

**AMENDED AND RESTATED****ARTICLES OF INCORPORATION  
OF  
BAY ISLES BAYOU ASSOCIATION, INC.  
(A Corporation Not For Profit)**

*[Substantial rewording of the Articles of Incorporation.  
See existing document as amended for present text.]*

**WHEREAS**, the original Declaration of Restrictions, Limitations, Conditions and Agreements for **BAY ISLES UNIT #2 AND UNIT #7** ("Declaration") was recorded at Official Records Book 1160, Page 132 *et seq.* of the Public Records of Sarasota County, Florida; and

**WHEREAS**, the original Articles of Incorporation of **BAY ISLES BAYOU ASSOCIATION, INC.** ("Association"), a corporation not for profit under the laws of the State of Florida and a homeowners association, were filed with the Florida Department of State on March 3, 1977; and

**WHEREAS**, the Board of Directors ("Board") of the Association proposed and approved these Amended and Restated Articles of Incorporation at a duly-noticed and convened Board meeting held on February 23, 2023 and

**WHEREAS**, at least two-thirds (2/3) of the Voting Interests participating in person or by proxy at a duly noticed membership meeting, but in no event less than 64 affirmative votes (a majority of the total Voting Interests of 126), approved these Amended and Restated Articles of Incorporation pursuant to Article IX of the Articles of Incorporation at a duly-noticed and convened membership meeting held on March 24, 2023; and

**WHEREAS**, the number of membership votes cast in favor of the amendments were sufficient for approval under the governing documents and Florida law.

**NOW, THEREFORE**, the Association does hereby adopt the following Amended and Restated Articles of Incorporation of the Association, which supersede and replace the previous Articles of Incorporation and all amendments thereto:

**ARTICLE 1. NAME AND CORPORATION INFORMATION**

**1.1 Corporate Name.** The name of this not for profit corporation is **BAY ISLES BAYOU ASSOCIATION, INC.** ("Association").

**1.2 Additional Corporate Information.** The Association was incorporated on March 3, 1977 with the State of Florida, Secretary of State and was assigned Corporate Charter Number 738251. The original Declaration of Restrictions, Limitations, Conditions and Agreements for **BAY ISLES UNIT #2 AND UNIT #7** ("Declaration") was recorded at Official Records Book 1160, Page 132 *et seq.* of the Public Records of Sarasota County, Florida. The Subdivision Plat of **BAY ISLES UNIT NO. 2** was recorded at Plat Book 24, Pages 5, 5A and 5B of the Public Records of Sarasota County, Florida. The Subdivision Plat of **BAY ISLES UNIT NO. 7** was recorded at Plat Book 29, Pages 20 and 20A of the Public Records of Sarasota County, Florida.

**ARTICLE 2. PRINCIPAL OFFICE.** The principal address of the Association is 595 Bay Isles Road, Suite 225, Longboat Key, FL 34228. The Association's Board of Directors may change the Association's principal office from time to time in the manner provided by law.

### **ARTICLE 3. PURPOSES AND POWERS**

**3.1 Purposes.** The purpose of the Association is to serve as a not for profit corporation organized on a non-stock basis as a homeowners' association which will, subject to the Declaration, have the powers described herein. The Association will not permit pecuniary gain or profit and will make no distribution of its income to its Members, officers, or directors.

**3.2 Common Law and Statutory Powers.** The Association shall exercise all common law rights, powers and privileges and those that a corporation not for profit under Chapter 617, Florida Statutes and a homeowners association under applicable Florida law may now or hereafter have or exercise under the laws of the State of Florida, together with all other rights, powers and privileges reasonably to be implied or inferred from the exercise of any right, power, or privilege so granted, or granted by the Governing Documents, or as reasonably necessary to effectuate the exercise of any right, power, or privilege so granted, subject always to the Declaration, as amended from time to time.

**3.3 Specific Powers.** The Association's Board of Directors ("Board") shall have all the powers reasonably necessary or appropriate for the operation and regulation of a residential neighborhood, including, but not limited to the power to:

**A. Assessments.** Fix, levy, establish, and collect a budget and to fix annual and special assessments to be levied against all Lots which are subject to assessment pursuant to the aforesaid Declaration for the purpose of defraying the expenses and costs of effectuating the objects and purposes of the Association and to create reasonable reserves for such expenditures, including a reasonable contingency fund for the ensuing year and a reasonable annual reserve for anticipated major capital repairs, maintenance, improvements, and replacements.

