

STATE OF ALABAMA
COUNTY OF BALDWIN

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ARTICLES OF INCORPORATION
OF

THE PROPERTY OWNERS ASSOCIATION OF ONO NORTH, INC.
A NON-PROFIT CORPORATION

KNOW ALL MEN BY THESE PRESENTS, that the undersigned Incorporator does hereby form a corporation under the Alabama Non-Profit Corporation Act [1975 Code of Alabama, Section 10-3A-1, et seq.], and declares:

ARTICLE I - NAME

The name of this Corporation shall be The Property Owners Association of Ono North, Inc. (hereinafter the "Corporation" or the "Association").

ARTICLE II - PERIOD OF DURATION

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

ARTICLE III - PURPOSES AND POWERS.

SECTION 1 - PURPOSES AND POWERS. The Corporation does not contemplate

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pecuniary gain or profit to its members. The purposes for which the Corporation is organized are to promote the health, safety and welfare of the residents and owners living within the perimeter boundaries of "the Properties" as hereinafter defined and for these purposes, including, without limitation, the right to:

- (a) Operate and maintain a planned residential community known as Ono North, Phase One; and to build and maintain therein common areas, including, buildings, swimming pools, tennis courts and other structures and recreational areas and facilities and personal property incident thereto, hereinafter referred to as the "Recreational Area" for the mutual benefit of all of the residents and owners in the Properties;
- (b) Provide for the preservation of property values;
- (c) Provide for the maintenance of common facilities and services;
- (d) Fix assessments and/or charges to be levied against "the Properties";
- (e) Fix fees and charges, if any, that are to be made for the use of Association facilities and equipment;
- (f) Enforce any and all covenants, restrictions and agreements applicable to "the Properties";
- (g) Pay taxes, if any, on the "Recreational Area" and any facilities thereon; and
- (h) Insofar as permitted by law to do any other thing that, in the opinion of the Board of Directors, will promote the common benefit and enjoyment of the residents of "the Properties" and to acquire, own, and operate assets and property, both real and personal for said purposes and to transact such Not-For-Profit business or activities consistent with the purposes for which this Corporation is organized and to protect the lawful rights and interests of its owners and residents in connection therewith, in accordance with the authority and powers given and granted to a corporation Not-For-Profit as set forth under the Alabama Non-Profit Corporation Act.

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SECTION 2 - DEFINITIONS. The terms set forth in these Articles shall have the meaning ascribed to them in the Declaration of Rights, Restrictions, Affirmative Obligations and

Conditions Applicable to Ono North, Phase I (the "Declaration"), as recorded at Slide ^{1127-A 1128-A} ~~1482-A~~ in the Probate Court of Baldwin County, Alabama, and in the By-Laws of this Association which are incorporated herein by reference, and which such definitions include, but are not limited to the following:

(a) Lot - Shall mean and refer to any of the numbered and delineated parcels shown on the Plat of Ono North, Phase One, recorded in Probate Court in Baldwin County, Alabama, as the same may be amended from time to time, and any additional Lots subjected by the Developer to the terms of the Declaration in the manner set forth in the Declaration.

(b) The Properties - Is defined as and shall mean and refer to all those tracts or parcels of land situated, lying and being in Ono North, Phase One, Baldwin County, Alabama, which are more particularly described in a plat recorded at Slide No. ^{1127-A 1128-A} ~~1482-A~~ in the Probate Court of Baldwin County, Alabama, as the same may be amended to from time to time, to include such additional properties as may be made subject to the terms of the Declaration by the Developer as provided for in such Declaration.

(c) The Developer - Shall mean and refer to Lakeside, Ltd., its successors and assigns.

ARTICLE IV - MEMBERSHIP

Every person or entity who or which is a record owner of a vested interest in fee simple title to any Lot within the Properties which is subject by covenant of record to assessment by this Association, shall be a Member of this Association. If more than one person or entity are the Owners of one Lot within the Properties, no more than two of such Owners shall be Members of the Association. Additionally, each person or entity who or which is a record owner of a vested interest in fee simple title to a numbered or delineated residential parcel of real property in Ono Harbour, Units 1, 2, 3 and 4, and in Ono Harbour Peninsula (as same are described and set forth in the plats thereof recorded in the Probate Court in Baldwin County, Alabama), shall have the option to become a Member of the Association by virtue of their payment of the annual dues required of Members of this Association. If more than one person

