

BEAR CREEK CROSSING

A

PLANNED UNIT DEVELOPMENT

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| VALUE 0.00 |
| MTG TAX 0.00 |
| TRN TAX 0.00 |
| REC FEE 170.00 |
| DP FEE 2.00 |
| REG FEE 0.00 |
| TOTAL 172.00 |

STATE OF TENNESSEE, SEVIER COUNTY
SHERRY ROBERTSON HUSKEY
REGISTER OF DEEDS

PREPARED BY:
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Sevierville, TN 37862

BEAR CREEK CROSSING - A PLANNED UNIT DEVELOPMENT

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

BEAR CREEK CROSSING

A PLANNED UNIT DEVELOPMENT

THIS DECLARATION, made on the date hereinafter set forth by BEAR CREEK CROSSING, LLC with principal offices at 212 Hemlock Court, Sevierville, Tennessee 37862, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in County of Sevier, State of Tennessee, which is more particularly described as:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF BY SPECIFIC REFERENCE

NOW THEREFORE, Declarant hereby declares that all of the properties described shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof. PROVIDED HOWEVER, Declarant reserves the right to add other properties by an amendment of Exhibit A for the purpose of describing the additional property in subsequent phases of development. Any amendment to Exhibit "A" shall automatically bring said property under the jurisdiction of the owners association.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to The Owner's Association, Incorporated, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property herein before described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association. The properties described in Exhibit A will constitute Phase I. Additional properties will be added in a number of sub-phases.

Section 4. "Common Area" shall mean all of the roads, easements, entrance sign and entrance sign lights, walking trails and street lights located on the real property and any other property designated upon any recorded subdivision map of the properties as "common area" (including the improvements thereto) owned by the Association at the time of the conveyance of the first lot and described as follows:

SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF BY SPECIFIC REFERENCE.

Section 5. "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Areas, with the exception of an area reserved for Declarant, and with the exception of any

areas designated or dedicated for a street and any areas reserved for future development and not numbered.

Section 6. "Declarant" shall mean and refer to **BEAR CREEK CROSSING, a Limited Liability Company**, its successors and assigns. Declarant and developer are synonymous for the purposes of this declaration.

Section 7. "Member" shall mean and refer to those persons entitled to membership as provided in this Declaration.

Section 8. "Bylaws" shall mean the Bylaws of The Owners Association, Inc., attached hereto as Exhibit "C".

Section 9. Articles of Incorporation shall mean the Articles of Incorporation of The Owners Association attached hereto as Exhibit "D".

ARTICLE II PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area (specifically excluded are any amenities, open areas and out parcels, owned by and reserved for the use of the Declarant) which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility leased by the association situated within or adjacent to the **Bear Creek Crossing Development**;

(b) The right of the Association to suspend the voting rights use of common areas and right to use of the leased recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of the published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by a majority of the members agreeing to such dedication or transfer has been recorded. However, no consent shall be required for dedication of utility and service easements so long as the Declarant owns any undeveloped lots. The Declarant does reserve the right of use of the common area roads for access to adjacent phases or future development of property owned by the Declarant or acquired by the Declarant in the future. **THE ASSOCIATION SHALL NOT HAVE THE RIGHT TO ALLOW ADJACENT PROPERTY OWNERS TO CONNECT TO ANY UTILITIES IN BEAR CREEK CROSSING WITHOUT THE EXPRESS CONSENT OF THE DEVELOPER AND WITHOUT PAYMENT OF COMPENSATION TO THE DEVELOPER FOR COSTS OF UTILITIES; LOT OWNERS CANNOT GIVE EASEMENTS OR RIGHT OF WAYS THROUGH A LOT TO AN ADJOINING PROPERTY OR LOTS WITHOUT THE EXPRESS WRITTEN CONSENT OF THE DECLARANT;**

(d) The right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the common area;

(e) Each lot owner shall provide their own parking entirely within the dimensions of their lot, unless a variance is first obtained from the Architectural Review Committee and a plat of the variance is recorded in the Office of the Sevier County Register of Deeds; and,

(f) Paved Driveways. Each dwelling constructed on the lots shall also have a hard surfaced, concrete or paved entrance drive to said dwelling. Said driveway shall be surfaced within six (6) months from the date of completion of the dwelling.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his immediate family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have voting members.

Section 3. Each member shall be entitled to one (1) vote for each lot owned in all phases of the development. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Section 4. In the event the Declarant, its successors and assigns, owns or retains a lot, the Declarant shall be entitled to one vote for each such lot or dwelling unit located thereon and in the event that a future phase is developed, the Declarant shall be entitled to one vote for each lot shown on a future phase recorded in the office of the Register of Deeds.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each platted and improved Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided and monthly assessments for sewer service and tank maintenance if not paid by the owner on a timely basis. The cost may include the installing of a primary septic tank on each improved lot or one tank may serve more than one lot, together with such pump(s) and laterals as shall be necessary to transfer effluents to a main sewage line or an intermediary tank(s) as may be required by appropriate governmental authorities. The monthly, annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall pass to his successors in title. PROVIDED, IF A LOT IS SHOWN ON A RECORDED PLAT AND IS NOT IMPROVED WITH A DWELLING UNIT THEREON, THE DECLARANT IS NOT OBLIGATED TO PAY THE ASSESSMENTS.

