

Prepared by and return to:  
Meredith Peck Ralston, Esquire  
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5200 Tamiami Trail North, Suite 101  
Naples, Florida 34103

**CERTIFICATE OF AMENDMENT**

THE UNDERSIGNED, being the duly elected and acting President of Vista Townhomes at Heritage Bay Association, Inc., a Florida not-for-profit corporation, does hereby certify that at a duly called meeting of the members held on November 13, 2019, where a quorum was present, after due notice, the attached Amendments to the Declaration of Covenants, Conditions and Restrictions for Vista Townhomes at Heritage Bay, which amend the Declaration of Covenants, Conditions and Restrictions for Vista Townhomes at Heritage Bay as originally recorded on November 5, 2010 at O.R. Book 4621, Page 1848, *et. seq.*, of the Official Records of Collier County, Florida, were approved by more than seventy-five percent (75%) of the voting interests of the Association present, in person or by proxy, and were thus duly passed and approved.

The Declaration of Covenants, Conditions and Restrictions for Vista Townhomes at Heritage Bay are hereby amended in accordance with Exhibit A attached hereto and incorporated herein and are now in full force and effect.

Dated: January 30, 2020

Vista Townhomes at Heritage Bay Association, Inc., a Florida not-for-profit corporation

By: Anthony Everitt, President

Witness

Printed Name: Stefany Cordoba

Witness

Printed Name: JENNIFER PLACERES

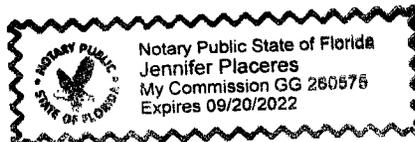
STATE OF FLORIDA  
COUNTY OF COLLIER

Acknowledged and subscribed before me, an officer duly authorized in the above mentioned state and county to take acknowledgments, by means of physical presence, this 30<sup>th</sup> day of January, 2020, by ANTHONY EVERITT President of Vista Townhomes at Heritage Bay Association, Inc. and who did take an oath, on this 30<sup>th</sup> day of January, 2020.

Notary Public

Printed name of Notary

My Commission Expires: 9/20/22



**AMENDMENTS TO THE DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR VISTA  
TOWNHOMES AT HERITAGE BAY**

Additions are indicated by underlining. Deletions are indicated by ~~strike-through~~.

**1. Amendment to Section 1.11 to read as follows:**

**1.11 “Governing Documents”** means the Declaration of Covenants for Vista Townhomes at Heritage Bay, and the Articles of Incorporation and Bylaws of the Association, as well as the Declaration, Articles of Incorporation and Bylaws of the Commons Association. If there is conflict in the interpretation of the Governing Documents, the order of priority shall be the same as the order in which they appear in this Section 1.11 except conflicting provisions in the Commons Association documents supersede those appearing in the Governing Documents of the Association.



**2. Amendment to Section 1.22 to read as follows:**

**1.22 “Service Charge”** means a fee or charge against one or more Owners, Lots or Living Units for any service, material or combination thereof which may be provided by the Association or Commons Association for the use and benefit of the Owner on a voluntary basis, such as contracting in bulk for repairs, services, materials or maintenance. The amount paid or incurred by the Association or Commons Association on behalf of the Owners accepting or receiving such material or service shall be a service charge against the Lots or Living Units so benefitted. The Owner(s) are deemed to agree to such assessment by subscribing, requesting, or accepting the material or service.



**3. Amendment to Section 3.4 to read as follows:**

**3.4 Delegation of Management.** The Association may contract for the management and maintenance of the Properties and authorize a management agent to assist the Association in carrying out its powers and duties by performing such function as the submission of proposals, collection of assessments, preparation of records, enforcement of rules, and maintenance of the Common Areas, with funds made available for the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties provided in the Governing Documents and Section 720.301 through 720.402, inclusive, Florida Statutes (2009), as amended. The Association through its Board of Directors may delegate to the Commons Association the management and maintenance responsibilities for the Association with the Association paying its pro rata share of the cost of employing a licensed manager or management company to carry out the Association’s powers and duties.