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or entity are the Owners of a numbered or delineated residential lot in Ono Harbour Units 1, 2, 3 and 4, and in Ono Harbour Peninsula, no more than two such Owners shall be Members of the Association. Persons electing such membership may be separately referred to herein as "Elective Members," and the lots owned by such Elective Members shall be referred to herein as "Qualifying Lots." Further, the Developer shall have the right to designate up to 20 additional persons who shall become Members of the Association for the calendar year in which such designation is made, upon written notification by the Developer to the Association of such designations as made each calendar year and payment by each such Member of the annual dues required of each Member of this Association. Such Members may be separately referred to herein as "Developer Designated Members." The membership of any Elective Member or Developer Designated Member shall cease if such Member's dues are not paid by the later of February 15 of each calendar year, within 45 days of acquiring title to a lot which qualifies such person to become an Elective Member, or of being designated as a Developer Designated Member by the Developer, all as provided for herein, unless such membership is reinstated by the Board of Directors of the Association. Provided, however, that any such person or entity who holds an interest in any such Qualifying Lot or in a Lot merely as security for the performance of an obligation shall not be a Member, unless and until such security holder or mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu thereof. The purchaser at foreclosure or proceedings in lieu thereof shall be a Member as provided for herein and the debtor's membership shall cease regardless of whether there is an outstanding right of redemption or not. For the purposes of this paragraph in determining the number of Owners of any Lot, a husband and wife who are Owners of any Lot shall be counted as only one Owner.

For purposes of membership, a "Lot" is defined as each of the 167 numbered and

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delineated parcels shown on the plat of Ono North, as recorded at Slide No. ^{1487-A thru} ~~1488-A~~ in the Probate Court of Baldwin County, Alabama, and such other Lots as may be subjected to the terms of the Declaration from time to time in accordance with the Declaration. As provided above, a "Qualifying Lot" is defined as the numbered and delineated residential parcels of real property in Ono Harbour, Units 1, 2, 3 and 4, and in Ono Harbour Peninsula, as set forth in the plat in the Probate Court of Baldwin County, Alabama.

ARTICLE V - NOT FOR PROFIT CORPORATION

This Corporation shall be without capital stock, will not be operated for profit and will not distribute gains, profits or dividends to any of its Members. The Members of this Corporation shall not be personally liable for the debts, liabilities or obligations of this Corporation. The purposes of this Corporation shall be served without pecuniary profit to any director or Member of the Corporation.

ARTICLE VI - INCORPORATOR

The name and address of the Incorporator is as follows:

<u>NAME</u>	<u>ADDRESS</u>
W. Allen Cox	9901 Timbercreek Boulevard Daphne, Alabama 36527

ARTICLE VII - VOTING RIGHTS, BOARD OF DIRECTORS, DISSOLUTION; DISPOSAL OF ASSETS ON DISSOLUTION; AMENDMENTS

SECTION 1 - VOTING RIGHTS. The Corporation shall have two classes of voting membership, as follows:

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Class A Members shall consist of all owners, other than the Developer, of improved and unimproved Lots, as herein defined (the "Owners"), and shall also consist of the Elective Members and the Developer Designated Members as provided for in Article IV herein, with all such Owners, Elective Members and Developer Designated Members being referred to in the aggregate as Members, for all purposes herein. Such Members shall be entitled to one vote for each improved or unimproved Lot owned in all matters in which membership voting is authorized in the Declaration, these Articles, the Corporation's By-Laws or any other rules and regulations binding upon the Corporation; provided, however, when more than one person owns or holds such interest or interests in any such Lot, one person shall be designated as the Member entitled to vote for all the owners of such Lot, and such designated person shall be deemed to be the Owner for membership purposes herein. Written evidence of such designation by all such owners shall be delivered to the Board of Directors in a form acceptable by them, and in no event, shall more than one vote be cast with respect to any such Lot. Each Elective Member and each Developer Designated Member shall be entitled to one vote on all matters on which membership voting is permitted. The ownership of a Qualifying Lot and the determination of Membership and voting rights among multiple owners for an Elective Member shall be determined in accordance with the same principles set forth herein for Owners of Lots within the Properties.

Each Member shall be entitled to cast the vote or votes to which he is entitled as provided for above, at any meeting of Members or on any matter requiring a vote of Members, occurring subsequent to the date upon which the Member became an Owner, became a qualified Elective Member or became a Developer Designated Member (provided that the Member is not then delinquent in the payment of assessments on such Lot or membership dues, in which event,

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such Member shall not be entitled to vote), and each Member shall be entitled to the number of votes as calculated above as if each Member had been a Member for a full year and had paid the regular annual assessment for the year in which the vote takes place. Payment of any special assessment shall not entitle Members to additional votes.

