

8/23/2019

H19000254498 3

Division of Corporations

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.

(((H19000254498 3)))



H190002544983AEC3

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)617-6380

From:

Account Name : CARVER DARDEN
Account Number : I20070000116
Phone : (850)266-2300
Fax Number : (850)266-2301

19 AUG 23 AM 10:15

FILED STATE
DIVISION OF CORPORATIONS

RECEIVED

2019 AUG 23 PM 4:52

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

Email Address: sujaalp@yahoo.com

**COR AMND/RESTATE/CORRECT OR O/D RESIGN
D & R HOSPITALITY, INC.**

Certificate of Status	0
Certified Copy	1
Page Count	08
Estimated Charge	\$43.75

H19000254498 3

<https://esic.sunbiz.org/scripts/esicovr.exe>

H19000254498 3

FILED
CLERK OF STATE
DIVISION OF CORPORATIONS
19 AUG 23 AM 10:15

**AMENDED AND RESTATED ARTICLES OF INCORPORATION OF
D & R HOSPITALITY, INC.**

The undersigned, the President of D & R Hospitality, Inc., a corporation under the Florida General Corporation Act (the "Corporation"), adopts these Amended and Restated Articles of Incorporation for the Corporation. These Amended and Restated Articles of Incorporation amend and restate the articles of incorporation filed with the Florida Secretary of State on July 26, 2004.

ARTICLE ONE – NAME

The name of the Corporation is D & R Hospitality, Inc.

ARTICLE TWO – DURATION

This Corporation shall have perpetual existence.

ARTICLE THREE – PURPOSE

These Amended and Restated Articles are effective as of the date of the funding of the loan provided by Lender (as defined below). The purpose of the Corporation is as follows:

- a) to own, hold, maintain, operate and/or dispose of the Holiday Inn Express & Suites, a hotel located at 125 Cracker Barrel Drive, Crestview, Florida 32536 (the "Hotel"), and all furniture, fixtures, equipment and other personal property used to operate the Hotel (collectively the "Property");
- b) to sell, transfer, service, convey, dispose of, pledge, assign, borrow money against, finance, refinance or otherwise deal with the Property to the extent permitted under the loan documents evidencing, securing or delivered to Société Générale Financial Corporation and/or one of its affiliated or successors and assigns (collectively the "Lender") in connection with the Corporation's loan from the Lender which is evidenced by a promissory note and various loan and security documents providing that all, or some, of the Property shall be collateral for the loan, all as generally described in the Loan Agreement between Corporation and Lender, as amended and revised (the "Loan Agreement"); and
- c) to engage in any lawful act, or activity and to exercise any powers permitted to corporations organized under the laws of the State of Florida that are related or incidental to and necessary, convenient or advisable for the accomplishment of the above-mentioned purposes.

Additionally, the Corporation may execute and deliver the Loan Agreement and all other documents relating thereto, and perform its obligations thereunder.

ARTICLE FOUR - CAPITAL STOCK

This Corporation is authorized to issue one thousand (1,000) shares of one (\$1.00) dollar par value common stock. All common shares shall be identical with each other in every respect and the holders of the common shares shall be entitled to one vote for each share on all matters on which shareholders have the right to vote.

H19000254498 3

H19000254498 3

ARTICLE FIVE - INITIAL REGISTERED OFFICE AND AGENT

The street address and mailing address of the principal office of this Corporation is 125 Cracker Barrel Drive, Crestview, Florida, and the name of the registered agent of this Corporation is Dipti R. Parikh, 125 Cracker Barrel Drive, Crestview, Florida 32536.

ARTICLE SIX - INITIAL BOARD OF DIRECTORS AND SPECIFIC POWERS

This Corporation currently has two (2) directors. The number of directors may be either increased or diminished from time to time as permitted by the By-Laws. The name and address of the initial directors of this Corporation are:

<u>NAME</u>	<u>ADDRESS</u>
Dipti R. Parikh	125 Cracker Barrel Drive, Crestview, Florida 32536
Sujal R. Parikh	125 Cracker Barrel Drive, Crestview, Florida 32536

ARTICLE EIGHT - BY-LAWS

The power to adopt, alter, amend or repeal By-Laws shall be vested in the shareholders.

ARTICLE NINE - INDEMNIFICATION

The Corporation shall indemnify any officer or director or any former officer or director, to the full extent permitted by law. However, the right to indemnification might be subordinate to the indebtedness owed to Lender, all as set forth below, in Article Ten.

