CFN 2019275138, OR BK 8617 PAGE 2214,
Recorded 12/18/2019 at 03:07 PM, Scott Ellis, Clerk of Courts, Brevard County
Pgs:8

THIS INSTRUMENT PREPARED BY
AND TO BE RETURNED TO:
Laura M. Young, Esq.
Dean Mead
7380 Murrell Road, Suite 200
Viera, FL 32940
(321) 242-1200

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS, RESERVATIONS AND RESTRICTIONS FOR SEVILLE NEIGHBORHOOD AREA

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS, RESERVATIONS AND RESTRICTIONS FOR SEVILLE NEIGHBORHOOD AREA (this "**Amendment**") is dated as of the 17th day of December 2019, by THE VIERA COMPANY, a Florida corporation ("**Neighborhood Declarant**") and SEVILLE NEIGHBORHOOD ASSOCIATION, INC., a Florida not-for-profit corporation (the "**Neighborhood Association**"). The effective date of this Amendment shall be the date that this Amendment is recorded in the Public Records of Brevard County, Florida (the "**Effective Date**").

RECITALS:

WHEREAS, Neighborhood Declarant is the "Neighborhood Declarant" under that certain Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Seville Neighborhood Area recorded on October 7, 2015 in Official Records Book 7467, Page 1310, of the Public Records of Brevard County, Florida (the "**Neighborhood Declaration**");

WHEREAS, the Neighborhood Association is the homeowners association under the Neighborhood Declaration;

WHEREAS, under Article X of the Neighborhood Declaration, Neighborhood Declarant has the unilateral right to amend the Neighborhood Declaration during the Class B Control Period, and, as of the date of this Amendment, the Class B Control Period remains in effect;

WHEREAS, under Article X of the Neighborhood Declaration and Article VIII, Section 5 of the Bylaws, the Neighborhood Declaration and the Bylaws may each be respectively amended by a majority of the Board of Directors of the Neighborhood Association adopting a resolution setting forth the proposed amendment, if such proposed amendment is approved by the affirmative vote (in person or by proxy) or written consent, or any combination thereof, of a majority of the total votes of the Neighborhood Association (including the votes the Neighborhood Declarant is entitled to cast during the Class B Control Period), and, as of the date of this Amendment, such approvals has been duly received by the Board of Directors of the Neighborhood Association and the total votes of the Neighborhood Association for this Amendment at a duly called meeting of the Board of Directors and the members of the Neighborhood Association;

WHEREAS, the Neighborhood Declarant and the Neighborhood Association desire to mutually join in the execution of this Amendment to evidence their consent to the provisions of this Amendment and amending the Neighborhood Declaration and Bylaws accordingly; and

WHEREAS, The Viera Company, a Florida corporation, as the "Community Declarant" under the Neighborhood Declaration (the "**Community Declarant**"), is joining in the execution of this Amendment to evidence its consent to the provisions of this Amendment.

NOW, THEREFORE, Neighborhood Declarant and the Neighborhood Association hereby amend the Neighborhood Declaration and the Bylaws as set forth below:

1. RECITALS: The above recitals are true and correct, and are incorporated into this Amendment by this reference.

2. DEFINED TERMS: Any capitalized term not otherwise defined in the above recitals or elsewhere in this Amendment shall have the meaning ascribed to such term in the Neighborhood Declaration.

3. AMENDMENTS: Certain provisions of the Neighborhood Declaration and Bylaws are hereby revised, modified, amended and restated (as applicable) in accordance with the below provisions. All such amendments and modifications contained herein shall be effective from and after the Effective Date. All such amendments and modifications contained herein have been drafted in compliance with Section 720.306, *Florida Statutes* (2019), with new language evidenced by double-underlined text and deleted language evidenced by ~~strikethrough~~ text (except where such changes are so extensive that the practice of underlining and striking hinders rather than assists in the understanding of the relevant amendment or modification). Such amendments and modifications are as follows:

