

CERTIFICATE OF FORMATION
AND ARTICLES OF INCORPORATION OF
THE BLUFFS AT ORANGE BEACH PROPERTY OWNERS ASSOCIATION, INC.
A NONPROFIT CORPORATION

KNOW ALL MEN BY THESE PRESENTS that the undersigned, acting as Incorporators, do hereby form a nonprofit corporation in accordance with the Alabama Nonprofit Corporation Law (the "Law"), Section 10A-3-1.01, et seq., and the Alabama Homeowners' Association Act (the "Act"), Section 35-20-1, et seq., Code of Alabama (1975), and adopt the following Articles of Incorporation:

ARTICLE I - NAME

The name of the corporation shall be THE BLUFFS AT ORANGE BEACH PROPERTY OWNERS ASSOCIATION, INC. (the "Corporation" or the "Association").

ARTICLE II - PERIOD OF DURATION

The Association shall exist perpetually unless terminated according to the terms of these Articles.

ARTICLE III - NOT FOR PROFIT

The Association is not organized for profit and the purpose for which the Association is organized is to provide an entity for the operation, management, maintenance, care, control and administration of The Bluffs at Orange Beach, a Subdivision, located in Orange Beach, Alabama (the "Subdivision"). Any income received by the Association shall be applied only to the nonprofit purposes and objectives of the Association and no part of the net earnings thereof shall inure to the benefit of any private member, officer, director or individual. The Association shall be without capital stock. The members of the Association shall not be personally liable for the debts, liabilities or obligations of the Association.

ARTICLE IV - PURPOSES AND POWERS

A. The Association shall have all the common law and statutory powers of a nonprofit corporation, including without limitation, under the Law, the Act and the Code of Alabama (1975), as amended, which are not inconsistent with the Declaration of Restrictions and Covenants (the "Declaration") of The Bluffs at Orange Beach, a Subdivision, as amended, including without limitation, the powers expressly granted to the Association by the Declaration, the Law and the Act, as enumerated therein.

B. All funds and title to properties acquired by the Association and the proceeds therefrom shall be held in trust for the members in accordance with the provisions of the Law, the Act, the Declaration and the By-Laws of the Association.

ARTICLE V - MEMBERSHIP

The members of the Association shall consist of all of the record Owners of Lots in the Subdivision. Membership in the Association shall be evidenced by a deed or other instrument establishing record title to a Lot in the Subdivision recorded in the Probate Office of Baldwin County, Alabama. Upon such recordation, the Owner of the Lot designated by such instrument shall become a member of the Association and the membership of the prior Owner shall be terminated. The share of a member in the funds or assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to the Lot. The number of votes to be cast by Owner(s) of a Lot and the manner of exercising voting rights shall be determined by the Declaration and the By-Laws of the Association. The vote of the owner(s) of a Lot is equal to one-tenth (1/10) of the total number of votes of all members of the Association, there being a total of ten (10) Lots in the Subdivision.

Notwithstanding the foregoing, any person or entity who holds an interest in a Lot in the Subdivision merely as security for the performance of an obligation shall not be a member of the Association, unless and until such security holder or mortgagee has acquired title to the Lot pursuant to foreclosure, or any proceeding in lieu thereof, and the deed thereby evidencing title has been duly and properly recorded, at which time, such security holder or mortgagee shall become a member and the debtor's membership shall thereupon cease, regardless of whether or not there is an outstanding right of redemption to the Lot.

ARTICLE VI - DIRECTORS

The affairs of the Association shall be managed by a Board of Directors consisting of the number of Directors as shall be determined by the By-Laws; provided, however, that the Board of Directors shall consist of not less than three (3) Directors and not more than five (5) Directors and, in the absence of a provision in the By-Laws to the contrary, shall initially consist of three (3) Directors. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the By-Laws and as limited below. Vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.