The Director of the Tennessee Department of Environment and Conservation, Division of Ground Water Protection, may make a special assessment to correct any deficiencies and/or health hazards concerning the sewage collection and disposal system,

provided the owner and/or association has failed to comply with the directives of the division in a timely fashion.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents in the Properties, for the rental of recreation areas for the use of members, to provide a system for providing and maintaining a central sewerage disposal system, and for the improvement and maintenance of the Common Areas, including, but not limited to costs of repairs, maintenance, replacements, additions, management, taxes assessed against the common areas, street lighting and insurance maintained in accordance with the By-Laws and employment of attorneys to represent the Association when necessary or when the need arises.

Section 3. Maximum Annual or Monthly Assessment. Until December 31, 2004, there shall be no assessment charged by the homeowner's association. ALL MAINTENANCE ON COMMON AREAS UNTIL THAT TIME SHALL BE THE RESPONSIBILITY OF THE DECLARANT.

Until December 31, 2004, there shall be no assessment charge, Until December 31, 2005, the maximum monthly assessment for an unimproved lot shall be ONE HUNDRED (\$100.00) DOLLARS per unimproved lot and until December 31, 2005, the maximum monthly assessment for an improved lot shall be ONE HUNDRED (\$100.00) DOLLARS per improved lot, per dwelling. The Declarant shall set the assessments until December 31, 2008. Thereafter, it shall be set as follows:

(a) From and after December 31, 2008, the maximum annual assessment may be increased each year, without a vote of the Members, if such increase is not in excess of the increase in the consumer price index as established by the Department of Labor and published the July preceding the increase.

(b) From and after December 31, 2008, the maximum assessment may be increased each year above that established by the consumer price index by a majority vote of the members who are voting in person or by proxy, at a meeting duly called for this purpose as provided in Section 5 herein.

(c) The Board of Directors may fix the annual assessment at an amount not in the excess of the maximum subject to the provisions of Section 6 and 7 herein.

Section 4. Special Assessments for Capital Improvements and Maintenance of a Centralized Sewer System. (a) Capital Assessments. In addition to the annual assessments authorized above, the association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of a natural disaster, any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose. All special assessments shall be fixed at a uniform rate for all Lots and may be collected monthly or in a lump sum.

(b) Centralized Sewer System Assessments. The homes in the development may be serviced by the East Sevier County Utility District using an Advantek Sewer System which may require tanks for disposal requirements. Each owner shall be responsible for payment of a monthly disposal fee and shall be pro-rata responsible for maintenance of the tanks. A tank may serve one or more homes. If for any reason the owner should fail to pay their prorata share of the cost of tank maintenance, the Association shall have the right to levy a special assessment against the owners lot and enforce the assessment as any other maintenance fees are enforced.

It is the duty and responsibility of the Association to implement the directives of the division of ground water protection of the Tennessee Department of Environment and Conservation. If the owner and/or association should fail to comply with the directives of the division in a timely fashion, the director of the division shall have the authority to make a special assessment against any association member property owner and/or any property owned by an association member and to place and record a lien in favor of the division upon the property of any owner who is delinquent in payment and have the property sold to satisfy the debt.

Section 5. Notice and Quorum for any Action authorized under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any authorized action under Section 3 and 4 shall be sent to all members not less than 15 days nor more than 40 days in advance of the meeting. At the first such meeting called, the presence of the members or of proxies entitled to cast fifty-one percent (51%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at the uniform rate for all UNIMPROVED Lots and at a uniform rate for all improved lots with a detached family dwelling and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments.
Due Dates. The annual assessments provided for herein shall commence January 1, 2005. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments. Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve (12%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. Attorney fees, court costs, cost of mailing, advertising and any other expenses incurred to collect the assessment shall be added to the assessment and become a lien on the property and a personal liability of the owner. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All property dedicated to, and accepted by a local public authority shall be exempt from assessments herein. ALL UNIMPROVED LOTS OWNED BY THE DECLARANT SHALL BE EXEMPT FROM ASSESSMENTS HEREIN. However, in any event, except for property owned by a local public authority, no property that is improved with a dwelling thereon shall be exempt from said assessments.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, color, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by an architectural review committee composed of three (3) or more representatives appointed by the Declarant appointed by the Board. Provided that nothing herein contained shall be construed to permit interference with development of the properties by Declarant. In the event said committee fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this article will be deemed to have been fully complied with.

The architectural review committee shall establish a set of architectural standards that will include but not be limited to certain color, shape, height, and location requirements; roof materials; exterior materials, exterior colors and materials; drainage, landscaping, driveway materials, building standards and specifications. Initial restrictions on the use of the lots are attached hereto as exhibit "E" and shall run with the land.

ARTICLE VI

EXTERIOR MAINTENANCE

In addition to maintenance upon the common area, the Association shall provide exterior maintenance upon each lot which is subject to assessment hereunder, as follows:

(a) Dwellings: The Association may (but not required) maintain the shrubbery and landscaping approved by the Architectural Review Board. This does not include removal or replacement of dead trees. The Owner's Association shall not be required to provide exterior maintenance to dwelling improvements upon the lots. Provided however if the Board of Directors of the Owner's Association should deem it necessary to provide maintenance on the dwelling in order to maintain the integrity of the scenic beauty of the development as well as to preserve the property values of adjoining owners and protect the welfare and safety of the owners using the common areas, such maintenance may be performed by the Owner's Association and charged as a special assessment against the particular lot.

(b) Unimproved Lots: The Owner's Association shall have no responsibility for maintenance of unimproved lots. Provided however in the event that the Board of Directors of the Owner's Association deems it necessary to protect the scenic beauty of the property and preserve property values as well as provide for the safety and welfare of the owners and their guests, the Owner's Association may provide such maintenance and charge it as a special assessment against the lot.