(a) LEASING: Article II, Section 2 of the Neighborhood Declaration is hereby deleted, amended, and restated in its entirety to address issues related to, without limitation, (i) allowing less than the entire Unit to be leased, (ii) limiting to the number of times a Unit may be leased within a calendar year, and (iii) prohibiting so called "short term rental" of Units. Due to the voluminous nature of this modification, pursuant to Section 720.306, *Florida* Statutes, for clarification, this restated section is provided below without ~~stricken~~ or double-underlined text. Article II, Section 4 of the Neighborhood Declaration shall now provide as follows:

> "Section 2. Leasing. Subject to the provisions of this Section 2 and any other applicable provisions of this Neighborhood Declaration, an Owner shall be allowed at any time and from time to time to license, lease, sublet, or otherwise rent all or a portion of the Owner's Unit to a person or entity other than the Owner (any such disposition no matter how denominated or labeled a "**Lease**"). Such Lease shall be evidenced by a written instrument complying with the requirements and provisions of this Section 2. All Leases shall be for (a) the entire Unit or (b) only certain rooms within a Unit, so long as at least one area designated as a "bedroom" on plans and specifications approved by the PRC, ARC, or MRC (as applicable) is included in such leased premises. No Lease shall be for a term of less than one (1) year. Notwithstanding any term or provision to the contrary herein, a Preferred Builder shall be permitted to Lease a home for purposes of marketing such Preferred Builder's product line for sale within the

Neighborhood Area or the Properties (as defined in the Community Declaration) in general. *Further, notwithstanding any term or provision to the contrary herein, in no event shall any Owner or any Preferred Builder, contemplate or permit a Unit to be used as a so-called "short term residential rental", "overnight residential rental", or "vacation rental", or a bed and breakfast, motel, hotel, or extended stay lodging facility (including, without limitation, through existing rental services such as, and not limited to, AirBnB, VRBO, HomeAway, HomeToGo, and FlipKey, among others), and the aforementioned forms of short term rentals shall be excluded when referring to the permitted forms to effectuate a Lease of a Unit in this Section 2.*

The written instrument effectuating the Lease of a Unit shall require (and shall be deemed to require, if not expressly set forth in the written instrument) the tenant thereunder to comply with the terms and conditions of this Neighborhood Declaration, the Bylaws, the Articles of Incorporation, the Community Declaration, and the bylaws and articles of incorporation of the Community Association (including, without limitation, the use restrictions imposed upon Owners in connection with use of a Unit or the Common Area), and provided further that such written instrument effectuating the Lease and the tenancy of the Unit is otherwise in compliance with any rules and regulations promulgated by the Neighborhood Association or the Community Association. The Neighborhood Association and the Community Association are not required to consent to the terms of the written instrument effectuating a Lease of the Unit; however, any Lease shall be enforceable by the Neighborhood Association and the Community Association, whether or not so stated in its terms. An Owner shall deliver a copy of a fully executed written instrument effectuating a Lease to the Neighborhood Association for the Neighborhood Association's official records and shall also certify to the Neighborhood Association in writing (on a form to be provided by the Neighborhood Association) that the Owner has provided a copy of this Neighborhood Declaration, the Community Declaration and any rules and regulations respectively adopted by the Neighborhood Association or the Community Association to the tenant. During the term of any permitted Lease of a Unit, each tenant must comply with the use restrictions set forth in this Neighborhood Declaration, the Community Declaration, and any rules and regulations respectively adopted by the Neighborhood Association or the Community Association. Further, during the term of any permitted Lease of a Unit, an Owner shall not be relieved of any obligations under the terms of this Neighborhood Declaration and Community Declaration, and an Owner shall be liable for the actions of his tenants which may be in violation of the terms and conditions of this Neighborhood Declaration, Community Declaration, any rules and regulations thereunder and any other documents set forth above, notwithstanding the fact that the tenants are also fully liable for any violation of the documents and rules and regulations.

