

P94000016995

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BASIC AMENDMENT

LAKE BUENA VISTA FACTORY STORES, INC.

Certificate of Status	1
Certified Copy	1
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FLORIDA DEPARTMENT OF STATE  
Katherine Harris  
Secretary of State

February 23, 2001

LAKE BUENA VISTA FACTORY STORES, INC.  
1725 UNIVERSITY DRIVE  
STE. 450  
CORAL SPRINGS, FL 33071

SUBJECT: LAKE BUENA VISTA FACTORY STORES, INC.  
REF: P94000016995

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Corporate Specialist

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**AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
LAKE BUENA VISTA FACTORY STORES, INC.**

The shareholders of LAKE BUENA VISTA FACTORY STORES, INC., a Florida corporation (the "Corporation") have duly adopted the following Amended and Restated Articles of Incorporation pursuant to the provisions of Sections 607.0704, 607.1003 and 607.1007 of the Florida Business Corporation Act:

WHEREAS, the Corporation was incorporated on March 3, 1994.

WHEREAS, these Amended and Restated Articles of Incorporation of the Corporation were approved by a unanimous vote of shareholders, no other voting group is entitled to vote on the amendment, the number of votes cast for the amendment by the shareholders was sufficient for approval, and the date of adoption by the shareholders was February 22, 2001.

The Corporation's Amended and Restated Articles of Incorporation are as follows:

**ARTICLE I.**

The name and address of this Corporation shall be: LAKE BUENA VISTA FACTORY STORES, INC., 1725 University Drive, Suite 450, Coral Springs, Florida 33071, with the privilege of having its offices and branch offices at other places within or without the State of Florida.

**ARTICLE II.**

The purpose of the Corporation shall be limited to serving as the managing member of Lake Buena Vista Joint Venture, LLC, a Florida limited liability company (the "Property Owner") and activities incidental thereto. The Corporation shall be prohibited from incurring indebtedness of any kind except in its capacity as managing member of the Property Owner for the mortgage loan and other indebtedness (the "Indebtedness") incurred in favor of Bear, Stearns Funding, Inc. and its successors and assigns with respect to the Indebtedness ("Lender") and trade payables incurred in the ordinary course of business.

**ARTICLE III.**

The number of shares of all classes of capital stock which the Corporation shall have authority to issue is Ten Thousand (10,000), consisting of Seven Thousand Five Hundred (7,500) shares of Voting Common Stock with a par value of Ten Cents (\$.10) per share (the "Voting Common Stock"), and Two Thousand Five Hundred (2,500) shares of Non-Voting Common

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Stock with a par value of Ten Cents (\$.10) per share (the "Non-Voting Common Stock") (Voting Common Stock and Non-Voting Common Stock being hereinafter referred to collectively as "Common Stock").

The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation.

Except as otherwise provide herein, all of the shares of Voting Common Stock and Non-Voting Common Stock will be identical in all respects and will entitle the holders thereof to the same rights and privileges.

1. Voting. The holders of the Voting Common Stock are entitled to one vote for each share held at all meetings of stockholders (and written actions in lieu of meetings). There shall be no cumulative voting. Except as otherwise expressly required under the laws of the State of Florida, holders of shares of Non-Voting Common Stock shall have no right to vote on any matter submitted to a vote of the stockholders of the Corporation and the consent of the holders of shares of Non-Voting Common Stock shall not be required for any action.

2. Dividends, Distributions, Stock Splits, etc. Dividends may be declared and paid on the Common Stock from funds lawfully available therefor as and when determined by the Board of Directors. Holders of shares of Voting Common Stock and shares of Non-Voting Common Stock shall be entitled to share equally on a share-for-share basis in all dividends payable on Common Stock, when, as, and if declared by the Board of Directors of the Corporation, whether payable in cash, property or securities of the Corporation; provided, however, that if dividends are declared on Common Stock in shares of Common Stock, then dividends shall be declared which are payable at the same rate on each type of Common Stock and the dividends on the shares of Voting Common Stock shall be payable only in shares of Voting Common Stock and the dividends on the shares of Non-Voting Common Stock shall be payable only in shares of Non-Voting Common Stock. If at any time the Corporation determines to make any other distribution to holders of shares of Common Stock or determines to offer to repurchase or otherwise acquire any shares of Common Stock, any such distribution or offer to repurchase or otherwise acquire any shares of Common Stock shall be made on a share-for-share basis or pro rata based on the total number of shares of Common Stock outstanding, as the case may be.