In the event that the need for maintenance or repair of a lot or the improvements thereon is caused through the willful or negligent acts of its owners, or through the willful or negligent acts of the family, guests, or invitees of the owner of the lot needing such maintenance or repair, the costs of such exterior maintenance shall be added to and become part of the assessment to which such lot is subject.

ARTICLE VII

RESTRICTIONS ON USAGE

Section 1. Land use and building types. No lot shall be used except for residential purposes and a residential model as approved by the Declarant on the property.

Any improvements on a lot for residential purposes shall contain a minimum of 600 square feet inside heated living space, on one floor level.

Nothing contained herein shall prohibit the monthly or overnight rental of said property.

Section 2. Nuisance. No noxious or offensive activity shall be conducted upon any Lot nor shall anything be done thereon which may be or become annoyance or nuisance to the neighborhood.

Section 3. Animals. No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any dwelling.

Section 4. Outside Antennas. No outside radio, television antennas or satellite dishes shall be erected on any Lot or dwelling unit within the Properties unless and until permission for the same has been granted by the architectural review committee. The Architectural Review Committee shall not approve a satellite dish greater in diameter than twenty-four (24) inches.

Section 5. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time, except a temporary construction trailer which shall be removed immediately upon completion of construction.

Section 6. Signs. No sign of any kind shall be displayed to the public view on any Lot except a sign approved by the Architectural Review Committee to identify the lot and the owner of the property. No "for sale" signs shall be displayed on any lots in the subdivision unless specific approval is given by the Declarant or by the architectural Review Committee.

All unapproved signs shall be removed by the Declarant or the Association!

Section 7. Garbage and Refuse Disposal. All containers for garbage, refuse and trash shall be uniform for all lots. All containers shall be approved by the architectural review committee for uniformity and conformance to the standards of the architectural review committee.

No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste and shall not be kept except in sanitary containers, of a type approved by the Architectural Review Committee. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall be placed in a location that cannot be seen from the street in front of the dwelling. Incinerators and open burning is absolutely prohibited on the premises.

Section 8. Lawful Use. No immoral, improper, offensive, or unlawful use shall be made of the Common Area or Lots and Living Units, nor any part thereof; and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed.

Section 9. Commercial Business. No commercial business may be maintained on the Common Area or in the Living Units. This shall not exclude the use of a lot for a showcase model by the Declarant or overnight rentals.

Section 10. Alterations. Nothing shall be altered or constructed in or removed from the Common Area except upon the written consent of the Architectural Review committee.

Section 11. Rules for Common Area. The Association is authorized to adopt rules for the use of the Common Areas and such rules shall be furnished in writing to

the Owners. The voting rights and right to use of the recreational facilities by an owner may be suspended for a period of up to 60 days for violation of such rules.

Section 12. Sports Apparatus and Equipment. No basketball standards or fixed sports apparatus shall be attached to any Living Unit or garage or be erected on the Lot of any Unit.

Section 13. Vehicles and Parking. No vehicles of any type shall be permanently or semi-permanently parked on the Properties or in the vicinity of any Living Unit or in the Common Area for the purpose of accomplishing repairs thereto, or the reconstruction thereof. This restriction shall also apply to all vehicles not in operating condition. Parking on lots improved with single family dwellings shall be provided by the owner on the lot itself and not in the common area.

Section 14. Recreation Vehicles. There shall be no prolonged parking of recreational vehicles, including, but not limited to, camping trailers, boats, motor homes, and the like except in areas specifically designated for this purpose by the Association. Prolonged parking shall be deemed for periods of forty-eight (48) hours or longer. Declarant shall have the right to establish and designate parking areas for recreational vehicles in the common areas.

Section 15. Commercial Vehicles. The Association shall have the power to adopt Rules and Regulations concerning the parking of all commercial vehicles on the Properties, Common Area, or individual Lots.

Section 16. No clear cutting of lots. There shall be no clear cutting of the trees from any lot. Trees shall be preserved to enhance the natural beauty of the development and only those trees necessary for the construction of buildings, driveways and parking on the property shall be removed. Every effort shall be made to preserve any tree ten (10) or more inches in diameter. Trees shall not be removed without permission of the Architectural Review committee.

Section 17. Miscellaneous. All mail boxes, yard decorations and identification signs shall be approved by the architectural review committee. Open clothes lines are prohibited on the premises.

ARTICLE VIII EASEMENTS

Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct, alter, or retard the flow of water through drainage channels in the easements. Easements to each individual lot for ingress and egress shall be provided to the rear of each property over the Common Area or by access easements as shown on the recorded plat. A SPECIFIC EASEMENT IS RETAINED ON ALL PROPERTIES FOR THE LOCAL LAW ENFORCEMENT AUTHORITIES TO COME ON THE PROPERTY IN THE PERFORMANCE OF THEIR DUTIES, FOR THE LOCAL FIRE DEPARTMENTS TO COME ON THE PROPERTY IN THE PERFORMANCE OF THEIR DUTIES, FOR THE UNITED STATES POSTAL OFFICE TO TRAVEL THE ROADS IN THE DEVELOPMENT FOR THE DELIVERY OF MAIL, FOR THE UNITED PARCEL SERVICE AND FEDERAL EXPRESS OR SIMILAR EXPRESS MAIL DELIVERY SERVICES IN THE PERFORMANCE OF THEIR BUSINESS OF DELIVERY TO INDIVIDUAL IMPROVED LOTS. THERE IS SPECIFICALLY RESERVED AN EASEMENT FOR THE LOCAL WATER AND SEWER AUTHORITIES, TELEPHONE COMPANY, NATURAL GAS UTILITY COMPANY, CABLE TELEVISION OF FIBEROPTICS PROVIDER AND ELECTRIC SYSTEM FOR THE INSTALLATION AND MAINTENANCE OF WATER, SEWER, TELEPHONE, GAS, ELECTRICAL, CABLE AND FIBEROPTIC LINES. THERE IS SPECIFICALLY RESERVED AN EASEMENT FOR THE