ARTICLE TEN - SPE PROVISIONS

For so long as that certain loan made by Lender with respect to the Property and generally described in the Loan Agreement is outstanding, Corporation shall comply with the provisions set forth in this Article Ten. Any capitalized terms that are not defined herein shall have the meaning set forth in the Loan Agreement. Lender is an intended third-party beneficiary of the provisions of this Article Ten.

(a) Corporation will not own any asset or property other than the Property and incidental personal property necessary for the ownership, management or operation of the Property.

(b) Corporation does not engage and will not engage in any business other than the ownership, management and operation of the Property and Corporation will conduct and operate its business as presently conducted and operated, subject to the terms and conditions of the Loan Agreement.

(c) Without the prior written consent of Lender, Corporation will not engage in, seek or consent to any dissolution, winding up, division, liquidation, consolidation, merger, asset sale (except as expressly permitted by in the Loan Agreement transfer of partnership or membership interests or the like, or amendment of its articles of incorporation.

H19000254498 3

H19000254498 3

(d) Corporation is not a party to and will not enter into or be a party to any contract or agreement with any Affiliate of Corporation, any constituent party of Corporation or any Affiliate of any constituent party, except in the ordinary course of business and on terms and conditions that are disclosed to Lender in advance and that are intrinsically fair, commercially reasonable and substantially similar to those that would be available on an arms-length basis with third parties other than any such party.

(e) Corporation will not incur any indebtedness other than (i) the Debt and (ii) unsecured trade payables and operational debt (excluding so-called property-assessed clean energy or similar loans) not evidenced by a note and in an aggregate amount not exceeding one percent (1%) of the original principal amount of the Loan at any one time; provided that any indebtedness incurred pursuant to subclause (ii) shall be (x) paid within thirty (30) days of the date incurred and (y) incurred in the ordinary course of business (the indebtedness described in the foregoing clauses (i) and (ii) is referred to herein, collectively, as "Permitted Indebtedness"). No indebtedness other than the Debt may be secured (subordinate or *pari passu*) by the Property.

(f) Corporation will not make any loans or advances to any Person (including any Affiliate or constituent party), and shall not acquire obligations or securities of its Affiliates.

(g) Corporation is and intends to remain solvent and Corporation will pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from Net Operating Income and available reserve accounts as set forth in the Loan Agreement, as the same shall become due; provided, however, that the foregoing shall not require any shareholder of Corporation to make any additional capital contributions to Corporation.

(h) Corporation will maintain all of its accounts, books, records, financial statements and bank accounts separate from those of its Affiliates and any other Person. Corporation's assets will not be listed as assets on the financial statement of any other Person; provided, however, that Corporation's assets may be included in a consolidated financial statement of its Affiliates if (i) appropriate notation shall be made on such consolidated financial statements to indicate the separateness of Corporation and such Affiliates and to indicate that Corporation's assets and credit are not available to satisfy the debts and other obligations of such Affiliates or any other Person, and (ii) such assets shall be listed on Corporation's own separate balance sheet. Corporation will file its own tax returns (to the extent Corporation is required to file any such tax returns) and will not file a consolidated federal income tax return with any other Person. Corporation shall maintain its books, records, resolutions and agreements as official records.

(i) Corporation will hold itself out to the public as, a legal entity separate and distinct from any other entity (including any Affiliate of Corporation or any constituent party of Corporation), shall correct any known misunderstanding regarding its status as a separate entity, shall conduct business in its own name, shall not identify itself or any of its Affiliates as a division or part of the other, and shall maintain and utilize separate stationery, invoices and checks bearing its own name.

(j) Corporation intends to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations; provided, however, that the foregoing shall not require any direct or indirect director or shareholder of Corporation to make any additional capital contributions to Corporation.

H19000254498 3

(k) Neither Corporation nor any constituent party will seek or effect the liquidation, dissolution, winding up, consolidation or merger, in whole or in part, of Corporation.

(l) Corporation will not commingle the funds and other assets of Corporation with those of any Affiliate or constituent party or any other Person, and will hold all of its assets in its own name.

(m) Corporation will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any Affiliate or constituent party or any other Person.

(n) Corporation will not assume or guarantee or become obligated for the debts of any other Person and will not hold itself out to be responsible for or have its credit available to satisfy the debts or obligations of any other Person.

(o) Corporation will not permit any Affiliate or constituent party independent access to its bank accounts.

(p) Corporation shall pay the salaries of its own employees (if any) from its own funds and shall maintain a sufficient number of employees (if any) in light of its contemplated business operations; provided, however, that the foregoing shall not require any direct or indirect director or shareholder of Corporation to make any additional capital contributions to Corporation.

