

# Articles of Incorporation

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned, having associated ourselves together for the purpose of forming a nonprofit corporation under and by virtue of the laws of the State of Arizona, do hereby adopt the following Articles of Incorporation. These Articles of Incorporation are adopted pursuant to that Declaration of Covenants, Conditions and Restrictions for Pineglen Park and Pineglen Village recorded on August 29, 1983, in Docket 709, commencing at page 01, records of Navajo County, Arizona ("Declaration"). Unless the context otherwise requires, or unless otherwise set forth herein, words used herein which are defined in the Declaration shall have the same meaning as provided in the Declaration. The terms, conditions, covenants, restrictions and provisions of the Declaration are incorporated herein by reference.

1. **Name.** The name of this corporation shall be PINEGLEN OWNERS ASSOCIATION, INC. (sometimes referred to as the "Association").
2. **Purpose.** The purpose for which this corporation is formed is to act as a "Homeowners Association" within the meaning of Section 528 of the Internal Revenue code of 1954, and any amendments thereto; to provide for the administration of the planned area development known as "Pineglen" to provide for the maintenance, care, upkeep and replacement of the Common Area and Facilities of Pineglen for the benefit of all the owners of Lots therein as contemplated and provided for in the Declaration; and to perform all of the duties and obligations and exercise all of the powers and privileges of the Association as set forth in the Declaration; and to conduct any and all lawful affairs for which nonprofit corporations may be incorporated pursuant to Chapter 5 of Title 10 of .Arizona Revised Statutes.

No part of the net earnings of this corporation shall inure (other than by acquiring , constructing or providing management , maintenance and care of Association property, and other than by a rebate of excess membership dues , fees or assessments) to the benefit of any member, owner , director or other individual. Notwithstanding any other provision of these Articles of Incorporation, the Association shall not carry on any activities not permitted to be carried on by a corporation exempt from federal income tax under Section 528 of the Internal Revenue Code of 1954, as amended.

3. **Initial Business.** The character of the business the corporation initially intends to conduct in Arizona is acting as the owner and administrating entity for the Common Areas and Facilities of Pineglen, and Homeowners Association therefor, assessing its members and providing for the maintenance, repairs and activities for the development as contemplated by and provided in the Declaration.
4. **Membership.** This corporation shall be a non-stock corporation and shall be owned equally by its members. Member- ship in the Association shall be limited to Owners of Lots in Pineglen, and all of the Owners of Lots in the development, as to which Regular Assessments have commenced shall be members of the Association. Upon becoming the Owner of a Lot, such Owner shall automatically become a member of the Association. An Owner shall be and remain a member of the Association until such time as his ownership of a Lot ceases, at which time his membership in the Association

shall cease automatically. Ownership of a Lot shall be the sole qualification and criterion for membership, and membership in the, Association shall be and is hereby declared to be an appurtenance to such ownership, and may not be separated from such ownership. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation. A membership in the Association shall not be sold, assigned, transferred, pledged, hypothecated or alienated in any way except upon the sale, assignment, transfer, pledge, hypothecation or alienation of the real property to which it is appurtenant, and then only to such purchaser, assignee, transferee, encumbrancer, or by intestate succession, testamentary disposition, foreclosure of mortgage or sale under a deed of trust, or other legal process. An encumbrance or lien upon a Lot to which membership is appurtenant shall similarly be deemed an encumbrance or lien upon the membership appurtenant to that Lot. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association.

## 5. Voting

A. The Association shall have (4) classes of voting memberships as follows:

**Class A Membership.** The Owner or Owners of a Residential Lot shall have a Class A membership and shall be entitled to one (1) vote for each Residential Lot owned by such Owner or Owners.

**Class B Membership.** The Owner or Owners of a Commercial Lot shall have a Class B membership and shall be entitled to two (2) votes for each Commercial Lot owned by such Owner or Owners.

**Class C Membership.** Each Declarant that owns a Residential Lot shall have a Class C membership and shall be entitled to three (3) votes for each Residential Lot owned.

**Class D Membership.** Each Declarant that owns a Commercial Lot shall have a Class D membership and shall be entitled to six (6) votes for each Commercial Lot owned.

All voting rights shall be subject to the restrictions and limitations provided herein and in the Declaration and Bylaws of the Association.

Any Owner of a Lot which is leased may, in the lease or other written instrument, assign the voting right appurtenant to that Lot to the lessee provided that a copy of such instrument is furnished to the designated Representative of the Board prior to the first exercise of such voting right, but such voting right may not be assigned to a person who is not such a lessee and shall expire upon termination of the lease.

B. **Expiration of Class C and Class D Memberships.** The Class C membership shall cease and be converted to a Class A membership, and the Class D membership shall cease and be converted to a Class B membership, on the happening of the following events, whichever occurs earlier:

- 1 120 days after the date when the total votes outstanding in the Class A and B memberships equal or exceed in the aggregate the total votes outstanding in the Class C and D memberships in the aggregate; or
- 2 Seven (7) years following conveyance of the first Lot to a purchaser other than a Declarant.