LOCAL PUBLIC WORKS AUTHORITY FOR PICKING UP GARBAGE AND DEBRIS TO COME ON THE PROPERTY IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

A) **Drainage Easement.** An easement is hereby reserved to Declarant and granted to the Association, its officer, agents, employees, successors and assigns to enter upon, across, over, in and under any portion of the Property for the purpose of changing, correcting or otherwise modifying the grade or drainage channels of the Property so as to improve the drainage of water. Best efforts shall be made to use this easement so as not to disturb the uses of the Owners, the Association and the Declarant, as applicable, to the extent possible, to prosecute such drainage work promptly and expeditiously, and to restore any areas affected by such work to a slightly and usable condition as soon as reasonably possible following such work.

B) **Easements Deemed Created.** All conveyances of Homesites, Condominium Units, Units or Lots made after the date of the Original Declaration whether by Declarant or otherwise shall be construed to grant and reserve the easement contained in this Article VIII even though no specific reference to such easements or to this Article VIII appears in the instrument for such conveyance.

ARTICLE IX GENERAL PROVISIONS

Section 1. Enforcement. The Association, the Declarant, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. THE DECLARANT SHALL HAVE THE ABSOLUTE RIGHT TO AMEND THE DECLARATION UNTIL DECEMBER 31, 2008. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than sixty-six and two-thirds percent (66-2/3%) of the Lot Owners, and thereafter by an instrument signed by not less than fifty-one percent (51%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation.

A) Additional residential and/or commercial property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of the members.

B) Additional land adjacent to the land described in Exhibit "A" attached hereto and owned or acquired by the Declarant or their successors and/or assigns, may be annexed by the Declarant and/or their successors and assigns without the consent of members at any time. Any amendment of Exhibit "A" to this Declaration to add additional properties shall also constitute an amendment to Exhibit "A" of the By-Laws and Exhibit "A" of the Articles of Incorporation.

Section 5. Encroachments and Adjustments. The Declarant shall have the right to adjust the location of easements and/or setback requirements as necessary for the construction of improvements and to preserve the scenic beauty of the premises.

A) Lot and Road Encroachments. Due to the mountainous topography within Bear Creek Crossing, the Declarant reserves the right, power and authority to vary the location of Lots (whether Unit, Homesite, Lot or Condominium Unit) or roads (including driveways and access easements) from the location as shown upon the recorded plat. In the event that a roadway (driveway, ect.) is relocated, the Owner's and Association's interest in the real estate upon which the road was platted shall automatically terminate and the Owner's and Association's interest shall shift to the road as actually constructed. When a road as constructed varies from the road as platted (both in terms of the roadway and any associated right of way), then the interest of the Owner and Association in the platted but unused land (including associated right of way) is divested from such Owner and Association and vested in the party properly entitled to such property. For example, in the event a road as constructed is shifted and residences are built upon what was a platted road, the interest of the Owners and Association in such property is divested from them and vested in the particular Owners. Each Owner, by virtue of accepting title to any portion of the property does hereby grant to the Association an irrevocable power of attorney coupled with an interest to convey Common Areas and/or Open Space by deed, and in so doing, pass title to any legal or equitable interest of the individual owners in the Common Area or Open Space. By virtue of this power, one of the Association's obligations will be to execute instruments, deeds, ect. to clear title to individual lots, units or residences from claims of common ownership. In regard to individual Lots, Units, Condominium Units or Homesites, the dimensions of each lot or unit is displayed upon the respective plat. The Declarant reserves the right to shift the location and size of the lots, with each lot being approximately centered around the residence constructed thereon. In the event a Unit, Lot Condominium Unit or Homesite is shifted from its platted location, the interest of the Association and Owners is divested from the Association and Owners and vested in the person or entity receiving title to the Unit, Lot, Homesite or Condominium Unit. Regardless of anything to the contrary herein or in any other previously executed instrument, the description of each Lot, Unit, Condominium Unit or Homesite shall be conclusively established (subject to later correction or revision) in the initial deed from Declarant to a non-declarant person or entity, and such deed shall pass the real estate described free from legal or equitable claims of the Association or individual owners to common ownership of Common Areas or Open Space. Real estate that was initially platted as being within a numbered Unit, Lot, Condominium Unit or Homesite which is not actually included in a Unit, Lot, Condominium Unit or Homesite shall be automatically deemed Common Area (providing the property surrounding it has already been deeded by Declarant to Association and described as "Common Area"). It is the intent of this section to provide an automatic system of resolving title issues regarding rights in common versus private ownership. Should uncertainty still remain, the Declarant, in this section and others reserves the right to resolve such issue by deeding, and the Association is authorized to deed any rights in common to any specific person or entity.

B) Porch and Deck Encroachments. Any Owner shall have a perpetual easement to install, maintain, upkeep, repair and replace porches and decks across their Unit or lot line and over and upon Common Areas, it being expected that many of the residence constructed within Bear Creek Crossing to have such "encroachments". The Association may execute instruments from time to time to relieve any title companies, attorneys or lenders of uncertainty concerning this issue, including, if required, deeding fee simple title to the property actually encroached upon. Neither the Declarant, the Association or any Owner shall have the right to bring suit for removal of any improvements encroaching upon Common Areas or Open Spaces, provided that the encroaching improvement was either built as part of the original construction of a Unit or residence or approval in terms of location or size by the Association.

C) No Partition of Common Area. The Common Area, after deeding, shall be owned by the Association, and no Owner shall bring any action for partition or division of the Common Area. By acceptance of a deed or other instrument of conveyance or assignment, each Owner shall be deemed to have specifically waived such Owner's rights to institute or maintain a partition action or any other designed to cause a division of the Common Area, and this section may be pleaded as a bar to any such action. Any Owner who shall institute or maintain any such action shall be liable to the Association, and hereby

agrees to reimburse the Association for its costs, expenses and reasonable attorney fees in defending any such action.

D) Relocation of Homesites. Declarant may move or relocate Homesite, Units or Lots in order to accommodate the topography of the particular site by simply filing an amended plat with the Homesite that has moved relocated being designated by an "R". For example, if Homesite 14 is moved or relocated, it shall be designated on the revised map as "14R". Declarant may add additional homesites to Bear Creek Crossing, which homesited may be located within area previously designated as Common Area.

E) Declarant's Rights Incident to Construction. Declarant, for itself and its successors and assigns hereby retains a right and easement of ingress and egress over, in, upon, under and across the Open Space and Common Area and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the Improvements on the Property or other real property owned by Declarant; provided, however, that no such rights shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment or access to an Owner's Homesite, Unit or Condominium Unit by that Owner or his family, tenants, employees, guest or invitees.

ARTICLE X RESORT RENTALS

Section 1. Rental Company and Contractors. In order to maintain the integrity of the resort as a quality resort area, the Declarant or its assignee or designated agent shall be the exclusive rental company for nightly rentals and shall have final approval of any contractor to build in the resort. The Declarant or its designee shall be the exclusive and only onsite rental agency for the resort.

Section 2. Exclusive Use of Amenities. Only rentals generated by the Declarant or its successors and/or assigns shall have the right to use the amenities and owners of lots that pay an admission fee to use the amenities.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand this the 21st day of JULY, 2004.

BEAR CREEK CROSSING, LLC

BY: Stephanie Whaley
STEPHANIE WHALEY, CHIEF MANAGER

BY: Joe Ogle
JOE OGLE, MANAGER

BY: Jerry Lindsey
JERRY LINDSEY, SECRETARY

STATE OF TENNESSEE

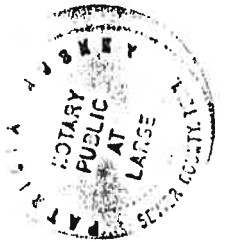
COUNTY OF SEVIER

Personally appeared before me, the undersigned, a Notary Public, **JERRY LINDSEY**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is the **SECRETARY** of the maker, **BEAR CREEK CROSSING, LLC** or a constituent of the maker and is authorized by the maker or by its constituent, the constituent being authorized by the maker, to execute the instrument on behalf of the maker.

WITNESS my hand, at office, this 22 day of July, 2004.

Patricia Huskey
NOTARY PUBLIC

My Commission expires: Feb 23, 2005



STATE OF TENNESSEE

COUNTY OF SEVIER

Personally appeared before me, the undersigned, a Notary Public, **JOE OGLE**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is the **MANAGER** of the maker, **BEAR CREEK CROSSING, LLC** or a constituent of the maker and is authorized by the maker or by its constituent, the constituent being authorized by the maker, to execute the instrument on behalf of the maker.

WITNESS my hand, at office, this 22 day of July, 2004.

Patricia Huskey
NOTARY PUBLIC

My Commission expires: Feb 23, 2005



STATE OF TENNESSEE

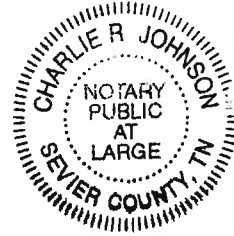
COUNTY OF SEVIER

Personally appeared before me, the undersigned, a Notary Public, **STEPHANIE WHALEY**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that she executed the within instrument for the purposes therein contained, and who further acknowledged that she is the **CHIEF MANAGER** of the maker, **BEAR CREEK CROSSING, LLC** or a constituent of the maker and is authorized by the maker or by its constituent, the constituent being authorized by the maker, to execute the instrument on behalf of the maker.

WITNESS my hand, at office, this 22nd day of July, 2004.

Charlie R. Johnson
NOTARY PUBLIC

My Commission expires: 3-18-08



**EXHIBIT A TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
BEAR CREEK CROSSING, A PLANNED UNIT DEVELOPMENT**

SITUATE in the Sixteenth (16th) Civil District of Sevier County, Tennessee, being all of the property described as **Bear Creek Crossing** on map of record in Large Map Book 5, Page 149 in the Register's Office for Sevier County, Tennessee, to which plat reference is hereby made for a more particular description.

SUBJECT to easements, rights-of-way, reservations, notations and all other matters shown on plat of record in Map Book 24, Page 295 in the Register's Office for Sevier County, Tennessee.

SUBJECT to rights-of-way as described in Right-of-way Deed of record in Right-of-way Book 5, Page 307 in the Register's Office for Sevier County, Tennessee.

SUBJECT to applicable restrictions of record in the Register's Office for Sevier County, Tennessee.

BEING the same property conveyed to Bear Creek Crossing, LLC by deed from Wallace E. Sapp and wife, Edna M. Sapp dated May 5, 2003 of record in Book 1689, Page 451 in the Register's Office for Sevier County, Tennessee.