The Class B Member shall be the Developer only and as such Member, the Developer shall be entitled to five votes for each improved or unimproved Lot, as herein defined, owned by the Developer in all matters in which membership voting is authorized in the Declaration, as supplemented, these Articles, the Corporations's By-Laws or any other rules or regulations binding upon the Corporation.

SECTION 2 - BOARD OF DIRECTORS.

(a) The affairs of the Corporation shall be managed by a Board of Directors consisting of three (3) persons, none of whom need be Members of the Association. The initial Board of Directors shall consist of three (3) Directors who shall hold office until the election of their successors at the organizational meeting following the filing of record of these Articles of Incorporation in the Probate Court in Baldwin County, Alabama. The number of Directors and their terms of office shall be set from time to time as provided in the By-Laws. The names and addresses of the persons who are to serve as the initial members of the Board of Directors and until their successors are elected and qualified are as follows:

NAME

W. Allen Cox

ADDRESS

9901 Timbercreek Blvd.
Daphne, AL 36527

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Thomas W. Leavell

P. O. Box 1307
Mobile, AL 36633

Alexander T. Howard, III

28660 Ono Blvd.
Orange Beach, AL 36633

The initial Board of Directors shall have the same powers and duties enumerated in these Articles and in the By-Laws for the elected Board of Directors.

The initial By-Laws of this Corporation shall be adopted by its Board of Directors. The power to alter, amend or repeal the By-Laws or adopt new By-Laws shall be vested in the Board of Directors of this Corporation.

(b) In electing Directors, each Member of each class shall be entitled to cast a number of votes equal to the number of votes to which such Member is entitled, as determined in accordance with Section 1 of this Article VII, for each Director's position for which such Member is entitled to vote, as hereinafter set forth. Until such time as the Class B Member has no right to vote, that is, until all of the Lots owned by the Developer have been sold or otherwise conveyed, a majority of the members of the Board of Directors shall be elected by the Class B Member. The remaining members of the Board of Directors shall be elected by the Class A Members. No cumulative voting is permitted.

(c) The Board of Directors shall adopt, implement and enforce rules and regulations applicable to the use of any Properties and Recreational Areas and shall insure that no person, including family members of such person, has the right to obtain access as a guest of a Member to such Properties or Recreational Areas, who owns any real property located on Ono Island in Baldwin County, Alabama, unless such person also owns one or more Lots within the Properties, is an Elective Member or is a Developer Designated Member. The Board of

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Directors, however, shall have the right to authorize the use of such Properties or Recreational Facilities to any person for such fees or charges as it deems necessary or desirable.

SECTION 3 - DISSOLUTION. The Corporation may be dissolved only with the consent of Members entitled to cast sixty-six and two-thirds percent (66 2/3%) of the total number of votes which may be voted by all of the Members, regardless of class, present or represented by proxy at a meeting called for such purposes, a quorum being present. Notwithstanding the foregoing, the vote to dissolve shall not be effective without the written consent of the Class B Member, so long as there is a Class B Member with voting rights, as set forth herein. 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 VII, Section 4 hereof) shall be mailed to every Member at least thirty (30) days in advance of any such action sought to be taken.

SECTION 4 - DISPOSITION OF ASSETS UPON DISSOLUTION. Upon dissolution of the Corporation, the assets, both real and personal, of the Corporation, shall be dedicated to an appropriate public agency or utility to be devoted to purposes as nearly as practicable, if possible, the same as those to which they were required to be devoted by the Corporation. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust, or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Corporation. No such disposition of Association properties shall be effective to divest or diminish any right or title of any Member vested in him under the recorded Declaration and

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deeds applicable to "the Properties" unless made in accordance with the provisions of such covenants and deeds.

SECTION 5 - AMENDMENTS. These Articles may be amended with the consent of Members entitled to cast sixty-six and two-thirds percent (66 2/3%) of the total number of votes which may be voted by all of the Members, regardless of class, present or represented by proxy at a meeting called for such purpose, a quorum being present; provided, however, no such amendment shall be effective without the consent of the Class B Member, so long as there is a Class B Member with voting rights, as provided for herein.

ARTICLE VIII - REGISTERED OFFICE AND AGENT

The address of the initial registered office of the Corporation is 9901 Timbercreek Boulevard, Daphne, Alabama 36527, and the name of the its initial registered agent at such address W. Allen Cox.

ARTICLE IX - INDEMNIFICATION

The Corporation 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 Corporation), by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees),

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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 Corporation, 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 Corporation, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

The Corporation 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 Corporation 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 Corporation, or is or was serving at the request of the Corporation 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 Corporation and 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 Corporation 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

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view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which court shall deem proper.

