

**N1 2000005270**

Florida Department of State  
Division of Corporations  
Electronic Filing Cover Sheet

**Note: Please print this page and use it as a cover sheet.** Type the fax audit number (shown below) on the top and bottom of all pages of the document.

((H12000138562 3)))



H120001385623ABC

**Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page.** Doing so will generate another cover sheet.

To: Division of Corporations  
 Fax Number : (850) 617-6381

From: Account Name : CORPORATION SERVICE COMPANY  
 Account Number : I20000000195  
 Phone : (850) 521-0821  
 Fax Number : (850) 558-1515

FILED  
12 MAY 24 PM 3:45  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**\*\*Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.\*\***

Email Address: \_\_\_\_\_

**FLORIDA PROFIT/NON PROFIT CORPORATION  
BANYAN BAY PROPERTY OWNERS' ASSOCIATION, INC.**

Certificate of Status	1
Certified Copy	0
Page Count	09
Estimated Charge	\$78.75

RECEIVED  
12 MAY 24 PM 12:59  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Electronic Filing Menu

Corporate Filing Menu

Help

T. Burch MAY 25 2012

ARTICLES OF INCORPORATION  
OF  
BANYAN BAY PROPERTY OWNERS' ASSOCIATION, INC.

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA  
12 MAY 24 PM 3:45  
FILED

The undersigned, acting as incorporator of a corporation not for profit organized under Chapter 617 and Chapter 720, Florida Statutes, adopts the following Articles of Incorporation for the corporation:

1. Name of Corporation. The name of the corporation is Banyan Bay Property Owners' Association, Inc. (the "Association").
2. Principal Office; Mailing Address. The initial principal office and mailing address of the Association is 7807 Baymeadows Road East, Suite 205, Jacksonville, Florida 32256.
3. Registered Office -- Registered Agent. The initial registered office of the Association is 19321-C US Highway 19N, Suite 600, Clearwater, Florida 33764, and the initial registered agent at such address is Donna J. Feldman.
4. Definitions. All capitalized terms used herein that are not defined herein shall have the meaning set forth in the Declaration of Covenants, Conditions and Restrictions for Banyan Bay recorded in O.R. Book 2350, Page 1346, *et. seq.*, of the official public records of Martin County, Florida, as it has previously been, and may be further, amended from time to time (collectively, the "Declaration").
5. Purpose of the Association. The Association does not contemplate pecuniary gain or profit, direct or indirect, to its members. By way of explanation and not of limitation, the purposes for which the Association is organized are: (a) to be and constitute the Association to which reference is made in the Declaration, and to perform all obligations and duties and to exercise all rights and powers of the Association as specified in the Declaration; (b) to provide for ownership, operation, maintenance and preservation of the Common Areas, and improvements thereon; and (c) to provide an entity for the furtherance of the interests of the Owners of property now and hereafter made subject to the Declaration.
6. Powers of the Association. In furtherance of its purposes, the Association shall have the following powers, which, unless indicated otherwise by the Declaration or the By-Laws, may be exercised by its Board of Directors:
  - (a) All of the powers conferred upon corporations not-for-profit by common law and Florida Statutes in effect from time to time, including, without limitation, the power to sue and be sued; and
  - (b) All of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers of the Association set out in these Articles, the Declaration, and the By-Laws, including, without limitation, the following:
    - i. to enforce, by legal action or otherwise, the provisions of the Declaration and the By-Laws and of all rules, regulations, covenants, restrictions and agreements governing or binding the Association and the Banyan Bay Community;

ii. to adopt budgets, fix, levy, collect and enforce payment, by any lawful means, of all charges or assessments authorized by the Declaration, including adequate assessment of fees for the costs of operation and maintenance of the Surface Water Management System and assessments for services or materials for the benefit of Owners or the Banyan Bay Community for which the Association has contracted with third party providers;

iii. to use the proceeds collected from assessments to pay all costs, expenses, and obligations lawfully incurred in connection with the Association's affairs including, without limitation, all licenses, taxes, or other governmental charges levied or imposed against the Association's property;

iv. to manage, control, operate, maintain, repair, reconstruct and improve the Common Areas and any other property for which the Association has a right or duty to provide such services pursuant to the Declaration, other applicable covenants, or any agreement or contract, including the Surface Water Management System (including inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and associated buffer areas, and wetland mitigation areas which are a part thereof, if any) in a manner consistent with the applicable SFWMD permit requirements and applicable SFWMD rules, and to assist in the enforcement of the provisions of the Declaration which relate to the Surface Water Management System;

v. to buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, own, hold, use, operate, improve, maintain, grant rights and easements in, and otherwise deal in and with real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the Association, except as limited by the Declaration and/or Section 11 hereinbelow;

vi. to borrow money for any purpose, subject to such limitations as may be set forth in the Declaration and the By-Laws;

vii. to dedicate, grant, license, lease, concession, create easements upon, sell or transfer all or any part of the Association's property to any public agency, entity, authority, utility or other person or entity for such purposes and subject to such conditions as it determines and as provided in the Declaration;