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**4. Amendment to Section 7.1 to read as follows:**

**7.1 Maintenance of Common Areas.** Except as otherwise provided herein, the Association shall maintain, repair and replace any and all improvements constructed on the Common Areas, including without limitation all landscaping, the components of the irrigation systems, including but not limited to the tap into the main line, timers, switching devices and heads, drainage structures, utility lines, walkways, light fixtures, and other structures. Additionally, where the Common Areas are contiguous to a road, the Association shall maintain all landscaping (if any) between the Common Areas and the pavement of such right-of-way. ~~The Association shall obtain the written approval of the ACC before making any material alterations or substantial additions to the Common Areas.~~ The Association may delegate the maintenance, repair and replacement of any improvements constructed on the Common Areas to the Commons Association, the cost of which shall be charged to the Association by the Commons Association and become part of the Common Expenses of the Association.

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**5. Amendment to Section 7.2 to read as follows:**

**7.2 Maintenance of Lots and Townhomes.**

(Sections (A), (B), and (C) Remain Unchanged)

**(D)** Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance includes responsibility for repair and replacement. The maintenance, repair, replacement and other obligations of the Association and Owner specified in this Declaration shall be performed as and when the Board determines. The Board may also delegate to the Commons Association contracting for the maintenance, repair and replacement responsibilities of the Association, the cost of which shall be assessed against the Association by the Commons Association and become part of the Common Expenses of the Association. To the extent that any maintenance, repair or replacement is undertaken by the Commons Association for more than one Member Association, the Association is only responsible for its pro rata share of the maintenance, repair or replacement undertaken and shall not be responsible for and have no liability for any maintenance, repair or replacement completed for the benefit of another Member Association.

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**6. Amendment to Section 7.4 to read as follows:**

**7.4 Enforcement of Maintenance.** If the Owner of a Townhome fails to maintain it as required above, the Association or the Commons Association shall have the right to institute legal proceedings to enforce compliance, or may take any and all other steps necessary to remedy such violation, including but not limited to entering the Lot, with or without consent of the Owner. The Association or the Commons Association may repair, replace, or maintain any item which constitutes an immediate hazard to other property or residents, or which has a material adverse effect on the appearance of the Community. Any expenses so incurred by the Association or the Commons Association shall be assessed against the Owner, together with reasonable attorney's fees and other expenses of enforcement and the expenses shall be secured by a lien against the unit and may be foreclosed in the same manner as common expenses.



**7. Amendment to Section 7.6 to read as follows:**

**7.6 Alterations and Additions.** Funds necessary for material alterations or substantial additions to the Common Areas by the Association or, when delegated to the Commons Association, by the Commons Association, may be levied as special assessments by the Association or Commons Association only upon prior approval by a majority of the whole Board of Directors and approval by two-thirds (2/3rds) of the voting interests present and voting at a meeting called for the purpose. ~~Prior to the commencement of any such project relating to the Common Areas or to the building, the Association shall obtain the written approval of the ACC.~~ However, if changes that are necessary to enable the Association to perform its legal duty to protect, insure, maintain, repair or replace the Properties also happen to constitute material alterations or substantial additions, no prior approval by the Owners is necessary.



**8. Amendment to Section 7. to read as follows:**

**7.7 Pest Control.** The Association or Commons Association may elect to supply pest control services for the inside of each Townhome, with the cost thereof being part of the common expenses. The cost of any pest control provided by the Association or the Commons Association shall be a common expense.