**B. Real or Personal Property.** Acquire (by gift, purchase, or otherwise), own, hold, accept, improve, build upon, operate, maintain, repair, convey, sell, lease, mortgage, encumber, rent, transfer, or otherwise dispose of real or personal property in connection with the purposes or affairs of the Association.

**C. Borrow Money.** Borrow money.

**D. Contracts.** Make, enter into, perform, and carry out contracts of every kind and nature with any person, firm, corporation, or association; and to do any and all other acts necessary or expedient for carrying on any and all of the activities of the Association and pursuing any and all of the objects and purposes set forth in these Articles of Incorporation and not forbidden by the laws of the State of Florida.

**E. Collection.** Place liens against any Lot subject to Assessment for delinquent and unpaid Assessments, late fees, interest, costs, attorney's fees and/or other charges, and to bring suit for the foreclosure of such liens or to otherwise enforce the collection of such amounts for the purpose of obtaining revenue in order to carry out the purposes and objectives of the Association.

**F. Hold & Invest Funds.** Hold and invest funds solely and exclusively for the benefit of the Members of the Association for the purposes set forth in the Governing Documents and under Chapter 720, Florida Statutes.

**G. Rules and Regulations.** Promulgate, adopt, amend, alter, revoke, and enforce Rules and Regulations, covenants, restrictions, and agreements that govern the Common Areas and Lots.

**H. Delegate Powers.** Delegate such of the powers of the Association to independent contractors, committees, management companies, officers, and to other agents as may be deemed by the Board of Directors to be in the Association's best interest.

**I. Charge for Services.** Charge recipients of services rendered by the Association and users of property of the Association where such is deemed appropriate by the Board of Directors.

**J. Pay Costs.** Pay all costs, expenses, obligations, and to pay taxes and other charges or assessments, if any, levied against property owned, leased, or used by the Association.

**K. Enforce.** Enforce, but not the legal obligation or duty to enforce, by any and all lawful means, the obligations of Members and the provisions of these Articles of Incorporation, the Bylaws of the Association, the Rules and Regulations, and the terms and provisions of the aforesaid Declaration, and any and all architectural standards or guidelines.

**L. Sue and Be Sued.** To sue or be sued, but not the obligation to sue.

**M. Insurance.** Purchase and maintain such insurance policies as required by Florida law or its Governing Documents or as may be deemed desirable by the Board of Directors.

**N. Committees.** Create and disband committees as further provided in the Governing Documents.

**O. Employ Personnel.** Employ personnel; retain attorneys, engineers, architects, accountants, managers, and other independent contractors and professionals; and to enter into service contracts to provide for the maintenance, operation, and management of the Common Areas; and to enter into other agreements consistent with the purposes of the Association.

**3.4 Emergency Powers.** To the extent allowed by law, unless specifically prohibited by the Governing Documents, and consistent with Sections 617.0830 and 720.316, Florida Statutes, the Board of Directors, in response to damage caused by an event for which a state of emergency is declared pursuant to Section 252.36, Florida Statutes, in the area encompassed by the Subdivision, may exercise the following powers:

**A. Relocate Principal Office.** The Board of Directors may relocate the principal office or designate alternative principal offices or authorize any officer to do so.

**B. Assistant Officers.** The Board of Directors may name any person or persons to serve as interim assistant officers, which assistant officers shall have the same authority as the

officers to whom they are assistants during the period of emergency to accommodate the incapacity or absence from the area of any officer. If the executive officer is incapacitated or unavailable, the assistant officer has the same authority during the state of emergency as the executive officer he or she assists.

**C. Emergency Meetings.** The Board of Directors may conduct Board, committee, or membership meetings after notice of the meetings and Board decisions are provided in as practicable a manner as possible, including via publication, radio, United States mail, the Internet, public service announcements, conspicuous posting on the Association property, or any other means the Board deems appropriate under the circumstances. The Directors in attendance at such a Board meeting, if more than one (1) Director, shall constitute a quorum.

**D. Cancel and Reschedule Meetings.** The Board may cancel and reschedule any Association meeting.

**E. Agreements.** The Board may enter into agreements with counties and municipalities to assist counties and municipalities with debris removal.

**F. Disaster Plan.** The Board may implement a disaster plan before or immediately following the event for which a state of emergency is declared.