To the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in paragraphs one and two 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 paragraphs one and two of this Article (unless ordered by a court) shall be made by the Corporation 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 paragraphs one and two 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, (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 Corporation in advance of the final disposition of such claim, action, suit or proceeding as authorized in the final disposition of such claim, action, suit or proceeding as authorized in the manner provided in paragraph four of this Article upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay

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such amount if and to the extent that it shall be ultimately determined that he is not entitled to be indemnified by the Corporation as authorized in this Article.

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, provisions of articles of incorporation, by-law, agreement, or 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.

The Corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise 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 Corporation would have the power to indemnify him against such liability under the provision of this Article.

ARTICLE X - ASSESSMENTS

1. To provide the total sum necessary for the insurance, reserve fund for replacements, maintenance and operation of the Common Properties of the Properties and all expenses incurred in connection therewith, each Member, for each Lot owned, shall pay a portion of the total amount necessary for such purposes to the Corporation in accordance with Article XI of the Declaration. Additionally, each Elective Member and each Developer

Designated Member shall be obligated to pay as their membership dues the same amount as the amount of the assessment of each Member who is an Owner owning one Lot.

2. The amount of assessment against each Member as provided under paragraph 1 immediately above, shall be assessed by the Corporation as a lien against a Member who is a Lot Owner at the beginning of each annual assessment period. Each assessment shall be due and payable within forty-five (45) days of assessment, and upon default of payment within such period of time, the assessment shall be a lien against each Lot owned by the defaulting member, if a Lot Owner, and the Corporation shall be entitled to enforce the payment of said lien according to the laws of the State of Alabama and to take any other actions for collection from the defaulting party or parties. Any such lien against a Lot shall be subordinate to a recorded first mortgage covering such Lot. Similarly, the dues owed by an Elective Member and each Developer Designated Member shall be due on the later of February 15 of each calendar year or within 45 days of becoming a qualified Elective Member or a Developer Designated Member, otherwise the membership of an Elective Member or Developer Designated Member shall terminate for that calendar year, unless such membership is reinstated by vote of the Board of Directors of the Corporation.

3. In addition to the annual assessments authorized above, the Corporation may levy in any assessment year, special assessments for the purpose of defraying, in whole or in part, (a) the cost of any construction, reconstruction, repair or replacement of a capital improvement, including fixtures and personal property selected therefor or for the expense of any other contingencies approved by the Board of Directors and provided for in the By-Laws, or the Declaration.

4. Each Member shall be obligated to pay the Corporation for each Lot owned a

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special assessment as determined by Article X of the Declaration to Articles, and by the By-Laws. Additionally, each Elective Member and each Developer Designated Member shall pay the same amount of such special assessment as a Member Owner who owns one Lot.

5. The amount of the special assessment provided for in paragraphs 3 and 4 above shall be assessed as a lien by the Corporation. Each such assessment shall be due and payable within forty-five (45) days of assessment or as otherwise specified in the notice of such assessment, and upon default of payment within such period of time, shall be a lien against each Lot owned by the defaulting member, if a Lot owner, and the Corporation shall be entitled to enforce the payment of said lien according to the laws of the State of Alabama and to take any other actions for collection from the defaulting parties.

6. Both annual and special assessments may be collected on a monthly basis or quarterly or annual basis as determined by the Board of Directors.


ARTICLE XI - RESERVE FOR REPLACEMENTS

The Corporation shall establish and maintain a reserve fund for replacements by the allocation and payment annually to such reserve fund in such amounts as are established by the Board of Directors. Such fund shall be deposited in a special account with a safe and responsible depository and may be in the form of a cash deposit or invested in obligations of, or fully guaranteed as to principal by, the United States of America. The reserve fund is for the purpose of effecting replacements for structural elements and mechanical equipment of the Common Properties of the Corporation and for such other purposes as may be determined by the Board

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of Directors.

THE UNDERSIGNED, being the incorporator hereinabove named, for the purpose of forming a corporation pursuant to the Alabama Nonprofit Corporation Act, has executed the foregoing Articles of Incorporation on this 15th day of June, 1994.



W. ALLEN COX

(SEAL)

(INCORPORATOR)

THIS INSTRUMENT PREPARED BY:
Shirley M. Justice, Esq.
Sirote & Permutt, P.C.
One St. Louis Centre, Suite 1000
Post Office Drawer 2025
Mobile, Alabama 36652
b:ai-onpoa.smj

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