**EXHIBIT B TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
BEAR CREEK CROSSING, A PLANNED UNIT DEVELOPMENT
"COMMON AREAS"**

SITUATE in the Sixteenth (16th) Civil District of Sevier County, Tennessee and being the roads, right-of-ways and easements for walking trails, street lighting and all areas designated as "Common Areas" on the plat of "**BEAR CREEK CROSSING**" of record in Large Map Book 5, Page 149 in the Register's Office for Sevier County, Tennessee.

NOTE: SPECIFICALLY EXCLUDED and not a part of the common areas is the area designated as the "RETAINED BY THE DEVELOPER" on the plat of BEAR CREEK CROSSING.

EXHIBIT C TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
BEAR CREEK CROSSING, A PLANNED UNIT DEVELOPMENT

BY-LAWS OF

BEAR CREEK CROSSING OWNER'S ASSOCIATION, INCORPORATED

NAME AND LOCATION. The name of the corporation is **THE BEAR CREEK CROSSING OWNER'S ASSOCIATION, INCORPORATED**, hereinafter referred to as the "**Association**". The principal office of the corporation shall be located at 212 Hemlock Court, Sevierville, TN 37862, but meetings of members and directors may be held at such places within the State of Tennessee, County of Sevier, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to The Owner's Association, Incorporated, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all of the roads, easements, and walking trails, street lights located on the real property and any other property designated upon any recorded subdivision map of the properties as "common area" (including the improvements thereto) owned by the Association at the time of the conveyance of the first lot. It is specifically hereby stated that the Declarant reserves an open area for amenities such as pool, pavilion, picnic areas, for the use of the Declarant and shall not be a part of the common areas and shall not be owned by the lot owners association.

Section 4. "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Areas, with the exception of an open area reserved for amenities such as office, pool and picnic pavilion, and with the exception of any areas designated or dedicated for a street, road or easement and any areas reserved for future development and not numbered.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of any obligation.

Section 6. "Declarant" shall mean and refer to the Declarant identified in the Declaration, its successors and assigns. Declarant and developer are synonymous for the purposes of this declaration.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Register of Deeds of Sevier County, Tennessee.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

ARTICLE III

MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on approximately the same day of the same month of each year thereafter, at the hour of day set by the Board of Directors. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meeting. Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days but not more than 40 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. The addresses recorded with the office of the Tax Assessor of Sevier County, Tennessee as the lot owner shall be deemed sufficient for notice purposes.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10th) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

ARTICLE IV

BOARD OF DIRECTORS: SELECTION; TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of three (3) directors, who need not be members of the Association.

Section 2. Term of Office. At the first annual meeting the members shall elect one director for a term of one year, one director for a term of two years and one director for a term of three years; and at each annual meeting thereafter the members shall elect one director for a term of three years.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members. The Declarant shall be the nominating committee until DECEMBER 31, 2008, or as long as Declarant owns 51% of the lots in **Bear Creek Crossing**.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI

MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held at least quarterly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the board.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

- (a) Adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) suspend the voting rights and right to use of the common areas of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also

be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

(c) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation or the Declaration; such powers shall include the authority to contract on behalf of the Association.

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;

(b) Supervise all officers, agents and employees of this Association and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period; and

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same; and

(4) add a late penalty charge to any payments not received with thirty (30) days from the date there due and payable, said amount to be determined by the Board of Directors and to add court costs and legal fees for collection to any assessment requiring legal action.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) Cause the Common Area to be maintained.

(h) Cause the dwellings to be maintained as provided in the declaration.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

PRESIDENT

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all contracts, leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes, deeds of trust and loan agreements.

VICE-PRESIDENT

(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

SECRETARY

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the

Association together with their addresses, and shall perform such other duties as required by the Board.

TREASURER

(d) The treasurer shall receive and deposit in appropriate bank account all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE IX

COMMITTEES

The Association shall appoint Committees, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose. The Architectural Review Committee shall be composed of **Jerry Lindsey, Stephanie Whaley, and Joe Ogle**. They shall serve as such Committee until all lots in the **Bear Creek Crossing** has been improved with a dwelling. Thereafter the Board of Directors shall appoint the Architectural Review Committee.

ARTICLE X

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XI

ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, a late fee, to be determined by the Board of Directors, shall be charged and the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, late fees, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

ARTICLE XII

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words:

**"THE BEAR CREEK CROSSING OWNER'S ASSOCIATION,
INCORPORATED."**

ARTICLE XIII

AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIV

MISCELLANEOUS

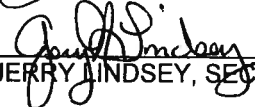
The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the directors of The Owner's Association, Incorporated have hereunto set our hands this 21ST day of JULY, 2004

BEAR CREEK CROSSING, LLC

BY: 
STEPHANIE WHALEY, CHIEF MANAGER

BY: 
JOE OGLE, MANAGER

BY: 
JERRY LINDSEY, SECRETARY

CERTIFICATION

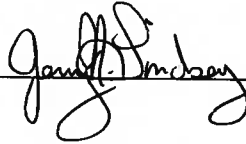
I, the undersigned, do hereby certify:

That I am the duly elected and acting secretary of The Owner's Association, Incorporated a Tennessee Corporation, and,

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 21st day of JULY, 2004.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 21ST day of JULY, 2004.

Secretary:



**EXHIBIT D TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
BEAR CREEK CROSSING, A PLANNED UNIT DEVELOPMENT**

ARTICLES OF INCORPORATION

OF

THE BEAR CREEK CROSSING OWNER'S ASSOCIATION, INCORPORATED

In compliance with the requirements of Tenn. Code Ann. Sect. 48-1-101 et seq., entitled General Corporation Act, the undersigned, all of whom are residents of Sevier County, Tennessee and all of whom are of full age, have this day voluntarily associated themselves together for the purpose of forming a corporation not for profit and do hereby certify:

ARTICLE I

The name of the corporation is **THE BEAR CREEK CROSSING OWNER'S ASSOCIATION, INCORPORATED**, hereafter called the "**Association**".

ARTICLE II

The principal office of the Association is located at 212 Hemlock Court, Sevierville, Sevier County, Tennessee 37862.

ARTICLE III

JERRY LINDSEY, whose address is 212 Hemlock Ct., Sevier County, Tennessee 37862 is hereby appointed the initial registered agent of this Association.

ARTICLE IV

PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and control of the improvement of lots and Common Area within that certain tract of property described as:

SITUATE in the Sixteenth (16th) Civil District of Sevier County, Tennessee and being more particularly described on the attached Exhibit "A".

and to promote the health, safety and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose to:

(a) Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions, hereinafter called the "Declaration", applicable to the property and recorded or to be recorded in the Office of the Register of Deeds for Sevier County, Tennessee and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the

Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise,) own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, and with the assent of two-thirds (2/3) of the of members mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by fifty-one (51%) percent of the members, agreeing to such dedication, sale or transfer;

(f) participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any such merger, shall have the assent of two-thirds (2/3) of the members;

(g) have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of Tennessee by law may now or hereafter have or exercise.

ARTICLE V

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

ARTICLE VI

VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have voting members.

Section 3. Each member shall be entitled to one (1) vote for each lot owned in all phases of the development. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Section 4. In the event the Declarant, its successors and assigns, has a lot leased or rented, the Declarant shall be entitled to one vote for each such lot or dwelling unit and one vote for each lot retained by the Declarant or for each lot developed in future phases of the development.

ARTICLE VII

BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of three (3) Directors, who need not be members of the Association. The number of directors may be changed by amendment of the By-Laws of the Association. The names and addresses of the persons who are to act in the capacity of directors until the selection of their successors are:

At the first annual meeting the members shall elect one (1) director for a term of one (1) year, one (1) director for a term of two (2) years and one (1) director for a term of three (3) years; and at each annual meeting thereafter the members shall elect one (1) director for a term of three (3) years.

ARTICLE VIII

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of the members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE IX

DURATION AND MUTUAL BENEFIT

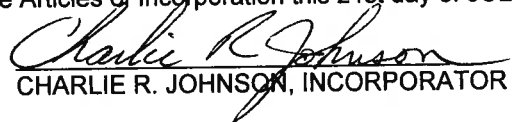
The corporation shall exist perpetually and shall be a mutual benefit association for the benefit of the lot owners of Bear Creek Crossing Development.

ARTICLE X

AMENDMENTS

Amendment of these Articles shall require the assent of 67 percent (67%) of the entire membership.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Tennessee, I, the undersigned, constituting the incorporators of this Association, have executed these Articles of Incorporation this 21st day of JULY, 2004.


CHARLIE R. JOHNSON, INCORPORATOR

**EXHIBIT A TO THE
ARTICLES OF INCORPORATION OF
THE OWNER'S ASSOCIATION, INCORPORATED**

SITUATE in the Sixteenth (16th) Civil District of Sevier County, Tennessee, being all of the property described as **Bear Creek Crossing** on map of record in Large Map Book 5, Page 149 in the Register's Office for Sevier County, Tennessee, to which plat reference is hereby made for a more particular description.

SUBJECT to easements, rights-of-way, reservations, notations and all other matters shown on plat of record in Map Book 24, Page 295 in the Register's Office for Sevier County, Tennessee.

SUBJECT to rights-of-way as described in Right-of-way Deed of record in Right-of-way Book 5, Page 307 in the Register's Office for Sevier County, Tennessee.

SUBJECT to applicable restrictions of record in the Register's Office for Sevier County, Tennessee.

BEING a part of the same property conveyed to Bear Creek Crossing, LLC by deed from Wallace E. Sapp and wife, Edna M. Sapp dated May 5, 2003 of record in Book 1689, Page 451 in the Register's Office for Sevier County, Tennessee.

**EXHIBIT B
TO THE ARTICLES OF INCORPORATION
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
BEAR CREEK CROSSING, A PLANNED UNIT DEVELOPMENT
"COMMON AREAS"**

SITUATE in the Sixteenth (16th) Civil District of Sevier County, Tennessee and being the roads, right-of-ways and easements for walking trails, street lighting and all areas designated as "Common Areas" on the plat of "**BEAR CREEK CROSSING**" of record in Large Map Book 5, Page 149 in the Register's Office for Sevier County, Tennessee.

NOTE: SPECIFICALLY EXCLUDED and not a part of the common areas is the area designated as the "RETAINED BY THE DEVELOPER" on the plat of BEAR CREEK CROSSING.

**EXHIBIT E TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
BEAR CREEK CROSSING, A PLANNED UNIT DEVELOPMENT**

RESTRICTIONS ON USAGE AND BUILDING RESTRICTIONS

Section 1. Code Requirements. All building plans, material and specifications must conform to "Southern Building Code" and Architectural Review Committee.

Section 2. General Contractors. All General Contractors building in **Bear Creek Crossing** must be approved by the Architectural Review Committee.

Section 3. Exterior Walls. All homes in **Bear Creek Crossing** are to have log exterior walls. Log or pine siding only in gabled exterior ends.

Section 4. Porch and Deck Material. All porch and deck floors must be constructed of high quality water resistance material (5/4 recommended).

Section 5. Foundations. All main structure foundations must be constructed of continuous concrete block or solid poured concrete. No "pier" foundation on main structure will be allowed under any circumstance! All exposed concrete foundations must be stuccoed an earth tone color, or foundations can be finished with mountain stone or artificial stone.

Section 6. Exterior Stain. All exteriors shall be stained upon completion and maintained to prevent "natural" discoloration and deterioration of exterior.

Section 7. Roof. Primary roof must be minimum 8/12 pitch, other attached roofs 3/12 pitch minimum. Roof surfaces, twenty-five year (minimum) fiberglass architectural shingles, all roofing materials and colors must be specified by Architectural Review Committee. Green color roofs are preferred.

Section 8. Fireplaces. Fireplace chimneys shall be constructed of natural stone or cedar, artificial stone by written approval of Architectural Review Committee only.

Section 9. Flooring. Carpet, vinyl, tile and wood are allowed. Consult Architectural Review Committee for specifications.

Section 10. Insulation. Insulation shall be approved by the Architectural Review Committee.

Section 11. Guttering. All homes must have continuous gutters on both sides to allow for adequate drainage.

Section 12. Cabinets. All cabinets installed in the dwelling shall be approved by Architectural Review Committee.

Section 13. Landscaping. All landscaping designs, materials, and installation must be approved by Architectural Review Committee prior to construction.

Section 14. House Location. House location on lot, site excavation, utilities, driveway/parking areas, and foundation conformation on all lots shall be determined by the Developer. Developer reserves this right to insure that house location conforms to original lot design layout regarding privacy to neighboring homes, preservation of trees, greenways, and access.

Section 15. Craw Space Access. Adequate access to crawl space must be provided and approved by Architectural Review Committee prior to construction.

Section 16. Land use and building types. No lot shall be used except for residential purposes and a residential model as approved by the Declarant on the property. Any improvements on a lot for residential purposes shall contain a minimum of 540 square feet inside heated living space, on one floor level.

Nothing contained herein shall prohibit the monthly or overnight rental of said property. No duplexes, triplexes, fourplexes, apartments nor townhomes shall be allowed on the premises.

Section 17. Nuisance. No noxious or offensive activity shall be conducted upon any Lot nor shall anything be done thereon which may be or become annoyance or nuisance to the neighborhood.

Section 18. Animals. No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any dwelling.

Section 19. Outside Antennas. No outside radio, television antennas or satellite dishes shall be erected on any Lot or dwelling unit within the Properties unless and until permission for the same has been granted by the architectural review committee. The Architectural Review Committee shall not approve a satellite dish greater in diameter than twenty-four (24) inches.

Section 20. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time, except a temporary construction trailer which shall be removed immediately upon completion of construction.

Section 21. Signs. No sign of any kind shall be displayed to the public view on any Lot except a sign approved by the Architectural Review Committee to identify the lot and the owner of the property.

All unapproved signs shall be removed by the Declarant or the Association!

Section 22. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste and shall not be kept except in sanitary containers, of a type approved by the Architectural Review Committee. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall be placed in a location that cannot be seen from the street in front of the dwelling. Incinerators and open burning is absolutely prohibited on the premises. All garbage and refuse containers in Black Bear Crossing shall be a uniform color, size and shape approved by the Architectural Review Committee.

Section 23. Lawful Use. No immoral, improper, offensive, or unlawful use shall be made of the Common Area or Lots and Living Units, nor any part thereof; and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed.

Section 24. Commercial Business. No commercial business may be maintained on the Common Area or in the Living Units. This shall not exclude the use of a lot for a showcase model by the Declarant or overnight rentals.

Section 25. Alterations. Nothing shall be altered or constructed in or removed from the Common Area except upon the written consent of the Architectural Review committee.

Section 26. Rules for Common Area. The Association is authorized to adopt rules for the use of the Common Areas and such rules shall be furnished in writing to the Owners. The voting rights and right to use of the recreational facilities by an owner may be suspended for a period of up to 60 days for violation of such rules.

Section 27. Sports Apparatus and Equipment. No basketball standards or fixed sports apparatus shall be attached to any Living Unit or garage or be erected on the Lot of any Unit.

Section 28. Vehicles and Parking. No vehicles of any type shall be permanently or semi-permanently parked on the Properties or in the vicinity of any Living Unit or in the Common Area for the purpose of accomplishing repairs thereto, or the reconstruction thereof. This restriction shall also apply to all vehicles not in operating condition. Parking on lots improved with single family dwellings shall be provided by the owner on the lot itself and not in the common area.

Section 29. Recreation Vehicles. There shall be no prolonged parking of recreational vehicles, including, but not limited to, camping trailers, boats, motor homes, and the like except in areas specifically designated for this purpose by the Association. Prolonged parking shall be deemed for periods of forty-eight (48) hours or longer. Declarant shall have the right to establish and designate parking areas for recreational vehicles in the common areas.

Section 30. Commercial Vehicles. The Association shall have the power to adopt Rules and Regulations concerning the parking of all commercial vehicles on the Properties, Common Area, or individual Lots.

Section 31. No clear cutting of lots. There shall be no clear cutting of the trees from any lot. Trees shall be preserved to enhance the natural beauty of the development and only those trees necessary for the construction of buildings, driveways and parking on the property shall be removed. Every effort shall be made to preserve any tree ten (10) or more inches in diameter. Trees shall not be removed without permission of the Architectural Review committee.

Section 32. Miscellaneous. All mail boxes, yard decorations and identification signs shall be uniform and be approved by the architectural review committee. Open clothes lines are prohibited on the premises.