C. **Joint Ownership.** When more than one person is the Owner of 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 ballot be cast with respect to any Lot. The vote or votes for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a ballot representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. In the event more than one ballot is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

- D. **Corporate Ownership.** In the event any Lot is owned by a corporation, partnership or other association, the corporation, partnership or association shall be a Member and shall designate in writing at the time of acquisition of the Lot an individual who shall have the power to vote such membership, and in the absence of such designation and until such designation is made, the chief executive officer, if any, of such corporation, partnership or association shall have the power to vote the membership, and if there is no chief executive officer, then the board of directors or general partner of such corporation, partnership or association shall designate who shall have the power to vote the membership.
- E. **Suspension of Rights.** In the event any Owner is in arrears in the payments of any assessments or other amounts due the Association or any Community Owners Association for a period of fifteen (15) days, said Owner's right to vote and to enjoy other rights as a Member of the Association may be suspended by the Board of Directors and may remain suspended by the Board until all payments, including accrued interest and attorneys' fees, are brought current. In addition, an Owners right to vote and to enjoy other rights as a Member of the Association may be suspended by the Board for a period not to exceed sixty (60) days for any violation of the Project Documents.
6. **No Shares of Stock or Dividends.** The Association shall not have or issue shares of stock. No dividend may be paid and no part of the income or profit of the Association may be distributed to its members, directors or officers. If permitted by the Bylaws, the Association may pay compensation in a reasonable amount to its members, directors or officers for services rendered, may confer benefits upon its members in conformity with its purposes and upon dissolution or final liquidation may make distribution to its members as permitted by Arizona law, but no such payment, benefit or distribution may be deemed to be a dividend or a distribution of income or profit.
7. **Statutory Agent.** The name and address of the initial statutory agent of the corporation is:  
J. Noland Franz, Esq.  
1650 United Bank Tower  
3300 North Central Avenue  
Phoenix, Arizona 85012
8. **Board of Directors.**  
A. The affairs of the Association shall be conducted by an initial Board of Directors consisting of at least three directors. Subject to such limitation the number of directors shall be fixed by or in the manner provided in the bylaws of the Association. The number of

directors may be increased or decreased by amendment to or in the manner provided in the Bylaws, but no decrease in number may have the effect of shortening the term of any incumbent director.

- B. The initial Board of Directors shall consist of three (3) directors. The persons who are to serve as directors until the first annual election of directors or until their successors are elected and qualify are:

Truman Cook  
P.O. Box 1212  
Show Low, Arizona 85901

Edward R. Castelhana  
P.O. Box 1212  
Show Low, Arizona 85901

John O. Zuber  
505 E. Rose Lane  
Phoenix, Arizona 85014

- C. At the first annual election of directors and thereafter, directors shall be elected or appointed in the manner and for the term provided in the bylaws.
- D. Except for Board members designated by Declarant, each member of the Board shall be an Owner of a Lot or the spouse of an Owner of a Lot, or an officer, director, partner or beneficiary of a corporation, partnership or Trustee owner. Board members shall serve until their successors are designated by Declarant or elected and qualified, as applicable.

9. **Incorporators.** The name and address of each incorporator is:

J. Noland Franz, Esq. 1650 United Bank Tower  
3300 North Central Avenue  
Phoenix, Arizona 85012

Donna M. Churchill 1650 United Bank Tower  
3300 North Central Avenue  
Phoenix, Arizona 85012

10. **Conflict of Interest.** To the maximum extent allowed by applicable law, no contract, agreement, transaction or arrangement between this corporation and any person, corporation, partnership or other entity shall be affected or invalidated in any way by the fact that any one or all of the directors or officers of this corporation are pecuniarily or otherwise interested in same or are the directors, partners, officers or other personnel of any such other corporation, partnership or entity. No director or officer shall be incapacitated or in any way prohibited from acting or voting by reason of any interest in the contract, agreement, transaction or arrangement, and no person, corporation, partnership or other entity, shall be liable to account to this corporation for any profit realized on account of any such contract, agreement, transaction or arrangement by reason of such interest, unless it is affirmatively shown that said profit was obtained through actual fraud.

11. **Limitations.** As set forth in the Declaration, the Association is subject to certain limitations, and

no amendment to these Articles, nor any action taken by the Association shall be contrary to, or in conflict with, the limitations and other matters set forth in the Declaration.

12. **Indemnification.** The directors shall be indemnified in connection with actions taken while a director in accordance with Arizona law.
13. **Inconsistencies.** In the event that any part or provision of these Articles of Incorporation are in conflict or inconsistent with the Declaration, the terms and provisions of the Declaration shall prevail and supersede such conflicting or inconsistent provisions hereof.
14. **Amendments.** Subject to the terms and conditions herein set forth, and expressly subject to the terms and conditions of the Declaration, these Articles of Incorporation may be amended, altered or repealed only by the affirmative vote of a majority of the votes of the members of the Association then entitled to vote at any regular or special meeting, in person or by proxy. No amendment shall be effective unless consistent with the Declaration.
15. **Bylaws.** The initial bylaws of the Association may be adopted by the Board of Directors, herein designated. Amendments, alterations and repeal of the bylaws may be made only upon the affirmative vote of a majority of votes of the members of the Association then entitled to vote at any regular or special meeting , in person or by proxy. The bylaws and any amendments or alterations thereto shall be valid only if consistent with the Declaration and these Articles of Incorporation.