

This instrument prepared by & return to:
Derek W. Eisemann, Esq.
Michael J. Belle, P.A.
2364 Fruitville Road
Sarasota, FL 34237

6/3/2021 3:47 PM

KAREN E. RUSHING
CLERK OF THE CIRCUIT COURT
SARASOTA COUNTY, FLORIDA

SIMPLIFILE

Receipt # 2688954

CERTIFICATE OF AMENDMENT

**AMENDED AND RESTATED BYLAWS
OF
CLUB VILLAS OF BERKSHIRE PLACE ASSOCIATION, INC.**

We hereby certify that the attached Amended and Restated Bylaws for Club Villas of Berkshire Place Association, Inc., was approved and adopted at the special meeting of the Association held on April 13, 2021. The Amended and Restated Bylaws was adopted as required under Article XIII of the Bylaws and the number of votes cast for the amendment was sufficient for approval. The original Declaration of Covenants, Conditions and Restrictions for Berkshire Place Phase II was recorded at Official Records Book 2708, Page 429, et seq., of the Public Records of Sarasota County, Florida. The Association further certifies that the amendments were proposed and adopted as required by the governing documents and applicable law.


DATED this 6 day of May, 2021.

Signed, sealed and delivered in the presence of :

Club Villas of Berkshire Place Association, Inc.


Print Name: Beatrix Dawson

By: Cynthia Van Zandt
Cynthia Van Zandt, President


Print Name: Rande Tokajer

Attest:

By: Dorothy D'Alessandro
Dorothy D'Alessandro, Secretary

STATE OF FLORIDA }
COUNTY OF SARASOTA }

The foregoing instrument was sworn to and acknowledged before me by means of physical presence or online notarization, this 6th day of May, 2021 by **Cynthia Van Zandt, as President of Club Villas of Berkshire Place Association, Inc., on behalf of the corporation,** who is personally known to me or who has produced _____ as identification.

[Notary Seal]




Notary Public
My Commission Expires:

AMENDED AND RESTATED BYLAWS OF
CLUB VILLAS OF BERKSHIRE PLACE ASSOCIATION, INC.
a Florida Not For Profit Corporation

[Substantial rewording of Bylaws. See existing Bylaws and amendmetns thereto for present text]

Article I. Name and Location

The name of the corporation is CLUB VILLAS OF BERKSHIRE PLACE ASSOCIATION, INC. The principal office of the corporation shall be located at 1205 Berkshire Circle, Venice, FL 34292, but meetings of members and directors may be held at such places. within the State of Florida as may be designated by the Board of Directors.

Article II. Definitions

Section 1. "Articles" shall mean the Articles of Incorporation for the Association.

Section 2. "Association" shall mean and refer to CLUB VILLAS OF BERKSHIRE PLACE ASSOCIATION, INC., its successors and assigns.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners.

Section 4. "Declaration" shall mean and refer to the Declaration of Covenants and Restrictions applicable to the Association, as amended from time to time the terms of which are incorporated herein by reference.

Section 5. "Lot" shall mean and refer to any plot of land within the Association as shown on the recorded subdivision plat with the exception of the common area.

Section 6. "Member" shall mean and refer to any person entitled to membership in the Association as provided in the Declaration.

Section 7. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot which is a part of the Association, including contract sellers, but excluding those holding title merely as security for the performance of an obligation.

Section 8. All other terms used herein and defined in the Declaration shall have the definition set forth in the Declaration

Article III Meetings of Members

Section 1. Annual Meetings. Annual meetings of Members shall be held on the third Wednesday of February, or such other day in February, as may be determined by the Board of Directors.

Section 2. Special Meetings. Special meetings of Members may be called at any time by the President or by a majority of the Board of Directors, or on written request of no less than twenty-five percent (25%) of the Voting Members.

Section 3. Notice of Meetings. Written notice of each meeting of Members shall be given by, or at the direction of, the Secretary or other person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, providing the notice by hand delivery, or providing the notice by electronic means, including, but not limited to, email, to a Member entitled to vote who has provided consent to receive notices by electronic means, at least ten (10) days before but not more than thirty (30) days before such meeting, to each member entitled to vote there at, addressed to the member's address or email last appearing on the books of the Association, for the purpose of receiving notice. Such notice shall specify the day, hour, and place of the meeting, and in the case of a special meeting, the purpose of the meeting. The Association shall also post in a conspicuous place in the Association the notice and agenda of the meeting at least ten (10) days prior to the date of such meeting. If mailed or emailed, notice of a meeting shall be deemed to be delivered when deposited in the United States mail or sent by electronic means. The attendance of any Member, or person authorized to vote for such Member, shall constitute such Member's waiver of notice of such meeting, except when the Member's attendance is for the sole and express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting was not lawfully called. Members may attend membership meeting in person or by proxy. A Member may, however, attend or participate in meetings by telephone, conference call, speaker phone, facetime, zoom, or other electronic means, to the extent the Board approves and the Board has the ability and technical capability to provide for participation by electronic means.