Notwithstanding the foregoing provisions, the Corporation shall not declare a dividend payable on Common Stock and securities convertible into shares of Common Stock unless the securities so distributed to holders of shares of Voting Common Stock are convertible into shares of Voting Common Stock and the securities so distributed to holders of shares of Non-Voting Common Stock are convertible into shares of Non-Voting Common Stock and all other terms and provisions of the securities so distributed are identical in all respects. If at any time the Corporation in any manner subdivides, splits or combines the outstanding shares of one type of Common Stock, the outstanding shares of the other type of Common Stock shall be proportionately subdivided, split or combined.

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3. Liquidation. Upon the dissolution or liquidation of the Corporation, whether voluntary or involuntary, holders of Common Stock will be entitled to receive all assets of the Corporation available for distribution to its stockholders.

The consideration for all of the said stock shall be payable in cash, property, real or personal, labor or services in lieu of cash, at a just valuation to be fixed by the Board of Directors of this Corporation.

#### ARTICLE IV.

This Corporation shall exist perpetually unless sooner dissolved according to law.

#### ARTICLE V.

The registered office of this Corporation shall continue to be 1725 University Drive, Suite 450, Coral Springs, Florida 33071, until changed pursuant to the applicable law. The registered agent at that address shall continue to be Jeff Sherrin, until changed pursuant to applicable law.

#### ARTICLE VI.

The following provisions regulate the internal affairs of the Corporation:

1. A unanimous vote of the Board of Directors, including the Independent Director (as hereinafter defined), is required to take or cause the Property Owner to take any of the following actions:

- (a) causing the Corporation or the Property Owner to become insolvent;
- (b) commencing any case, proceeding or other action on behalf of the Corporation or the Property Owner under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors;
- (c) instituting proceedings to have the Corporation or the Property Owner adjudicated as bankrupt or insolvent;
- (d) consenting to the institution of bankruptcy or insolvency proceedings against the Corporation or the Property Owner;
- (e) filing a petition or consent to a petition seeking reorganization, arrangement, adjustment, winding-up, dissolution, composition, liquidation or other relief on behalf of the Corporation or the Property Owner of its debts under any federal or state law relating to bankruptcy;
- (f) seeking or consenting to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for the Corporation or the Property Owner or a substantial portion of the properties of the Corporation or the Property Owner;

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(g) making any assignment for the benefit of the Corporation's or the Property Owner's creditors; or

(h) taking any action or causing the Corporation or the Property Owner to take any action in furtherance of any of the foregoing.

2. For so long as the Indebtedness is outstanding, the Corporation shall not:

(a) amend the Articles of Incorporation or permit the Property Owner to amend its Articles of Organization or Operating Agreement;

(b) engage in any business activity other than as set forth in Article II;

(c) withdraw as the manager or as a member of the Property Owner;

(d) dissolve, liquidate, consolidate, merge, or sell all or substantially all of the Corporation's assets or cause the Property Owner to dissolve, liquidate consolidate, merge, or sell all or substantially all of its assets; or

(e) transfer its interest or a portion thereof in the Property Owner, except as expressly permitted under the loan documents executed in connection with the Indebtedness.