In the event a tenant, occupant, guest, invitee or person living with the tenant or occupant violates this Neighborhood Declaration, Bylaws, Articles of Incorporation, the Community Declaration, the bylaws or articles of incorporation of the Community Association, or the rules and regulations of the Neighborhood Association or Community Association, the Neighborhood Association or Community Association as appropriate, shall have the power to bring an action or suit against the violating tenant, occupant, guest, invitee and the Owner, or any combination of the foregoing, to recover sums due for damages or injunctive relief, or for any other remedy available at law or in equity. The Neighborhood Association or the Community Association, as the case may be, shall at all times have all rights granted to it by Section 720.3085(8), Florida Statutes, as amended or renumbered from time to time, or otherwise under Florida law to notify any tenant of a Unit that the Owner of such Unit is delinquent in the payment of any Assessments to the Neighborhood Association or the Community Association, as the case may be, and to collect such past due amounts directly from the tenant in compliance with all applicable requirements imposed by Florida law.

The Neighborhood Declarant and each Preferred Builder (except as otherwise expressly provided in this Section 2) shall be exempt from the provisions of this Section 2. No amendment of this Section 2 shall be effective unless such amendment is consented to by the Neighborhood Declarant and the Community Declarant."

(b) ANIMALS AND PETS: Article V, Section 14 of the Neighborhood Declaration is hereby amended as follows, with deleted language in ~~stricken~~ text and added language in double-underlined text:

"Section 14. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any portion of the Neighborhood Area, with the exception of dogs, cats, or other usual and common domesticated household pets, which may be kept or permitted by the Owner(s) of a Unit in a reasonable number up to a total of four (4) pets per Unit, except for indoor aquarium fish at a Unit, upon which there is no limit so long as the number of fish is reasonable for the size of the indoor aquarium in which the fish are kept, so as not to create a nuisance as determined by the Neighborhood Association, provided same are not bred for commercial use or sale; and provided, however, those pets which are permitted shall be sheltered inside structures on a Unit and attended to in a reasonable manner by the applicable Owner of such pets or such Owner's representative. All dogs, cats and other household pets permitted hereunder must be leashed when outside the exterior boundaries of any Unit ~~or Unplatted Parcel~~ and shall not be permitted to run loose, except such pet, under the supervision of the Owner or Owner's representative, may be unleashed within any designated dog park enclosure located within the Neighborhood Area which is owned and/or controlled by the Neighborhood Association or the Community Association. No pet or animal shall be "tied out" in a yard or otherwise left unattended in a yard in a manner creating a nuisance under Section 15 below. Every person walking a pet

shall collect and properly dispose of all animal waste matter created by the pet. Each Owner shall be responsible for all activities of such Owner's pets. A determination by the Board of Directors that a pet is a nuisance or constitutes a danger to residents within the Neighborhood Area shall be conclusive and binding on all parties. When the Board of Directors determines that a pet must be removed from the Neighborhood Area because it constitutes a nuisance or a danger and so notifies the Owner of the Unit in which such pet resides, the pet shall be removed permanently from the Neighborhood Area (including within any Unit) within seventy-two (72) hours of the Owner's receipt of such notice."

(c) BYLAWS – ADJOURNMENT OF MEETINGS: The second paragraph of Article II, Section 7 of the Bylaws, is hereby amended as follows, with deleted language in ~~stricken~~ text and added language in double-underlined text:

> The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum, provided that members or their proxies representing at least ~~fifteen percent (15%)~~ five percent (5%) of the total votes of the Neighborhood Association remain in attendance, and provided further that any action taken is approved by members or their proxies representing at least a majority of the number of votes of the Neighborhood Association required to constitute a quorum.

(d) BYLAWS - QUORUM: Article II, Section 14 of the Bylaws is hereby amended as follows, with deleted language in ~~stricken~~ text and added language in double-underlined text:

> Except as otherwise provided in these Bylaws, or in the Neighborhood Declaration, the presence in person or by proxy of the members representing ~~thirty percent (30%)~~ ten percent (10%) of the total votes in the Neighborhood Association shall constitute a quorum at all meetings of the Neighborhood Association. Any provision in the Neighborhood Declaration concerning quorums is specifically incorporated herein.