viii. to participate in mergers and consolidations with other non-profit corporations organized for the same purposes, subject to such limitations as may be set forth in the Declaration and the By-Laws;

ix. to adopt, publish, promulgate and enforce rules, regulations, covenants, restrictions or agreements governing the Association and/or the Banyan Bay Community, as provided in the Declaration, and to effectuate all of the purposes for which the Association is organized;

x. to contract with others for performance of the Association's management and maintenance responsibilities under the Declaration, for the provision of services by the Association to others to the extent beneficial for the Owners or the Banyan Bay Community, and for the furnishing of services or materials to the Association for the benefit of the Owners or the Banyan Bay Community consistent with the provisions of the Declaration, including, without limitation, contracting for utility, irrigation, water, telecommunications, internet, and security services; and to delegate in such contract(s) all or any part of the powers and duties of the Association;

xi. to enter into, make, perform and enforce contracts of every kind and description, and to do all other acts necessary, appropriate or advisable in carrying out any purpose of the Association;

xii. to establish committees and delegate certain of its functions to those committees;

xiii. to engage in activities that will actively foster, promote, and advance the common interests of all owners of property subject to the Declaration; and

xiv. to adopt, alter and amend or repeal such By-laws as may be necessary or desirable for the proper management of the Association's affairs; provided, any amendment is subject to Voting Member approval to the extent required by the By-Laws, and such By-Laws may not be inconsistent with or contrary to the provisions of the Declaration.

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers that may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Section are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provision of this Section.

7. Members. The Association shall be a membership corporation without certificates or shares of stock. The Owner of each Lot or Home, as those terms are defined in the Declaration, shall be a member of the Association; provided that any person who holds an interest in a Lot or Home only as security for the performance of an obligation shall not be a Member. In addition, the Developer shall be a Member of the Association for such period as provided in the Declaration and/or Bylaws. Owners and Developer shall have the voting rights set forth in the By-Laws and the Declaration. Membership is appurtenant to, and may not be separated from, ownership of a Lot or Home. Membership may not be transferred except by transfer of record title to such Lot or Home.

8. Board of Directors. The affairs of the Association shall be conducted, managed and controlled by a Board of Directors consisting of three (3) or seven (7) Directors (as provided in the Bylaws. Directors shall be appointed and/or elected as stated in the By-Laws. The Board may delegate its operating authority to such corporations, individuals, and committees as it, in its discretion, may determine. The initial Board of Directors shall consist of three (3) persons. The names and addresses of the initial Directors, who shall hold office until their successors are appointed or elected, or until their resignation or removal, are as follows:

NAME	ADDRESS
Graydon E. Miars	19850 Southern Hills Blvd. Brooksville, Florida 34601
Roger Postlethwaite	7807 Baymeadows Road East, Suite 205 Jacksonville, Florida 32256
Erik Wilson	7807 Baymeadows Road East, Suite 205 Jacksonville, Florida 32256

The number of Directors, method of appointment, election and removal, method of filling vacancies, and term of office of Directors shall be as set forth in the By-Laws.

9. Officers. The Board shall elect a President, Secretary, Treasurer, and as many Vice Presidents, Assistant Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall from time to time determine. The names and addresses of the Officers who shall serve until their successors are elected by the Board are as follows:

President:	Graydon E. Miars 19850 Southern Hills Blvd. Brooksville, Florida 34601
Vice President:	Roger Postlethwaite 7807 Baymeadows Road East, Suite 205 Jacksonville, Florida 32256
Secretary:	Erik Wilson 7807 Baymeadows Road East, Suite 205 Jacksonville, Florida 32256
Treasurer:	Erik Wilson 7807 Baymeadows Road East, Suite 205 Jacksonville, Florida 32256

10. Liability and Indemnification of Directors and Officers. To the extent consistent with the Florida Not For Profit Corporation Act, as it exists on the date hereof or as it may hereafter be amended, the Association shall indemnify its Directors and Officers as required by the Declaration and the By-Laws. No Director or Officer of the Association, including any Director or Officer appointed by the Developer, shall be personally liable to the Association or its members for monetary damages for breach of duty of care or other duty as a Director or Officer, if such person acted in good faith and in a manner he or she 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 that such action was unlawful. The termination of any such action, suit, or proceeding by judgment, order, settlement, conviction or a plea of *nolo contendere* or its equivalent shall not, in and of itself

create a presumption that the Director or Officer did not act in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Association or that he or she has reasonable cause to believe that his or her conduct was unlawful. No amendment or repeal of this Section shall apply to or have any effect on the liability or alleged liability of any Director or officer for or with respect to any acts or omissions of such Director or Officer occurring prior to such amendment or repeal.