**9. Amendment to Section 11.1 to read as follows:**

**11.1 Residential Use.** Each Townhome shall be occupied by only one family and its temporary guests at any time, as a residence and for no other purpose. A guest's occupancy will not be considered temporary if that guest occupies the unit on an overnight basis for more than thirty days in a calendar year. If a guest is present beyond thirty days in a calendar year, that guest's occupancy must be specifically approved by the Association through its Board of Directors or, to the extent the Association has delegated the approval process to the Commons Association, by the Commons Association through its Board of Directors. In considering such requests, the Board may consider factors set forth in section 14 hereof, and may charge a reasonable fee for review of occupancy requests. No business or commercial activity shall be conducted in or from any Townhome. No person may publicly advertise the address of a Townhome as the address of any business. The use of a Townhome as a public lodging establishment shall be deemed a business or commercial use. This Section 11.1 shall not be construed to prohibit any Townhome occupant from maintaining a personal or professional library, from keeping his personal, business or professional records in his Townhome, or from handling his personal, business or professional telephone calls, written correspondence, or other communications in and from his Townhome. This Section 11.1 is, however, intended to prohibit commercial or business activity by an Owner which would noticeably change the residential ambiance of the Community, or make it obvious that a business is being conducted, such as by regular or frequent traffic in and out of the Community by persons making deliveries or pick-ups, or by employees and business associates, or by customers and clients.

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**10. Amendment to Section 11.2 to read as follows:**

**11.2 Occupancy of Townhome when Owner is not in Residence.** An Owner may occasionally allow family, friends or business associates in reasonable numbers to temporarily occupy his Townhome in his absence. Except as otherwise provided in Section 15.1 below, this provision is not intended to allow any Owner to use his Townhome as short-term transient accommodations for several individuals or families. The Owner must register all guests with the Association in absence, giving such information about the guests and the period of their stay as the Board may reasonably require. Guests are not allowed for a period of more than thirty days total in any twelve month period without the prior written approval of the Board of Directors. In considering such requests, the Board may consider factors set forth in section 15.1 hereof, and may charge a reasonable fee for review of occupancy requests. The Board may also pass additional rules concerning the approval process for requests to allow guests to stay for a period of more than thirty days in any calendar year including requiring the guest to submit to a criminal background check. The Owner is responsible for the conduct of his guests. When the Owner is not in residence, no more than six (6) overnight occupants are allowed at any time.

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**11. Amendment to Section 11.3 as follows:**

**11.3 Leases.** No portion of a Townhome (other than an entire Townhome) may be rented. The Board has the authority to approve or disapprove the lease of a Townhome. The Board may charge a reasonable application fee, but may not charge a fee for approval of a renewal or extension of a lease with the same lessee. All leases shall be on forms approved by Association and shall provide (or, if it does not provide, shall be automatically deemed to provide) that (i) a material condition of the lease shall be the tenant's full compliance with the covenants, terms, conditions and restriction of this Declaration (and all Exhibits thereto), the Articles and By-Laws of Association, and with any applicable rules and regulations adopted by the Association from time to time (before or after the execution of the lease), and any other document or instrument governing the Townhome, including the governing documents of the Commons Association and (ii) Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles and By-Laws of Association, applicable Rules or other applicable provisions of any agreement, document or instrument governing the Community, including the governing documents of the Commons Association, or administered by Association. Landlord is obligated to sufficiently assure the Board that no Home will be occupied by any sexual offender or predator or anyone who has been arrested or adjudicated as a sexual offender or predator. Owners are responsible for providing to their tenants copies of all such documents or instruments that the tenant is required to comply with as outlined in this section. Each lease must be a minimum period of one (1) month or thirty (30) days, whichever is less. No subleasing or assignment of lease rights by the tenant is permitted. Association may also charge a reasonable fee to offset the costs of a background check on a tenant. As a condition to the approval by Association of a proposed lease of a Townhome, Association has the authority to require that a security deposit in an amount not to exceed the equivalent of one (1) month's rent (or such greater amount permitted from time to time by the Act) be deposited into an account maintained by Association as permitted by the ACT. The security deposit shall protect against damages to the Common Areas or Property. A security deposit held by Association under this Section 11.3 shall be governed by Chapter 83 of the Florida Statutes, as it may be renumbered from time to time. The Townhome Owner will be jointly and severally liable with the tenant to Association for any amount in excess of such sum which is required by Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant. The Board may delegate the lease approval and disapproval powers to the Commons Association. The following leasing provisions also apply.

