



PINEGLEN OWNERS ASSOCIATION

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Master Declaration of Covenants, Conditions and Restrictions (CC&Rs)

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Master Declaration of Covenants, Conditions, and Restrictions

Pineglen Park and Pineglen Village Navajo County, Arizona

THIS DECLARATION is made by Pineglen Owners' Association Inc., this 13th day of October, 1995. We do hereby declare all of the owners of the real property described in Exhibits A and B to this declaration (hereinafter referred to as the "Covered Property") shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the Covered Property and be binding on all parties having any right, title or interest in the Covered Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I: Definitions

Whenever used herein, the following terms shall have the following meanings:

Section 1.1: "Architectural Committee" shall mean and refer to the committee provided for in Article VII hereof entitled Architectural and Landscaping control.

Section 1.2: "Articles" and "Bylaws" shall mean and refer to the Articles of Incorporation and Bylaws of the Association as the same may from time to time be duly amended.

Section 1.3: "Assessments" The following meanings shall be given to assessments hereinafter defined:

- A. "**Regular Assessment**" shall mean the amount which is to be paid by each Owner to the Association for Common Expenses.
- B. "**Special Assessment**" shall mean a charge against a particular owner and his Lot directly attributable to the Owner, equal to the cost incurred by the Association for any action performed, and attorneys' fees and other charges payable by such Owner, if any, pursuant to the provisions of this Declaration, plus interest thereon as provided for in this Declaration.
- C. "**Capital Improvement Assessment**" shall mean a charge against each Owner and his Lot, representing a portion of the cost to the Association for installation or construction of any capital improvements on any portion of the Common Area which the Association may from time to time authorize.

Section 1.4: "Association" shall mean and refer to the Pineglen Owners' Association, Inc., a nonprofit corporation, incorporated under the laws of the State of Arizona, its successors and assigns. Unless this Declaration, the Articles of Incorporation, the Bylaws, or a Board resolution specifically requires a vote

of the Members, approvals and other action to be given or taken by the Association shall be valid if given or taken by the Board or its authorized delegate.

Section 1.5: "Association Rules" shall mean rules adopted by the Association pursuant to Article VI hereof entitled "Duties and Powers of the Association".

Section 1.6: "Board" shall mean the Board of Directors of the Association.

Section 1.7: "Common Area" shall mean all real property easements, licenses, leaseholds, rights, rights-of-way and other interest in real property, if any, and the improvements thereon, owned by the Association.

Section 1.8: "Common Expenses" shall mean and refer to the actual and estimated costs of maintenance, management, operation, repair and replacement of the Common Areas and Common Facilities, including costs of management and administration of the Association, such as compensation paid by the Association to managers and other employees, accountants, attorneys and other agents; the costs of utilities, trash pickup and disposal, gardening, security services, CATV and other services benefiting the Common Areas or Pineglen; the costs of fire, casualty, liability, Workers' Compensation and other insurance covering the Common Areas and Common Facilities; reasonable reserves required hereunder or otherwise deemed necessary or appropriate by the Board; the costs of bonding Members of the management body; taxes paid by the Association; amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Areas or portions thereof; costs incurred by the Architectural Committee; and the costs of any other item or items designated by, or in accordance with, other expenses incurred by the Association for any reason whatever, which in the good faith judgment of the Board are in connection with Pineglen, the Common Areas and Common Facilities, the Articles of Incorporation or the Bylaws or in furtherance of the purposes of the Association or in the discharge of any obligations imposed on the Association by this Declaration.

Section 1.9: "Common Facilities" shall mean all personal property owned by the Association for the Common use and enjoyment of the Members.

Section 1.10: "Community" shall mean and refer to the various groupings of residential developments constructed within the Covered Property as an integrated development.

Section 1.11: "Community Common Area" shall mean and refer to all real property and the improvements and personal property thereon within a Community owned in common by the Owners within such Community or by such Communities' Owners' Association, if any, for the common use and enjoyment of said owners.

Section 1.12: "Community Owners' Association" shall mean and refer to any incorporated Association which is formed to facilitate the maintenance and operation of the Community Common Area of a particular Community.

Section 1.13: "County" shall mean Navajo County, Arizona.

Section 1.14: "Covered Property" shall mean and refer to the real property described in Exhibits "A" and "B" hereto and any real property which shall become subject to this declaration pursuant to Article XII of this Declaration.