(q) Corporation shall compensate each of its consultants and agents from its funds for services provided to it and pay from its own assets all obligations of any kind incurred; provided, however, that the foregoing shall not require any direct or indirect director or shareholder of Corporation to make any additional capital contributions to Corporation.

(r) Corporation will not, without the unanimous consent of all of its directors and shareholders: (i) file a bankruptcy, insolvency or reorganization petition or otherwise institute insolvency proceedings or otherwise seek any relief under any laws relating to the relief from debts or the protection of debtors generally, (ii) seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for such entity or for all or any portion of such entity's properties, (iii) make any assignment for the benefit of such entity's creditors or (iv) take any action that might cause Corporation to become insolvent.

(s) Corporation has remained and intends to remain solvent and has maintained and intends to maintain adequate capital in light of its contemplated business operations.

(t) Corporation has not failed and will not fail to correct any known misunderstanding regarding the separate identity of such entity.

(u) Corporation has maintained and will maintain its accounts, books and records separate from any other Person and will file its own tax returns.

(v) Corporation has maintained and will maintain its books, records, resolutions and agreements as official records.

(w) Corporation has not commingled and will not commingle its funds or assets with those of any other Person.

H19000254498 3

H19000254498 3

- (x) Corporation has held and will hold its assets in its own name.
- (y) Corporation has conducted and will conduct its business in its name.
- (z) Corporation has maintained and will maintain its financial statements, accounting records and other entity documents separate from any other Person.
- (aa) Corporation has paid and will pay its own liabilities, including the salaries of its own employees, out of its own funds and assets.
- (bb) Corporation has observed and will observe all corporate formalities, as applicable.
- (cc) Corporation has maintained and will maintain an arm's-length relationship with its Affiliates.
- (dd) Corporation will not have any indebtedness other than Permitted Indebtedness.
- (ee) Corporation will not assume or guarantee or become obligated for the debts of any other Person or hold out its credit as being available to satisfy the obligations of any other Person.
- (ff) Corporation will allocate fairly and reasonably any shared expenses, including shared office space.
- (gg) Except in connection with the Loan, Corporation will not pledge its assets for the benefit of any other Person.
- (hh) Corporation has not and will not acquire obligations or securities of its Affiliates, directors or shareholders.
- (ii) Corporation has allocated and will allocate fairly and reasonably shared expenses, including shared office space, and uses separate stationery, invoices and checks.
- (jj) Except in connection with the Loan, Corporation will not pledge its assets for the benefit of any other Person.
- (kk) Corporation has held itself out and identified itself and will hold itself out and identify itself as a separate and distinct entity under its own name and not as a division or part of any other Person.
- (ll) Corporation has maintained and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;
- (mm) Corporation has not made and will not make loans to any Person.
- (nn) Corporation has not identified and will not identify its directors or shareholders, or any Affiliate of any of them, as a division or part of the Corporation.

H19000254498 3

H19000254498 3

(oo) Corporation will not enter into or be a party to, any transaction with its directors, shareholders or Affiliates except in the ordinary course of its business and on terms which are intrinsically fair and are no less favorable to it than would be obtained in a comparable arm's-length transaction with an unrelated third party.

(pp) Corporation has and will have no obligation to indemnify its officers, directors, or shareholders as the case may be, or has such an obligation that is fully subordinated to the Debt and will not constitute a claim against it if cash flow in excess of the amount required to pay the Debt is insufficient to pay such obligation.

(qq) Corporation will consider the interests of its creditors in connection with all corporate actions, as applicable.

Lender is a third party beneficiary of the provisions set forth in this Article X.

ARTICLE XI

These Amended and Restated Articles of Incorporation were approved by all shareholders and all directors of the Corporation, at a meeting held on August 21, 2019.

IN WITNESS WHEREOF, the undersigned have executed these Articles of Incorporation on this 22 day of August, 2019, to be effective as effective as of the date of the funding of the loan provided by Lender (as defined above)



DIPTI R. PARIKH, President

H19000254498 3

H19000254498 3

D & R HOSPITALITY, INC.

In pursuance of Chapter 48.091, Florida Statutes, the following is submitted, in compliance with said Act, D & R Hospitality, Inc., desiring to organize under the laws of the State of Florida with its principal office, as indicated in the Articles of Incorporation at City of Crestview, State of Florida has named Dipti R. Parikh, 125 Cracker Barrel Drive, Crestview, Florida 32536, as its agent to accept service of process within this state.

ACKNOWLEDGMENT:

Having been named to accept service of process for the above stated corporation, at the address designated in this certificate, I hereby accept to act in this capacity, and agree to comply with the provision of said Act relative to keeping open said office.



DIPTI R. PARIKH, Registered Agent

H19000254498 3