**THE DEVELOPER ASSOCIATION MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE FINANCIAL FEASIBILITY OF RENTING TOWNHOMES OR THE INCOME TO BE DERIVED THEREFROM. ANY OWNER WHO DESIRES OR INTENDS TO RENT A TOWNHOME MUST INDEPENDENTLY DETERMINE AND ASSUME RESPONSIBILITY FOR THE FEASIBILITY OF RENTING, AND SHOULD CONSULT HIS OR HER OWN ADVISOR WITH RESPECT TO THE TAX CONSEQUENCES AND ECONOMIC ADVANTAGE OF OWNERSHIP.**

11.3.1 Notice. An owner intending to make a lease of their townhome shall give to the

Board of Directors or its designee written notice of such intention at least thirty days prior to the proposed transaction, together with the name and address of the proposed lessee and all proposed occupants, a copy of the proposed lease, including rent amount and time period of lease, and such other information as the Board may reasonably require. The applicant must sign for having received a copy of the governing documents and rules and regulations. The Board may also require the personal appearance of any lessee and their spouse, if applicable, and a credit and background check as a condition of approval.

11.3.2 Approval. After the required notice and all information or appearances requested have been provided, the Board shall approve or disapprove the proposed lease within twenty days. If the Board neither approves nor disapproves a lease within the time stated above, such failure to act is deemed the equivalent of approval, and on demand the Board shall issue a certificate of approval to the lessee.

11.3.3 Disapproval. A proposed lease shall be disapproved only if a majority of the whole Board so votes, and in such case the lease is nullified and shall not be made. The Board has the power to evict on five days notice if the lessee under a disapproved lease occupies the premises. Appropriate grounds for disapproval shall include, but not be limited to, the following:

11.3.3.1 The townhome owner is delinquent in the payment of assessments at the time the application is considered;

11.3.3.2 The townhome owner has a history of leasing his townhome to troublesome lessees and/or refusing to control and accept responsibility for the occupancy of his townhome;

11.3.3.3 The townhome owner has a history of leasing his townhome to troublesome lessees and/or refusing to control and accept responsibility for the occupancy of his townhome;

11.3.3.4 The prospective lessee has been convicted of a felony involving violence to persons or property, or a felony demonstrating dishonesty or moral turpitude;

11.3.3.5 The prospective lessee has a history of conduct which evidences disregard for the rights or property of others;

11.3.3.6 The lessee has during previous occupancy, evidenced an attitude of disregard for Association rules;

11.3.3.7 The prospective lessee gives false or incomplete information to the Association as part of the application procedure or the required transfer fees or security deposit are not paid; or

11.3.3.8 The owner fails to give proper notice of the intention to lease the townhome to the Board of Directors.

11.3.4. Failure to Give Notice. If proper notice to the Board is not given, the Board of Directors may approve or disapprove the lease without prior notice. Any lease entered into without approval or in violation of the above provisions shall, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the lessee with five days notice, without securing consent to such eviction from the townhome owner.

11.3.5 Committee. To facilitate approval of leases proposed during times when many of the members are not in residence, the Board of Directors may by resolution delegate its approval powers to an ad hoc committee, which shall consist of at least three members of the Association. The Board may also delegate its approval powers to the Commons Association.

