costs. An
18 owner prevailing in an action between the Association and the owner under this section,
19 in addition to recovering his or her reasonable attorney's fees, may recover additional
20 amounts as determined by the court to be necessary to reimburse the owner for his or her
21 share of assessments levied by the Association to fund its expenses of the litigation. This
22 relief does not exclude other remedies provided by law. This section does not deprive

1 any person of any other available right or remedy.²³ Failure by the Association or by any
2 owner to enforce any covenant or restriction herein contained shall in no event be deemed
3 a waiver of the right to do so at a future time.

4
5 **Section 2. Fines and Suspensions.** The Association may levy reasonable
6 fines of up to \$100 per violation against any owner or any owner's tenant, guest, or
7 invitee for the failure of the owner of the lot or its occupant, licensee, or invitee to
8 comply with any provision of this declaration, the Association's Bylaws, or the rules of
9 the Association. A fine may be levied for each day of a continuing violation, with a
10 single notice and opportunity for hearing, except that the fine may not exceed \$1,000 in
11 the aggregate. A fine of less than \$1,000 may not become a lien against a lot. In any
12 action to recover a fine, the prevailing party is entitled to reasonable attorney's fees and
13 costs from the nonprevailing party as determined by the court. The Association may
14 suspend, for a reasonable period of time, the right of an owner, or an owner's tenant,
15 guest, or invitee, to use common areas and facilities for the failure of the owner of the lot
16 or its occupant, licensee, or invitee to comply with any provision of the declaration, the
17 Association's Bylaws, or reasonable rules of the Association. A fine or suspension may
18 not be imposed without at least 14 days' notice to the person sought to be fined or
19 suspended and an opportunity for a hearing before a committee of at least three owners
20 appointed by the board who are not officers, directors, or employees of the Association,
21 or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the

²³ See generally, §720.305, Florida Statutes. The language updated to mirror current statutory provisions.

1 committee, by majority vote, does not approve a proposed fine or suspension, it may not
2 be imposed. If the Association imposes a fine or suspension, the Association must
3 provide written notice of such fine or suspension by mail or hand delivery to the lot
4 owner and, if applicable, to any tenant, licensee, or invitee of the lot owner.²⁴

5
6 **Section 3. Suspension Use of Common Areas for Non-Payment of**
7 **Assessments.** If an owner is more than 90 days delinquent in paying a monetary
8 obligation due to the Association, the Association may suspend the rights of the owner, or
9 the owner's tenant, guest, or invitee, to use common areas and facilities until the
10 monetary obligation is paid in full. This section does not apply to that portion of
11 common areas used to provide access or utility services to the lot. Suspension does not
12 impair the right of an owner or tenant of a lot to have vehicular and pedestrian ingress to
13 and egress from the lot, including, but not limited to, the right to park. The Association's
14 notice and hearing requirements do not apply to a suspension imposed under this
15 section.²⁵ All suspensions imposed pursuant this section must be approved at a properly
16 noticed board meeting. Upon approval, the Association must notify the lot owner and, if
17 applicable, the lot owner's occupant, licensee, or invitee by mail or hand delivery.

18
19 **Section 4. Suspension of Voting Rights for Non-Payment of Assessments.**
20 The Association may suspend the voting rights of a lot or owner for the nonpayment of
21 any monetary obligation due to the Association that is more than 90 days delinquent. A

²⁴ See generally, §720.305(2), Florida Statutes.

²⁵ See generally, §720.305(3), Florida Statutes.

1 voting interest or consent right allocated to a lot or owner which has been suspended by
2 the Association may not be counted towards the total number of voting interests for any
3 purpose, including, but not limited to, the number of voting interests necessary to
4 constitute a quorum, the number of voting interests required to conduct an election, or the
5 number of voting interests required to approve an action under this chapter or pursuant to
6 the governing documents. The Association's notice and hearing requirements do not
7 apply to a suspension imposed under this section. All suspensions imposed pursuant this
8 section must be approved at a properly noticed board meeting. Upon approval, the
9 Association must notify the lot owner and, if applicable, the lot owner's occupant,
10 licensee, or invitee by mail or hand delivery. The suspension ends upon full payment of
11 all obligations currently due or overdue to the Association.²⁶

12
13 **Section 5. 2. Severability.** The invalidation of any one of these covenants or
14 restrictions by a court judgment or court order shall in no way affect the remaining
15 provisions of this Declaration, which shall remain in full force and effect.