**G. Association Property Unavailable for Entry.** Based upon the advice of emergency management officials or upon the advice of licensed professionals retained by the Board, determine any portion of the Association property unavailable for entry or occupancy by Owners or their family members, tenants, guests, agents, or invitees to protect their health, safety, or welfare.

**H. Mitigate Damage.** The Board may mitigate further damage, including taking action to contract for the removal of debris and to prevent or mitigate the spread of fungus, including mold or mildew, by removing and disposing of wet drywall, insulation, carpet, cabinetry, or other fixtures on or within the association property.

**I. Levy Special Assessments.** Notwithstanding a provision to the contrary, and regardless of whether such authority does not specifically appear in the Declaration or other Governing Documents, the Board may levy special assessments without a vote of the Lot Owners.

**J. Pledge Association Assets and Borrow Money.** Without Owners' approval and notwithstanding any other provision of the Governing Documents, the Board may borrow money and pledge Association assets as collateral to fund emergency repairs and carry out the duties of the Association if operating funds are insufficient. This paragraph does not limit the general authority of the Association to borrow money, subject to such restrictions contained in the Declaration or other recorded Governing Documents.

**K. Limitation on Authority.** The authority granted under this Article is limited to that time reasonably necessary to protect the health, safety, and welfare of the Association and the Lot Owners and their family members, tenants, guests, agents, or invitees, and to mitigate further damage and make emergency repairs.

**L. Good Faith.** Corporate action taken in good faith to meet the emergency needs of the Association, its Owners or residents shall be binding on the Association and shall have the rebuttable presumption of being reasonable and necessary.

**ARTICLE 4. MEMBERSHIP AND VOTING RIGHTS.** Membership and voting rights in the Association shall be set forth in Article III of the Declaration and Article 2 of the Bylaws. The interest of the Member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner, except as an appurtenance to the Lot which is the basis of membership in the Association.

**ARTICLE 5. CORPORATE EXISTENCE.** The term of the Association shall be perpetual, unless sooner dissolved in the manner provided below.

**ARTICLE 6. AMENDMENTS TO ARTICLES OF INCORPORATION.** Amendments to these Articles of Incorporation may be proposed and adopted in the following manner:

**6.1 Proposal.** An amendment to these Articles of Incorporation may be proposed by a majority of the Board of Directors or by written petition signed by no less than twenty (20%) of the Association's total eligible Voting Interests. Proposed amendments must be submitted to a vote of the Association not later than the next annual membership meeting.

**6.2 Vote Required.** The Articles of Incorporation may be amended by the approval of not less than two thirds (2/3) of the total eligible Voting Interests of the Association present, in person or by proxy, and voting at a membership meeting at which a quorum is obtained.

**6.3 Automatic Amendment.** These Articles of Incorporation shall be deemed amended, if necessary, so as to make the same consistent with the provisions of the Declaration. These Articles of Incorporation may be amended by the Board of Directors, if necessary, to make the same consistent with the provisions of the Declaration. Whenever Chapters 607, 617 or 720, Florida Statutes, or other applicable Florida or Federal laws or administrative regulations, are subsequently amended so that these Articles of Incorporation are inconsistent with the applicable law or administrative rules, the Board of Directors, without a vote of the Members, may, but shall not be under a duty or obligation to, adopt by majority vote of the Board, amendments to these Articles of Incorporation to make them consistent.

**6.4 Limitation on Amendment.** Pursuant to Section 720.306(1)(c), Florida Statutes, an amendment may not materially and adversely alter the proportionate voting interest appurtenant to a Lot or increase the proportion or percentage by which a Lot shares in the common expense of the Association unless the record Lot Owner and all record owners of liens on the Lots join in the execution of the amendment. A change in the quorum requirements is not an alteration of voting interests. The merger or consolidation of one or more associations under a plan of merger or consolidation pursuant to Chapter 617, Florida Statutes is not a material or adverse alteration of the proportionate voting interest appurtenant to a Lot.

**6.5 Certification.** A copy of each amendment to these Articles of Incorporation shall be filed with the Florida Department of State, Division of Corporations, and shall be recorded in the Official Records of Sarasota County, Florida, along with a certificate of amendment executed by the appropriate officers of the Association attesting that the amendment has been lawfully adopted. An amendment becomes legally effective when filed and recorded as provided herein.

**ARTICLE 7. BOARD OF DIRECTORS.** The affairs and operation of the Association shall be managed by a Board of Directors as set forth in the Bylaws.