3. The Corporation shall, and the Corporation shall require the Property Owner to:

(a) not commingle its assets with those of any other entity and hold its assets in its own name;

(b) conduct its own business in its own name;

(c) maintain bank accounts, books, records, accounts and financial statements separate from any other entity;

(d) maintain its books, records, resolutions and agreements as official records and separate from any other entity;

(e) pay its own liabilities out of its own funds;

(f) maintain adequate capital in light of contemplated business operations;

(g) observe all corporate or other organizational formalities;

(h) maintain an arm's length relationship with its affiliates;

(i) pay the salaries of its own employees and maintain a sufficient number of employees in light of contemplated business operations;

(j) not guarantee or become obligated for the debts of any other entity or hold out its credit as being available to satisfy the obligations of others;

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- (k) not acquire obligations or securities of affiliates or shareholders;
- (l) not make loans to any other person or entity;
- (m) allocate fairly and reasonably any overhead for shared office space;
- (n) use separate stationery, invoices, and checks;
- (o) not pledge its assets for the benefit of any other entity;
- (p) hold itself out as a separate entity and correct any known misunderstanding regarding its separate identity; and
- (q) not identify itself or any of its affiliates as a division or part of the other.

4. The Board of Directors is to consider the interests of the Corporation's creditors and the Property Owner's creditors in connection with all corporate actions.

#### ARTICLE VII.

For so long as the Indebtedness is outstanding, the Board of Directors of the Corporation shall include one (1) Independent Director. An "Independent Director" shall mean a person who is not and has not within the past five (5) years been, (i) an officer, director, employee, partner, member, beneficial-interest holder or stockholder of the Corporation or the Property Owner or of any partner or member of the Property Owner, or any affiliate of any of the foregoing; (ii) a lessee under any lease or supplier of the Property Owner or any affiliate thereof (other than a supplier that does not derive more than 10% of its revenues from its activities with the Property Owner or any affiliate thereof); or (iii) a spouse, parent, sibling, or child of any person described in (i) or (ii) above; provided, however, that a person shall not be deemed to be a director of an affiliate solely by reason of such person being a director of a single-purpose entity. For the purpose of this definition alone, affiliate means any person or entity which is controlled by, or under common control with, any person or entity described in clause (i) above; provided that the terms "control" and "controlled by" shall have the meanings assigned to them in Rule 405 under the Securities Act of 1933.

#### ARTICLE VIII.

No contract or other transaction between this Corporation and any other corporation, and no act of this Corporation, shall in any way be affected or invalidated by the fact that any of the directors of this Corporation are pecuniarily or otherwise interested in, or are directors or officers of, such other corporation. Any director individually, or any firm 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 this Corporation; provided that the fact that he or such firm is so interested shall be disclosed or shall have been known to the Board of Directors or a majority thereof, and any

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director of this Corporation who is also a director or an officer of such other corporation, or who is so interested, may be counted in determining the existence of a quorum at any meeting of the Board of Directors of this Corporation which shall authorize any such contract or transaction with like force and effect as if he were not such a director or officer of such other corporation, or not so interested.

ARTICLE IX.

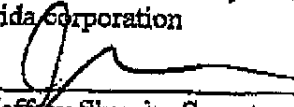
The private property of the shareholders shall not be subject to payment of the corporate debts to any extent.

ARTICLE X.

This Corporation may indemnify and insure its officers and directors to the fullest extent permitted by law; provided, however, that any and all Corporation obligations to indemnify its directors and officers shall not constitute a claim against the Corporation, as long as the indebtedness is outstanding.

IN WITNESS WHEREOF, the Corporation has caused this instrument to be signed by its undersigned officer this 22 day of February, 2001.

Lake Buena Vista Factory Stores, Inc.,  
a Florida Corporation

By:   
Jeffrey Sherrin, Secretary / Treasurer

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**CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE  
FOR THE SERVICES OF PROCESS WITHIN THIS STATE,  
NAMING AGENT UPON WHOM PROCESS MAY BE SERVED**

In compliance with the laws of the State of Florida, the following is submitted:

FIRST -- That LAKE BUENA VISTA FACTORY STORES, INC., organized under the laws of the State of Florida, has designated 1725 University Drive, Suite 450, Coral Springs, Florida 33071, as the place of business for the service of process within this state.

SECOND -- That the above corporation has named Jeff Sherrin as its statutory registered agent.

Having been named the statutory agent of the above Corporation at the place designated in this Certificate, I hereby accept the same and agree to act in this capacity, and agree to comply with the provisions of Florida law relative to keeping the registered office open.

Dated this 22nd day of February, 2001.

  
\_\_\_\_\_  
Jeff Sherrin,  
Registered Agent

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