11. Merger, Consolidation or Dissolution. The Association may merge, consolidate, or effect its dissolution only upon a resolution duly adopted by its Board, with the written consent of the Developer if Developer then has the right to appoint any of the Directors, and either: (a) the affirmative vote of Voting Members entitled to cast at least two-thirds (2/3) of the votes entitled to be cast at a meeting at which a quorum is represented; or (b) the written consent of all Voting Members. If the Association is dissolved other than incident to a merger or consolidation, any Member may petition the Circuit Court in the Judicial Circuit of the State of Florida having jurisdiction for the appointment of a receiver to manage the affairs of the dissolved Association and to manage the Common Areas, in the place and stead of the Association, and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association and its properties. In addition, if the Association is dissolved, the Surface Water Management System shall be conveyed to an appropriate governmental agency or public utility or, if not accepted by a governmental agency or public utility, conveyed to a non-profit corporation similar in nature to the Association, which shall assume the Association's responsibilities with respect to such Surface Water Management System.

12. Duration. The Association shall have perpetual duration, subject to any merger, consolidation, or dissolution effected pursuant to Section 11 above.

13. By-Laws. The Associations' Bylaws will be initially adopted by the Board of Directors.

14. Amendments.

(a) General Restrictions on Amendments. Notwithstanding any other provision herein to the contrary, no amendment shall be made to these Articles, either before or after the Turnover Date, that shall abridge, reduce, amend, affect or modify the rights of Developer unless such amendment receives the prior written consent of Developer, which may be withheld for any reason whatsoever. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to these Articles, then the prior written consent of such entity or agency must also be obtained.

(b) Amendments Prior to and Including the Turnover Date. Prior to and including the Turnover Date, Developer shall have the right to amend these Articles as it deems appropriate, without the joinder or consent of the Association or any other person or entity whatsoever. Developer's right to amend under this Section is to be construed as broadly as possible. In the event that the Association shall desire to amend these Articles prior to the Turnover Date, the Association must first obtain Developer's prior written consent to any proposed amendment.

(c) Amendments After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, these Articles may be amended only upon a resolution duly adopted by the Board, with the written consent of the Developer if the Developer is still entitled to appoint any of the Directors, and either the affirmative vote or written consent of the Voting Members entitled to cast at least two-thirds (2/3) of the votes present, in person or by proxy, at a duly noticed meeting of the Members of the Association at which there is a quorum. Written notice setting forth any proposed amendment or a summary of the changes to be effected by the amendment shall be given to each Voting Member entitled to vote on the proposed amendment.

15. Incorporator. The name and address of the incorporator of this corporation is:

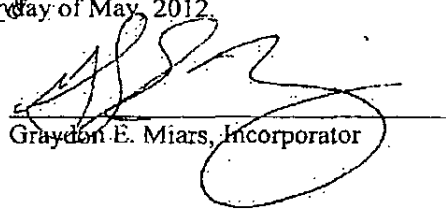
Graydon E. Miars  
19850 Southern Hills Blvd.  
Brooksville, Florida 34601

16. Transactions in Which Directors or Officers are Interested. No contract or transaction between the Association and one (1) or more of its Directors or Officers or Developer, or between the Association and any other corporation, partnership, association, or other organization in which one (1) or more of its Officers or Directors are officers, directors or employees or otherwise interested shall be invalid, void, or voidable solely for this reason, or solely because the Officer or Director is present at, or participates in, meetings of the Board thereof which authorized the contract or transaction, or solely because said Officers' or Directors' votes are counted for such purpose. No Director or Officer of the Association shall incur liability by reason of the fact that such Director or Office may be interested in any such contract or transaction. Interested Directors shall disclose the general nature of their interest and may be counted in determining the presence of a quorum at a meeting of the Board which authorized the contract or transaction.

17. Conflicts. These Articles of Incorporation are to be interpreted, construed, and enforced together with Florida law, the Declaration and the By-Laws to avoid inconsistencies or conflicting results. If a conflict or inconsistency necessarily results, the provisions of Florida law, the Declaration, these Articles of Incorporation, and the By-Laws, in that order, shall prevail.

*[Signatures begin on Following Page]*

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Florida, the undersigned, being the incorporator of this Association, has executed these Articles of Incorporation as of this 22<sup>nd</sup> day of May, 2012.



Graydon E. Miars, Incorporator



**CERTIFICATE OF DESIGNATION  
REGISTERED AGENT/REGISTERED OFFICE**

Pursuant to the provisions of Section 617.0501, Florida Statutes, the undersigned corporation, organized under the laws of the State of Florida, submits the following statement in designating the registered office/registered agent, in the State of Florida:

1. The name of the corporation is Banyan Bay Property Owners' Association, Inc.
2. The name of the registered agent and office is:

DONNA J. FELDMAN  
19321-C US Highway 19N, Suite 600  
Clearwater, Florida 33764.

HAVING BEEN NAMED AS REGISTERED AGENT TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE STATED CORPORATION AT THE PLACE DESIGNATED IN THIS CERTIFICATE, I HEREBY ACCEPT THE APPOINTMENT AS REGISTERED AGENT AND AGREE TO ACT IN THIS CAPACITY. I AM FAMILIAR WITH AND ACCEPT THE OBLIGATIONS OF MY POSITION AS REGISTERED AGENT.

Dated this 23rd day of May, 2012.

By:   
DONNA J. FELDMAN

FILED  
12 MAY 24 PM 3:45  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA