

AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
BIRD KEY HOMEOWNERS ASSOCIATION, INC.

*[Substantial rewording of Articles of Incorporation.
See present Articles for existing text.]*

ARTICLE 1.
NAME OF CORPORATION

The name of this corporation is **BIRD KEY HOMEOWNERS ASSOCIATION, INC.** (herein, the "Association"), a Florida Not for Profit Corporation, formerly known as Bird Key Improvement Association, Inc. The street address of the Association's principal office is 100 Bird Key Drive, Sarasota, Florida 34236.

ARTICLE 2.
CORPORATE PURPOSES

The Association is organized to perform the following purposes:

2.1 **Maintain and Repair.** To maintain and repair the common areas and to preserve, protect and enhance the natural beauty of the Bird Key Subdivision lots and the common areas.

2.2 **Civic Welfare.** To present a united effort for its members in the advancement of the civic welfare of the Bird Key Subdivision, particularly in protecting the properties of the members of the Association in the residential section of Bird Key Subdivision located in Sarasota, Florida.

2.3 **Enforcement.** To ensure and require that the Bird Key Declaration of Restrictions and rules are lawfully, consistently and reasonably enforced.

2.4 **Approvals.** To grant rights and privileges to the Association's members pursuant to Florida law.

2.5 **Budget and Assessments.** To establish an annual budget and to fix assessments to be levied against all lots which are subject to assessments pursuant to the Declaration of Restrictions for the purpose of defraying the expenses and costs of effectuating the objectives and purposes of the Association.

2.6 **Liens and Collection.** To place liens against Bird Key lots subject to assessment for delinquent and unpaid assessments or charges and to bring suit for the foreclosure of such liens and/or to otherwise enforce collection of such delinquent assessments by seeking a personal money judgment against the responsible lot owners

and charges for the purpose of obtaining revenue in order to carry out the purposes and objectives of the Association.

2.7 **Reasonable Acts.** Acting through its Board of Directors, its President and other officers, subject to the powers and restrictions of the governing documents, to do all such acts as are reasonably necessary or convenient to the attainment of the Association's objectives and purposes.

2.8 **Business Affairs of the Association.** To enter into, make, perform or carry out contracts of every kind with any person, firm, corporation or association; to do any acts necessary or expedient for carrying on any and all of the purposes of the Association, and not prohibited by the laws of the State of Florida.

2.9 **Objectives.** To have its officers promote and carry on the Association's objectives and purposes within or without the State of Florida.

2.10 **Rules and Regulations.** To make rules and regulations governing the use of the common areas of the Association and governing the use and maintenance of the properties of the members of the Association located in Bird Key Subdivision.

2.11 **General Powers.** In general, to have all powers conferred upon corporations by the laws of the State of Florida, except as prohibited in the governing documents or Florida law.

ARTICLE 3. MEMBERSHIP AND VOTING RIGHTS

3.1 **Members.** The membership of the Association shall consist of not more than five hundred eleven (511) regular members, and such other classes of members, as the Bylaws shall from time to time provide. The rights and obligations of members shall be provided in the governing documents, and by rules and regulations of the Board of Directors.

3.2 **Qualifications.** Applicants for membership and members shall comply with all the qualifications that may be prescribed in Chapter 720, Florida Statutes, the governing documents and by the Association's Board of Directors.

3.3 **Mandatory Membership.** As more fully provided in the Declaration of Restrictions, all holders of a freehold estate in one or more lots of Bird Key Subdivision according to the plat thereof recorded in the Public Records of Sarasota County, Florida, solely or with other persons or entities as joint tenants, tenants-in-common, or tenants by the entirety, are mandatory members of the Association. If title to a lot in Bird Key Subdivision is vested in more than one person or entity, only one of such persons or entities shall be a regular member of the Association.

3.4 **Voting Rights.** The voting rights of the membership of the Association shall be vested exclusively in the regular members. The number of votes of all regular

members of the Association shall not exceed five hundred eleven (511). An entity may be, but is not limited to, a corporation, trust, partnership or LLC. On each matter coming before a membership meeting, each regular member may cast the number of votes equal to the number of entire Bird Key Subdivision lots, the title to which is held by such regular member. A regular member holding title to a fractional lot of Bird Key Subdivision, as platted, shall not be entitled to a fractional vote therefor.

3.5 Certificate. Each regular member of the Association shall receive a duly executed certificate evidencing such membership. Each certificate and the membership evidenced thereby shall be valid only when held by the member and registered on the books of the Association in the name of the member. Regular members are subject to and agree to abide by the Declaration of Restrictions, Articles of Incorporation and the Bylaws, all as amended from time to time.

3.6 Transfer of Membership. Membership in the Association shall only occur by the cancellation of the transferor's certificate and issuance of a new membership certificate to the transferee. A regular membership shall be terminated when the member no longer meets the requirements for membership set forth in herein or as may be provided in the Bylaws. Upon termination, the membership shall be cancelled on the records of the Association and thereafter the certificate evidencing the membership shall be null and void.

3.7 Assessments. Assessments against members may be levied and collected by the Association's Board of Directors as provided in the governing documents.

ARTICLE 4. TERM OF EXISTENCE

The Association shall have perpetual existence unless sooner dissolved according to Florida law.

ARTICLE 5. ORIGINAL SUBSCRIBERS

The names and addresses of the original subscribers are the following:

John H. Weir	988 S. Federal Highway Boca Raton, Florida
A. T. Knight	988 S. Federal Highway Boca Raton, Florida
Fred Berger	314-316 John Ringling Boulevard Sarasota, Florida

ARTICLE 6. OFFICERS

The officers of the Association shall be a President, one or more Vice Presidents, a Secretary and a Treasurer, and such other officers and assistant officers as may be provided in the Bylaws. The offices of President and Secretary may not be held by the same person. The Board of Directors shall elect its officers at its organizational Board meeting, as provided in the Bylaws. The President and Vice President(s) must be directors of the Association.

ARTICLE 7. BOARD OF DIRECTORS

The affairs of the Association shall be managed by a Board of Directors which shall consist of not less than seven (7) nor more than eleven (11) members, the determination of which, and the method by which the directors are to be elected or appointed, shall be provided in the Bylaws. Director qualifications shall be stated in the Bylaws.

ARTICLE 8. BYLAWS

The Bylaws of the Association may be amended or altered as provided in the Bylaws.

ARTICLE 9. AMENDMENT OF ARTICLES OF INCORPORATION

9.1 **Proposal.** Amendments to the Articles of Incorporation may be proposed by the Board of Directors or by written petition signed by at least twenty-five (25) regular members. The Association shall include the text of the proposed amendments with the notice of the membership meeting. All amendments must be transmitted to the members at least thirty (30) days prior to the membership meeting.

9.2 **Amendment.** The Articles of Incorporation may be amended upon the approval of a majority of the Association membership present (in person or by proxy) at a duly-noticed membership meeting, provided that the total number of votes cast meets or exceeds a quorum.

ARTICLE 10. CONVEYANCE OF REAL PROPERTY

The real property of the Association shall not be sold, mortgaged or encumbered except upon the prior approval of a majority of the regular members present (in person or by proxy) at a duly called membership meeting and also with the approval of a majority of the entire Board of Directors.

ARTICLE 11. ASSESSMENTS

The method and manner in which the Association may obtain funds for operation shall be as provided in its Bylaws and in the Declaration of Restrictions.

ARTICLE 12. NOT FOR PROFIT CORPORATION

12.1 Nature of Corporation. The Association is a Florida Not for Profit Corporation pursuant to Chapter 617, Florida Statutes and is also a Homeowners Association pursuant to Chapter 720, Florida Statutes, all as amended from time to time.

12.2 No Capital Stock. The Association shall have no authority to issue capital stock. Membership in the Association shall be mandatory and upon such terms and conditions as set forth herein and as may be provided in the Declaration and the Bylaws.

12.3 No Dividends. No dividends shall be paid and no part of the income of the Association shall be distributed to the regular members, directors or officers hereof; provided that upon dissolution or final liquidation, the Association may make such distribution to its regular members as permitted by the court having jurisdiction thereof, and no such payment, benefit or distribution shall be deemed to be a dividend or distribution of income.

ARTICLE 13. INDEMNIFICATION

13.1 Indemnification. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil or criminal, administrative or investigative (whether or not by or in the name of the Association), by reason of the fact that he is or was a director or officer of the Association, against any and all expenses (including attorney's fees), judgments, fines and amounts paid in settlement incurred by him in connection with such action, suit or proceeding, except for an officer or director who is adjudged guilty of willful misfeasance or willful malfeasance in the performance of his duties. Such right of indemnification shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs and personal representative of such person, provided, however, that if any past or present officer or director sues the Association, other than to enforce this indemnification, such past or present director or officer instituting such suit shall not have the right of indemnification hereunder in connection with such suit. The Association may purchase insurance to provide funds for the indemnification herein set forth and, if such insurance is purchased but the proceeds of the same are not sufficient to cover the cost of indemnification, then the deficiency shall be paid from the Association funds. If there are insufficient or no such funds, then the Board shall assess the membership to cover the cost of

indemnification. The Association reserves the right to select its own investigators and lawyers to defend the indemnitee, who must cooperate fully with any such persons in order to be indemnified under the Article. The Association shall not be liable for any duplication of costs incurred by the indemnitee if the Association agrees to defend him, and the indemnitee hires others to defend him. The failure of the indemnitee to cooperate in the defense of any action taken against him shall be deemed a waiver of his right to a defense or to indemnification by the Association.

13.2 **Notice.** This indemnity is contingent upon receipt by the Association, at its business address, from the indemnitee of notice, by certified mail within fifteen (15) days of his acquiring notice thereof, of any legal action or claim made against him.

ARTICLE 14. REGISTERED AGENT AND OFFICE

The current registered agent for the Association is Argus Property Management, Inc., whose address is 2477 Stickney Point Road, Suite 118A, Sarasota, Florida 34231. The Association's Board of Directors may change its registered office/registered agent as provided by Florida law.