16
17 **Section 6. 3. Amendment.** The covenants and restrictions of this Declaration
18 shall run with and be binding upon the land, and shall inure to the benefit of and be
19 enforceable by the Association, or the owner of any lot subject to this Declaration, for a
20 period of twenty-five (25) years from the date of this ~~Second~~ Sixth Amended Declaration
21 is recorded, after which time said covenants shall be automatically be extended for

²⁶ See generally, §720.305(4), Florida Statutes.

1 successive periods of ten (10) years. ~~The Second Sixth Amended Declaration may be~~
2 ~~amended, by the Developer, at any time, up until such time as the Class B membership is~~
3 ~~converted to Class A membership, so long as 90% of all the lot owners join in consent in~~
4 ~~writing to said amendment. Thereafter [T]his Declaration may be amended by not less~~
5 the affirmative vote of 75% of the lot owners voting interests of the association²⁷ at an
6 election held for said purpose.

7

8 **Section 7. 4. Effective upon Recording.** Any lot situated within the property
9 shall be deemed to be "subject to assessment" as such term is used in this Declaration or
10 in the Association's Articles of Incorporation or Bylaws, upon recording of the ~~Second~~
11 Sixth Amended Declaration.

12

13 **Section 8. 5. Dedications.** ~~Developer~~ The Association has dedicated streets and
14 roads within the property to the public use. The terms of this Declaration shall not apply
15 to the areas so dedicated to the extent that the provisions of this Declaration are
16 inconsistent with such dedication.

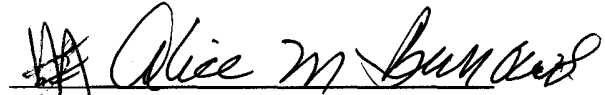
17

18 **THIS SIXTH AMENDED AND RESTATED DECLARATION OF**
19 **EASEMENTS, COVENANTS, CONDITIONS, AND RESTRICTIONS**
20 **REGARDING VENETIAN VILLAS UNIT OWNERS' ASSOCIATION, INC., and**
21 exhibits hereto made and entered into on April 11, 2013.

²⁷ See generally, §720.306(1)(b), Florida Statutes

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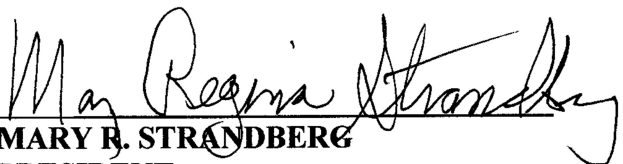

MARY R. STRANDBERG
PRESIDENT

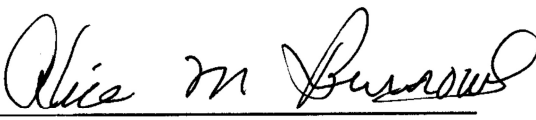

ALICE M. BURROWS
SECRETARY

**CERTIFICATE OF AMENDMENT TO THE DECLARATION
OF HOMEOWNERS' ASSOCIATION
OF THE VENETIAN VILLAS UNIT OWNERS' ASSOCIATION,
A FLORIDA HOMEOWNERS' ASSOCIATION**

The undersigned officers of the Venetian Villas Unit Owners' Association, Inc., the corporation in charge of the operation and control of Venetian Villas Unit Owners' Association, Inc. according to the amended declaration of thereof as recorded in Official Records of Volusia County, Florida, in Book 3021, Page 1724, and specifically as recorded at Page 1746, hereby certify that the forgoing amendments to the Declaration of Homeowners' Association were proposed and approved by majority vote of the Board of Directors at a board meeting held on April 8, 2013, and approved by vote of not less than 75% of the unit owners at a membership meeting held on April 8, 2013. The undersigned further certify that the amendments were proposed and approved in accordance with the Homeowners' Association documentation and applicable law.

IN WITNESS WHEREOF,


MARY R. STRANDBERG
PRESIDENT


ALICE M. BURROWS
SECRETARY

ACKNOWLEDGMENT

State of Florida)
County of Volusia)

The foregoing instrument was acknowledged before me this 11th day of April, 2013, by Mary R. Strandberg and Alice M. Burrows. Personally Known _____ or Produced Identification ☒ (check one).

Type of Identification produced:

Mary R. Strandberg: FL DL

Alice M. Burrows: FL DL

Witness my hand and official seal of the County estate last aforesaid this the 11th day of April, 2013.

The notary public


NOTARY PUBLIC