(e) BYLAWS – NOMINATION OF DIRECTORS: Article III, Section 4 of the Bylaws is hereby deleted, amended, and restated in its entirety to read as follows to remove the concept of a "Nominating Committee" for members of the Board of Directors. Due to the voluminous nature of this modification, pursuant to Section 720.306, *Florida* Statutes, for clarification, this restated section is provided below without ~~stricken~~ or double-underlined text. Article II, Section 14 of the Bylaws shall now provide as follows:

> "Section 4: Nomination of Directors: Except with respect to directors entitled to be selected by the Neighborhood Declarant as provided in Section 3 of this Article, nominations for election of directors to the Board of Directors shall be made in any manner permitted under Chapter 720, Florida Statutes at the time of such nomination."

4. JOINDER: The Community Declarant joins in the execution of this Amendment to evidence its consent to the granting of the Easement and the provisions of this Amendment.

5. FULL FORCE AND EFFECT: The terms, provisions and conditions set forth in the Neighborhood Declaration that are not modified in this Amendment remain unmodified and in full force and effect. In the event of a discrepancy between the terms and conditions of the Neighborhood Declaration and the terms and conditions of this Amendment, the terms and conditions of this Amendment shall prevail.

6. COUNTERPARTS: This Amendment may be executed in counterparts.

IN WITNESS WHEREOF, Neighborhood Declarant has executed this Amendment as of the date set forth above.

WITNESSES:

Benjamin E. Wilson
Print Name: Benjamin E. Wilson

Charlene R. Spangler
Print Name: Charlene R Spangler

NEIGHBORHOOD DECLARANT:

THE VIERA COMPANY,
a Florida corporation

By: _____
Name: Todd J. Pokrywa
Title: President

STATE OF FLORIDA)
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me on the 17th day of December 2019 by Todd J. Pokrywa, the President of The Viera Company, a Florida corporation, on behalf of the corporation, who is personally known to me.

BENJAMIN E WILSON
Commission # GG 146829
Expires October 10, 2021
Bonded Thru Budget Notary Services

Benjamin E. Wilson
Print Name: Benjamin E. Wilson
Notary Public: State of Florida
Commission No.: GG146829
My Commission Expires: 10/10/21

(THE NEIGHBORHOOD ASSOCIATION'S SIGNATURE IS ON THE FOLLOWING PAGE.)

IN WITNESS WHEREOF, the Neighborhood Association has executed this Amendment as of the date set forth above.

WITNESSES:

Benjamin E. Wilson
Print Name: Benjamin E. Wilson

Charlene R. Spangler
Print Name: Charlene R. Spangler

NEIGHBORHOOD ASSOCIATION:

SEVILLE NEIGHBORHOOD ASSOCIATION, INC.,
a Florida not-for-profit corporation

By: Eva M Rey
Name: Eva M. Rey
Title: President

STATE OF FLORIDA)
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me on the 17th day of December 2019 by Eva M. Rey, the President of Seville Neighborhood Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation, who is ✓ personally known to me or _____ provided a Florida Driver's License as proof of identification.

BENJAMIN E WILSON
Commission # GG 146829
Expires October 10, 2021
Bonded Thru Budget Notary Services

Benjamin E. Wilson
Print Name: Benjamin E. Wilson
Notary Public: State of Florida
Commission No.: GG146829
My Commission Expires: 10/10/21

JOINDER

(COMMUNITY DECLARANT)

The Community Declarant hereby joins in the execution of this Amendment for the purpose of consenting to the terms and conditions of this Amendment

WITNESSES:

Benjamin E. Wilson
Print Name: Benjamin E. Wilson

Charlene R. Spangler
Print Name: Charlene R. Spangler

COMMUNITY DECLARANT:

THE VIERA COMPANY,
a Florida corporation

By: _____
Name: Todd J. Pokrywa
Title: President

STATE OF FLORIDA)
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me on the 17th day of December 2019 by Todd J. Pokrywa, the President of The Viera Company, a Florida corporation, on behalf of the corporation, who is personally known to me.

Benjamin E. Wilson
Print Name: Benjamin E. Wilson
Notary Public: State of Florida
Commission No.: GG 146829
My Commission Expires: 10/10/21

NOTARY PUBLIC STATE OF FLORIDA
BENJAMIN E WILSON
Commission # GG 146829
Expires October 10, 2021
Bonded Thru Budget Notary Services

F:\shared\COMMUNITY MANAGEMENT\Associations\Seville\Association Documents\Amendment to Declaration.docx