Section 4. Quorum. The presence at the meeting, in person or by proxy of at least thirty percent (30%) of the voting interest shall constitute a quorum for any action except as may otherwise be provided in the Declaration, the Articles of Incorporation, or these Bylaws. If the required quorum is not present, another meeting may be called upon at least ten (10) days written or public notice at which meeting there shall be no quorum requirement and those present in person or by proxy shall be entitled to decide the issue. This provision is included to ensure the ability of the Association to act despite non-participation of its Members, and shall not be subject to attack on due process or other grounds. No such subsequent meeting(s) shall be more than sixty (60) days following the preceding meeting(s).

Section 5. Proxies. At all meetings of Members, each Member may vote in person or by proxy, except that for the election of Members of Board of Directors, Members shall vote in person at a meeting of the Members or by a ballot that the Homeowner personally casts. A Member may personally cast a ballot and forward the ballot by mail to the Secretary of the Association. All proxies must be dated, must state time and place of the election meeting, and must be signed by the voting member and authorized person. Every proxy shall be revocable and shall automatically cease as to any lot, Dwelling or Parcel upon conveyance by the Member owning such Lot, Dwelling, or Parcel.

Section 6. Indivisible Vote. Each Lot shall have one (1) indivisible vote. If a Lot is owned by a corporation, any officer or authorized agent may vote on behalf of said corporation. If a Lot is

owned by a partnership, any partner may vote on behalf of the partnership. If a Lot is owned by spouses or multiple owners, either spouse or any owner may cast a vote on behalf of any Lot. If a Lot is owned in trust, any trustee or beneficiary of the trust may vote on behalf of the trust. Any person asserting the right to vote on behalf of a Lot owned by an artificial entity shall be conclusively presumed to be entitled to vote on behalf of said Lot, unless the Lot has filed voting instructions with the Association designating some other person entitled to vote.

Article IV. Board of Directors; Term of Office; Removal

Section 1. Number. The affairs of the Association shall be managed by a Board of five (5) Directors who shall be Members of the Association.

Section 2. Term of Office. All Directors shall serve for a term of three (3) years, unless the term of such director shall end prior to such term by death, resignation, removal, or sale or deeding of the Lot to another party. In order to accommodate any change in the time of the annual meeting, the term of each director shall expire on the date of the annual meeting in the year in which his or her three-year term would be complete.

Section 3. Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation, or removal of a Director, his successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No Director shall receive compensation for any service he/she may render to the Association. However, any Director may be reimbursed for his/her actual expenses incurred in the performance of their duties.

Section 5. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting that they could take at a meeting by obtaining the prior or subsequent written approval of all the Directors by U.S. Mail, e-mail or facsimile transmission. Any action so approved shall have the same effect as though taken at a meeting of the Directors. The action shall be placed on the agenda for the next regularly scheduled meeting and affirmed by vote of the Board of Directors.

Article V. Board of Directors – Nomination and Election

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nomination Committee. Nomination may also be made from the floor at the annual meeting of the Members. The Nomination Committee shall consist of a Chairman, who shall be a Member of the Board of Directors, and two (2) or more Members of the Association. The Nomination Committee shall be appointed at the first Board of Directors meeting following the annual meeting of the Members and the Committee shall serve until the close of the next annual meeting. The Nomination Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not fewer than the number of vacancies that are to be filled. Such nominations may be made among Members. The Board of Directors shall promulgate all operating rules for the Nominating Committee.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot, or if there is no opposition, a single ballot may be cast for all. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. Persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 3. Notification. When it is known that there will be vacancies on the Board that are to be filled by the election of new Directors, the Nominating Committee will inform all members of the Association of the vacancies at least thirty days prior to the meeting at which the election is to be held. This will permit interested members to indicate their willingness to stand for election as Directors.

Article VI. Board of Directors – Meetings

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly at such place and hour as may be fixed from time to time by of the Board of Directors. Notice of the meetings of the Board of Directors shall be given to each Director personally or by mail, email, telephone, facsimile transmission or telegraph, and posted conspicuously on the Association property no less than forty-eight (48) hours prior to such meetings, except in the case of an emergency. Any item not on the notice may be taken up on an emergency basis by at least a majority of the Directors. Such emergency action shall be noticed and ratified at the next regular meeting of the Board of Directors. In the event the regular date for a meeting falls on a legal holiday, such meeting shall be held at the same time on the next following day which is not a legal holiday. Any regular meeting can be cancelled if approved by a majority of the Directors, to the extent no less than 6 regular meetings are held annually. Any Director may waive notice of a meeting before, at, or after the meeting and such waiver shall be deemed equivalent to the giving of notice. Attendance by a Director at a meeting shall constitute waiver of notice of the meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of Association, or by any two Directors, after not less than three days notice to each Director, unless a different time is set forth herein.