**ARTICLE 8. OFFICERS.** The officers designated by the Bylaws shall administer the affairs of the Association.

**ARTICLE 9. REGISTERED OFFICE AND REGISTERED AGENT.** The registered office of the Association shall be at 595 Bay Isles Road, Suite 225, Longboat Key, FL 34228. The registered agent at such address is currently David Novak. The Association's Board of Directors may, from time to time, change its registered office and agent in the manner provided by law.

## **ARTICLE 10. INDEMNIFICATION**

**10.1 Indemnity.** 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 contemplated action, suit or proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a Director, officer or committee member of the Association, against expenses, including trial and appellate attorney's fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceedings, unless:

**A.** A court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith, nor in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and

**B.** Such court further specifically determines that indemnification should be denied. The termination of any action, suit or proceedings 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 interest of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. It is the intent of the Members, by the adoption of this provision, to provide the most comprehensive indemnification possible to their officers, Directors and committee members as permitted by Florida law.

**10.2 Expenses.** To the extent that a Director, officer, or committee member of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Article 10.1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses, including trial and appellate attorneys' fees, actually and reasonably incurred by him in connection therewith.

**10.3 Advances.** Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceedings upon receipt of any undertaking by or on behalf of the affected Director, officer, or committee member to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized herein or as otherwise permitted by law.

**10.4 Miscellaneous.** The indemnification provided herein shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any

bylaw, agreement, vote of Members or otherwise, and shall continue as to a person who has ceased to be a Director, officer, or committee member and shall inure to the benefit of the heirs and personal representatives of such person. Anything to the contrary notwithstanding, the provisions of this Article 9 may not be amended without the written approval of all persons whose interests would be adversely affected by such amendment.

**10.5 Insurance.** The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, or committee member against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article 10.

## **ARTICLE 11. MISCELLANEOUS.**

**11.1 Interpretation.** Unless defined herein, terms used herein shall have the same meaning as provided in the Declaration. The Board of Directors is responsible for interpreting the provisions of the Declaration, the Bylaws, the Articles of Incorporation, the Architectural Planning Criteria, and the Rules and Regulations. The Board of Directors' interpretation shall be binding upon all parties unless wholly unreasonable and arbitrary.

**11.2 Definitions.** If a term is not defined herein or in the Declaration or is deemed ambiguous, the Board of Directors shall be responsible for defining the term in its reasonable discretion. The Board of Directors may refer to the Florida Building Code's latest edition, the common or historical use of the term in the community, or a common dictionary when defining a term. The Board of Directors' definition shall be binding on all parties unless wholly unreasonable and arbitrary. A written opinion rendered by legal counsel that a definition adopted by the Board of Directors is not wholly unreasonable and arbitrary shall conclusively establish the validity of such definition.

**11.3 Conflicts.** The term "Governing Documents," as used in these Articles of Incorporation and elsewhere shall include the Declaration, Articles of Incorporation, Bylaws, the Rules and Regulations of the Association, the Plats, Surveys, Plot Plans, and graphic descriptions of improvements of record, and all other exhibits to the original Declaration. In the event of a conflict between the language in the Declaration and the graphic descriptions of record, the graphic description of record shall control. In the event of a conflict in any of the Governing Documents, the documents shall control in the following order:

- A. Declaration;
- B. Articles of Incorporation;
- C. Bylaws;
- D. Rules and Regulations

**11.4 Gender.** The use of the term "he", "him", "she", "his", "hers", "their", "theirs", and all other similar pronouns should be construed to include all genders and encompass the plural as well as the singular.

**11.5 Severability.** In the event that any provisions of these Articles of Incorporation are deemed invalid, the remaining provisions shall be deemed in full force and effect.

**11.6 Headings.** The headings of paragraphs or sections herein are for convenience purposes only and shall not be used to interpret the provisions therein.

**THESE AMENDED AND RESTATED ARTICLES OF INCORPORATION** were approved by the required votes of the Board of Directors and the membership of the Association at duly noticed and conducted meetings of **BAY ISLES BAYOU ASSOCIATION, INC.**

DATED this 12<sup>TH</sup> day of APRIL, 2023.

**BAY ISLES BAYOU ASSOCIATION, INC.**  
a Florida not for profit corporation

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

*C. Martin Cooper*  
C. MARTIN COOPER  
As the President of the Association

(Corporate Seal)

Attest:

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

*David R. Pitt*  
DAVID R. PITT  
As the Secretary of the Association