Notwithstanding the provisions set forth in this Article VI or in any provision of the By-Laws granting to the members the right to elect and remove members of the Board of Directors, Sky Land Company, LLC, an Alabama limited liability company (the "Declarant"), its successors and assigns, shall control the Association by electing or appointing and removing members of the Board of Directors of the Association, and in the event of vacancies, shall fill such vacancies during the period of Declarant control of the Association, which shall terminate after the Declarant has sold all of the ten (10) Lots in the Subdivision. Within sixty (60) days before the date of the termination of Declarant control of the Association, the Board of Directors shall call and give not less than ten (10) nor more than thirty (30) days-notice of a Special Meeting of the membership for the purpose of electing the members of the Board of Directors. The initial Board of Directors shall have three (3) Directors. The names and addresses of the initial members of the Board of Directors who shall hold office until their successors are elected and have qualified, or until such Directors are removed, are as follows:

Robert T. Cunningham, III
2212 Main Street
Daphne, Alabama 36526

David H. Head, Jr.
2212 Main Street
Daphne, Alabama 36526

Mark H. Taupeka
2212 Main Street
Daphne, Alabama 36526

Other than a Board member appointed by the Declarant, any Director may be removed, either with or without cause, at any time, by a two-thirds (2/3) vote of all persons present in person or by proxy entitled to vote at a meeting of the Members of the Association at which a quorum is present, and any vacancy in the Board caused by any such removal may be filled by the Members at such meeting or at any subsequent meeting in the manner prescribed in the By-Laws for the filling of vacancies on the Board.

The initial By-Laws of the association shall be adopted by its Board of Directors. The power to alter, amend or repeal the By-Laws, or adopt new By-Laws, after the Declarant control period, shall be vested in the Members of the Association as provided in the By-Laws.

ARTICLE VII - OFFICERS

The day-to-day affairs of the Association shall be administered by the officers designated in accordance with the By-Laws of the Association. The names and addresses of the initial officers who shall serve until the election or appointment of their successors are as follows:

President/Treasurer
Robert T. Cunningham, III
2212 Main Street
Daphne, Alabama 36526

Vice President/Secretary
David H. Head, Jr.
2212 Main Street
Daphne, Alabama 36526

ARTICLE VIII - AMENDMENTS

The Association reserves the right to amend, alter, change or repeal any provision contained in these Articles in the manner now or hereafter provided by law and all rights conferred upon officers and directors herein are granted subject to this reservation.

ARTICLE IX – PRINCIPAL AND REGISTERED OFFICE AND AGENT

The address of the Association's initial principal office and registered office is 2212 Main Street, Daphne, Alabama 36526. The name of the Association's initial registered agent is Robert T. Cunningham, III.

ARTICLE X - RELATED PARTY TRANSACTIONS

No contract or other transaction between the Association or any person, firm, association or corporation and no other act of the Association shall, in the absence of fraud, be invalidated or in any way affected by the fact that any of the Directors of the Association are directly or indirectly, pecuniarily or otherwise, interested in such contract, transaction or other act, or are related to or interested in (either as director, stockholder, officer, employee, member or otherwise) such person, firm, association or corporation. Any Director of the Association individually, or any firm or association of which any Director may be a member, may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the Association, provided that the fact that he, individually, or such firm or association, is so interested, shall be disclosed or known to the Board of Directors, or a majority of the members thereof, as shall be present at any meeting of the Board of Directors, or of any committee of Directors having the powers of the full Board, at which action upon any such contract, transaction or other act is taken, and if such fact shall be so disclosed or known, any Director of the Association so related or otherwise interested may be counted in determining the presence of a quorum of any meeting of the Board of Directors or of such committee at which action upon any such contract, transaction or act shall be taken, and may vote with respect to such action with like force and effect as if he were not so related or interested. Any Director of the Association may vote upon any contract or other transaction between the Association and any affiliated entity without regard to the fact that he is also a director of such affiliated entity.

ARTICLE XI - INDEMNIFICATION

The Association shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative, including appeals (other than an action by or in the right of the Association), by reason of the fact that he is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such claim, action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

The Association shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to be indemnified for such expenses which the court shall deem proper.

To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in the first and second paragraphs of this Article, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith, notwithstanding that he has not been successful on any other claim, issue or matter in any such action, suit or proceeding.

Any indemnification under the first and second paragraphs of this Article (unless ordered by a Court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in the first and second paragraphs of this Article. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to or who have been wholly successful on the merits or otherwise with respect to such claim, action, suit or proceeding; or (2) if such a quorum is not obtainable, or even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion; or (3) by the members.

Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit or proceeding may be paid by the Association in advance of the final disposition of such claim, action, suit or proceeding as authorized in the manner provided in the fourth paragraph of this Article upon the written affirmation by the director, officer, employee or agent of such person's good faith belief that he has met the applicable standard of conduct set forth in the first and second paragraphs of this Article and upon the written undertaking by or on behalf of the director, officer, employee or agent to repay such amount upon a final determination that such person has not met the applicable standard of conduct set forth in the first and second paragraphs of this Article or that indemnification is prohibited by law.

The indemnification authorized by this Article shall not be deemed exclusive of and shall be in addition to any other right (whether created prior or subsequent to the enactment of this Article) to which those indemnified may be entitled under any statute, rule of law, provision of articles of

incorporation, by-law, agreement, disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

ARTICLE XII - DISSOLUTION

The Association may be dissolved only with the assent given in writing and signed by the members entitled to cast three-fourths (3/4) of the vote of the membership. Written notice of a proposal to dissolve, setting forth the reasons therefor and the disposition to be made of the assets (which shall be in accordance with Article XIII hereof), shall be mailed to every member at least thirty (30) days in advance of any such action and with the prior approval of the Board of Directors.

ARTICLE XIII - DISTRIBUTION UPON DISSOLUTION

Upon the dissolution of the Association, the assets of the Association shall be distributed to the Members pro rata based on one-tenth (1/10) for each one (1) of the ten (10) Lots in the Subdivision.

ARTICLE XIV - NAMES AND ADDRESSES OF INCORPORATORS

The names and addresses of the incorporators are as follows:

Robert T. Cunningham, III
2212 Main Street
Daphne, Alabama 36526

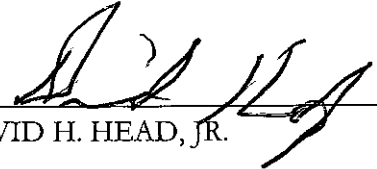
David H. Head, Jr.
2212 Main Street
Daphne, Alabama 36526

IN WITNESS WHEREOF, the Incorporators file these Articles of Incorporation and tender to the Probate Judge of Baldwin County, Alabama the lawful fees and charges therefor, and pray that these Articles may be examined and approved, and that the Association may be deemed to be incorporated for the purposes herein set forth. The undersigned Incorporators have hereunto set their hands and seals on this the 14th day of December, 2020.

SIGNATURE PAGE TO FOLLOW



ROBERT T. CUNNINGHAM, III



DAVID H. HEAD, JR.

STATE OF ALABAMA

COUNTY OF BALDWIN

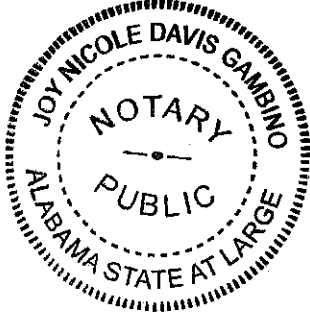
I, Joy Nicole Davis Gambino, a Notary Public, in and for said County in said State, hereby certify that ROBERT T. CUNNINGHAM, III and DAVID H. HEAD, JR., whose names are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 14th day of December, 2020.

Joy Nicole Davis Gambino
Notary Public
My commission expires: 5-16-2021

This instrument prepared by:

MARK H. TAUPEKA
TAUPEKA LAW, LLC
25299 Canal Road, Suite A-6
Orange Beach, Alabama 36561
(251) 301-8500



John H. Merrill
Secretary of State

P.O. Box 5616
Montgomery, AL 36103-5616

STATE OF ALABAMA

I, John H. Merrill, Secretary of State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

pursuant to the provisions of Title 10A, Chapter 1, Article 5, Code of Alabama 1975, and upon an examination of the entity records on file in this office, the following entity name is reserved as available:

**THE BLUFFS AT ORANGE BEACH PROPERTY OWNERS
ASSOCIATION, INC.**

This name reservation is for the exclusive use of Mark H. Taupeka, 25299 Canal Road Suite A-6, Orange Beach, AL 36561 for a period of one year beginning November 20, 2020 and expiring November 20, 2021



RES916207

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the city of Montgomery, on this day.

November 20, 2020

Date

Handwritten signature of John H. Merrill in cursive script.

John H. Merrill

Secretary of State