Section 3. Quorum. A majority of the Directors shall constitute a quorum for the transaction of business. Every act performed or decision made by a majority of Directors present at a duly held meeting in which a quorum is present shall constitute the act or decision of the Board. Directors may attend the meeting by electronic means provided that a two-way discussion is possible, and shall be considered to be present at the meeting. Directors may not vote by proxy or secret ballot at Board meetings except that secret ballots may be used in the election of Officers.

Section 4. Special Notice. Not less than fourteen (14) days' advance written and/or electronic notice shall be mailed or delivered to the Lot Owners and posted conspicuously in the Association of any Board of Directors meeting to discuss or adopt the annual budget, consider the levy of a non-emergency special Assessment or proposed Rules and Regulation regarding Lot use. Notice of any meeting in which regular or special assessments against Lot Owners are

to be considered for any reason shall specifically state that Assessments will be considered and the nature of the Assessment.

Section 5. Member Participation. Except as otherwise provided by law, meetings of the Board of Directors at which a majority of the Directors are present, shall be open to all Members. Members may not designate third persons, through power of attorney or otherwise, to attend meetings of the Board of Directors, unless agreed to otherwise by the Board of Directors. The right to attend such meetings includes the right to speak with reference to all designated agenda items; provided, however, that the Board of Directors may adopt reasonable Rules and Regulations governing the frequency, duration, and manner of Member statements. Unless otherwise provided by a resolution, each Member is entitled to speak for three (3) minutes with reference to designated agenda items. Members who are not Directors may not attend meetings between the Board of Directors or a committee and the Association's attorney to discuss proposed or pending litigation or meetings of the Board of directors held for the purpose of discussing personnel matters.

Article VII. Board of Directors – Powers and Duties

Section 1. Powers. The Board of Directors shall have power to:

- (a) adopt and publish rules and regulations governing the use of the Common Area, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof, provided, however, if a rule or regulation promulgated by the Board of Directors shall conflict with a rule or regulation promulgated in the Articles of Incorporation or the Master Declaration, the Board of Directors rule or regulation will be null and void.
- (b) suspend the right to use the Common Areas of a member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after fourteen (14) days' notice to the Member and said Member is given the opportunity for a hearing before a Board appointed committee consisting of at least three (3) members who are not: officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of any officer, director, or employee of the Association. A majority vote of the committee is required to levy a fine.
- (c) exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Members by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration.
- (d) declare the office of a Member of the Board of Directors to be vacant in the event such Member shall be absent from two (2) consecutive meetings, without being officially excused, or a total of four (4) regular meetings, without being officially excused, during his/her term of office. Excused absences may be granted by the Board of Directors.
- (e) declare, by a majority plus one (1) the office of a Member of the Board to be vacant due to that Member's negligence or malfeasance.

(f) contract for and/or employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) keep a record of its acts and corporate affairs;

(b) supervise all offices, agents and employees of the Association, and see that their duties are properly performed;

(c) as more fully provided in the Declaration:

(1) fix the amount of the annual assessment against each Lot, Dwelling or Parcel at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) exercise the right to foreclose the lien against any Lot, Dwelling or Parcel for which assessments are not paid within thirty (30) days after the due date, or bring an action at law against the Owner personally obligated to pay the same.

Notwithstanding any other provision hereof, any delay in notifying the Members of an assessment will not affect the validity of an assessment which is otherwise properly approved, and any approved assessment may be applied retroactively.

(d) issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure insurance as follows:

(1) procure and maintain comprehensive General Liability insurance on all common areas owned or occupied by the Association. Coverage shall include protection for all Members authorized to perform volunteer services for the Association. Limits should be established by the Board at levels the Board deems prudent. The suggested minimum levels are:

\$1,000,000 combined Single Limit per Occurrence
\$2,000,000 Aggregate Annual Limit

Coverage should extend to include, but not limited to, Premises, Operations, Products, Completed Operations, Host Liquor, Personal Injury, Owners Protective, Non-Owned Auto Liability, and Hired Auto, if any.

(2) obtain certificates of Liability insurance from all contractors doing work on the premises. Certificates should indicate adequate limits of Liability Protection and should name the Association, as additional insured for claims arising out of the work being performed by the contractor. The certificate should also indicate that Workers Compensation Insurance is in effect.

