

This document answers two frequently asked questions.

1. Is the Villas at Canandaigua a “maintenance free” community?
2. Is the Villas at Canandaigua a 55 and over community?

1. The Villas at Canandaigua community is not a “maintenance free” community. Article VII MAINTENANCE of the Declaration states the HOA is required to maintain, repair and replace the Common Area within the community. This obligation by the HOA, however, is not absolute and in Article VIII(D)(2) USE OF PROPERTY of the Declaration, it requires each Owner’s (a/k/a Member in the Declaration) “dwelling and Lot shall be maintained in good repair and overall appearance.” This Section continues by stating that “[i]f a Member fails to maintain his house or Lot in a reasonably well maintained and orderly manner, the Board of Directors may contract for exterior maintenance and any expenses incurred shall be considered additional common charges against the Lot in question.” The Documents contemplated that each Owner has some responsibility to Owner’s dwelling and Lot, and it is not the sole obligation of the HOA.

In addition, the Bylaw of the Board of Directors allows the Board to promulgate rules and regulations for the HOA. The Homeowner Responsibility Matrix states what the HOA is responsible for and what the Owner is responsible for in connection with the Owner’s dwelling and Lot.

2. The Declaration and Bylaws do not contain any age limitation and is not a 55-and-over community. NYS and federal law typically prohibit any form of discrimination, but the one exception is allowing 55-and-over communities. To form such a community, the sponsor is required to clearly disclose such an age requirement and the Documents do not contain such language and, therefore, the HOA is not a 55-and-over community.