11.3.6 Occupancy During Lease Term. No one but the lessee, their family members within the first degree of relationship by blood, adoption or marriage, and their spouses may occupy the townhome except that guests may occupy the townhome when the lessee is in residence for no more than fourteen days in any calendar month, and such guests must be registered with the manager. Occupancy is limited to two persons per bedroom. The Board of Directors shall have the authority to grant exceptions to the foregoing limitations on guest occupancy in order to avoid undue hardship under special circumstances. The granting of one exception does not constitute a precedent for the granting of other exceptions. During the lease, the tenant shall have all use rights in the Association property and common elements available for use generally by owners, and the townhome owner shall have no such rights.

11.3.7 Occupancy in Absence of Lessee. If a lessee is absent from the townhome for any period of time during the lease term, their family already in residence may continue to occupy the townhome and may have house guests subject to the restrictions in 11.3.6 above. If the lessee and all of the family members mentioned in the foregoing sentence are absent, no other person may occupy the unit.

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**12. A new Section 11.21 shall be added to read as follows:**

**11.21 Guest Occupancy When Owner or Tenant Present.** There is no restriction on the frequency of guests, whether related or unrelated to the owner or tenant, who may occupy a Townhome in the presence of the Owner with the exception of any government regulations governing occupancy as long as the guest is occupying the Townhome overnight less than thirty days in any calendar year. If a guest is occupying the Townhome for thirty or more days in any calendar year, the guest must receive the prior written approval of the Board of Directors. In considering such requests, the Board may consider factors set forth in section 11.3.3 hereof, and may charge a reasonable fee for review of occupancy requests. The Board may also pass additional rules concerning the approval process for requests to allow guests to stay for a period of more than thirty days in any calendar year including requiring the guest to submit to a criminal background check.

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**13. Amendment to Section 12 as follows:**

**12. ENFORCEMENT OF COVENANTS AND ABATEMENT OF VIOLATIONS.** Every Owner, and all guests, tenants and occupants of Townhomes, shall at all times comply with Chapter 720, Florida Statutes, the Governing Documents, and the rules of the Association. The Board of Directors may delegate its enforcement powers to the Commons Association. Before undertaking any remedial, disciplinary or enforcement action against a person alleged to be in violation, the Association or the Commons Association shall give the alleged violator reasonable written notice of the alleged violation, except in emergencies. Disagreements concerning violations, including, without limitation, disagreements regarding the proper interpretation and effect of the Governing Documents, shall be presented to and determined by the Board of Directors of the Association, or if the Association has delegated enforcement powers of the Association to the Commons Association, the Board of Directors of the Commons Association, whose interpretation of the Governing Documents and/or whose remedial action shall control. Each member and the member's tenants, guests, and invitees, and the Association are governed by, and must comply with, this Chapter 720, the governing documents of the Community, and the rules of the Association. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with these provisions may be brought by the Association or by any member against:

(The remainder of the Section is Unchanged)

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**14. A new Section 13.5 shall be added to read as follows:**

**13.5 Delegation of Authority to Commons Association.** The Association also may delegate to the Commons Association the authority to provide for the operation and maintenance of the Association's Common Areas, including contracting for the management of the Association and to enforce the provisions of the Member Association's governing documents and charge the cost of doing so to the Member Association.

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**15. Amendment to Section 17.3 as follows:**

**17.3 Vote Required.** Except as otherwise provided by law, or by specific provision of the Governing Documents, this Declaration may be amended at any time if a duly proposed amendment is approved by at least ~~seventy-five (75%)~~ fifty percent (50%) of the voting interests of the Association present in person or by proxy and voting at any annual or special meeting called for the purpose, provided that the text of each proposed amendment has been given to the members with notice of the meeting. However, no amendment shall be effective to change the share of liability for assessments or ownership of the common surplus of the Association, or the voting rights appurtenant to any Townhome, unless the Owner and his institutional mortgage (if

any) consent in writing to the amendment. ~~Until control of the Association has been turned over to Owners other than the Developer, this Declaration may also be amended by vote of two thirds (2/3rds) of the Board of Directors, without need for a vote of the Owners.~~

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