(3) insure all Real and Personal Property owned by the Association against “all risks” of physical loss or damage for the full replacement cost of the property as determined by an appraisal. A full appraisal should be obtained and the appraisal should be updated annually

(g) cause a Directors and Officers Liability Policy to be issued to protect said directors and officers against judgments against them arising out of the duties they assumed as officers and directors of the Association. Limits should be a minimum of \$1,000,000 with additional limits to be determined by the Board. The cost of both Section 2 (f) and (g) shall be borne by the Association.

(h) cause the Common areas, facilities, appurtenances to be maintained.

Article VIII – Officers and Their Duties

Section 1. Enumeration of Officers. From among the Board of Directors, officers of Association will be elected. The officers shall be a President, a Vice President, a Secretary, and a Treasurer, and such other officers as the Board may from time to time name. One person may not hold more than one office at the same time.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he/she shall sooner die, resign, or cease to own a Lot in the Association or shall be removed or otherwise disqualified to serve.

Section 4. Resignation and Removal. Any officer may be removed from office with or without cause by a majority vote of the Board. Any officer may resign at any time given written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to fill such vacancy shall serve for the remainder of the term of the officer he/she replaces.

Section 6. Duties. The duties of the officers are as follows:

(a) The President shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board are carried out, shall sign all leases, contracts, mortgages, deeds and other written instruments and shall sign all promissory notes.

(b) The Vice President shall act in the place and stead of the President in the event of his/her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him/her by the Board.

(c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, shall keep the corporate seal of the Association and affix it to all papers requiring said seal, shall serve notice of meetings of the Board and of the Members, shall

keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all checks and promissory notes of the Association, shall keep proper books of account, shall prepare an annual budget and statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy to the Members at no cost to the Members. Any other financial statements, shall prepare a statement of income and expenditures, which shall be available for inspection by any Member at the principal office of the Association during reasonable business hours. Copies of such financial statements shall be available to any Member at a reasonable charge to cover the cost of copying. An audit shall be performed at a minimum of every three (3) years, or at any time a new treasurer is elected, whichever event comes sooner. Additionally, an audit shall be performed at any time, if decided by a majority of the Board, or upon a meeting of the Members and a vote of 2/3 of the Members voting at the meeting in person or by proxy. The internal audit shall be conducted by no less than 2, and no more than 3, Members of the Association who have volunteered to perform the audit. If more than 3 Members of the Association volunteer to perform the internal audit, the Board shall select the 3 Members by a majority vote of the Board.

(e) All checks written by the Association shall have two (2) signatures. Such signature shall be of the President, Vice President, Secretary, Treasurer or Property Manager employed by the Association. The Treasurer should review all check runs where He/She was not part of the signing process.

Article IX – Assessments

As more fully provided in the Declaration, each Member is obligated to pay the Association annual and special assessments which are secured by a continuing lien upon the Lot, Dwelling, or Parcel against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within 10 days after the due date, the assessment shall bear interest from the date of delinquency at the highest rate permitted by Florida law from time to time, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot, Dwelling, or Parcel and interests, costs, late charges, and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein, by non-use of the Common Area or abandonment of its Lot, Dwelling or Parcel. The Assessments for Lots, Dwellings, and Parcels shall be determined as set forth in the Declaration.

Article X. Committees

The Board of Directors shall appoint a Nominating Committee and an ACC Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its obligations and privileges.

Article XI. Books and Records; Inspections

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member at the registered address of the corporation. The Declaration, the Articles of Incorporation and Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at a reasonable cost.

Article XII. Corporate Seal

The Board of Directors shall adopt a corporate seal which will bear the name or abbreviated name of the Association, the word "Florida," the year of establishment, and must identify the Association as a not-for-profit corporation. The words "corporate seal" may be used in lieu of a raised corporate seal; however, a corporate seal is not required to validate corporate action unless otherwise specifically required by law.

Article XIII. Fiscal Year

The Fiscal year of the Association shall begin on the first day of January and end on December 31 of each year.

Article XIV. Amendments

These Bylaws may be amended by the membership at any annual meeting of the Association, or at any special meeting duly called for such purposes, by a majority of the votes entitled to be cast. Amendments may be proposed by a majority of the Board of Directors or by persons entitled to cast twenty-five percent (25%) of the votes entitled to be cast by the Members.

Article XV. Conflicts

In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control, and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

Article XVI. Certification

An instrument signed by any executive officer of the Association, and attested by the Secretary of the Association under the Association's seal, is conclusive evidence that any required approval has been obtained as to persons without actual knowledge to the contrary.