Section 1.15: "Declaration" shall mean this Master Declaration of Covenants, Conditions and Restrictions, as amended or supplemented from time to time.

Section 1.16: "Detached Single Family Dwelling" shall mean a building designed for use and occupancy as a residence by a single family.

Section 1.17: "Detached Single Family Dwelling Lot," as described in Exhibit C covering Lots 1 thru 35, shall mean a Residential Lot which is permitted by this Declaration or any supplementary Declaration to be improved only with a Detached Single Family Dwelling and other authorized structures related to such use.

Section 1.18: "Exhibit" shall mean and refer to the following documents designed as exhibits to this Declaration and attached hereto, each of which is by this reference incorporated in this Declaration:

Exhibit A - Legal Description of the portion of the Covered Property known as Pineglen Village.

Exhibit B - Legal Description of the portion of the Covered Property known as Pineglen Park Unit 1.

Exhibit C - Legal Description of Detached Single Family dwelling lots

Exhibit D - Legal Description of Mobile Home Lots.

Exhibit E - Legal Description of the real property to be used as common elements and/or recreational facilities.

Section 1.19: "Lot" shall mean and refer to each subdivided portion of real property shown in a recorded subdivision map of the Covered Property and to each Townhouse, together with the interest in the general common elements and limited common elements appurtenant to such Townhouse, on land within the Covered Property, but shall not include the Common Area owned by the Association. Unless and/or until the real property described in Exhibit B is subdivided, it shall be deemed to be one Lot.

Section 1.20: "Master Development Plan" shall mean the Pineglen development plan approved by the local government, as the same may be from time to time amended.

Section 1.21: "Member" shall mean any person, corporation, partnership, joint venture or other legal entity who is a member of the Association.

Section 1.22: "Mobile Home Lot" as described in Exhibit D covering Lots 36 thru 71 shall mean a Residential Lot which is permitted by this Declaration or any supplementary Declaration to be improved only with a mobile home and other authorized structures related to such use.

Section 1.23: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. Owner shall include the purchase of a Lot under a recorded agreement for sale, installment, land sale contract or other recorded executory contract for sale of real property. Owner shall not include a lessee or tenant of a Lot. In the case of Lots the fee simple title to which is vested in a trustee pursuant to a deed of trust, the trustor under the deed of the fee simple title to which is vested in a trustee under a subdivision trust agreement or similar agreement, the beneficiary of the trust shall be deemed the Owner.

Section 1.24: "Pineglen" shall mean the development to be constructed and situated on the Covered Property.

Section 1.25: "Project Documents" shall mean the Declaration, Articles, Bylaws, and all rules concerning Pineglen and the Covered Property, including the Association Rules and such rules as may be adopted by the Architectural Committee.

Section 1.26: "Residential Lot" shall mean a Lot restricted by this Declaration and any Supplementary Declaration to use for residential purposes and shall include a Townhouse and a Lot upon which a Detached Single Family Dwelling or a Mobile Home is situated.

Section 1.27: "Single Family" shall mean a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three (3) persons not all so related, who maintain a common household.

ARTICLE II: Property Rights

Section 2.1: Owners' Easements of Enjoyment

Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- A. The Association shall have the right to suspend the voting rights of an Owner for any period during which any assessment against his Lot, by the Community Owners Association, remains unpaid after April 1 of each calendar year.
- B. The Association shall have the right 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; provided, however, that no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of the Members who possess a right and easement of enjoyment in the Common Area to be dedicated or transferred has been recorded.

- C. The Association shall have the right to adopt reasonable rules and regulations governing the use of the Common Area and all facilities located thereon; and only the Owners of Residential Lots and their guests shall have a right and easement of enjoyment in and to the portions of the Common Area set aside for recreational use and to the recreational facilities located thereon.

Section 2.2: Delegation of Use

Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family. ~~Tenants may apply in writing to the Board for use of the Common Area and facilities.~~ [Amended June 16, 2008] Tenants ARE NOT eligible for the use of the Common Area and facilities.

ARTICLE III: Membership and Voting Rights

Section 3.1: Member

Every Owner of a Lot shall be a Member of the Association. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation. Membership of Owners shall be appurtenant to and may not be separated from the fee ownership of any Lot within the Property. Not more than one Membership shall exist based upon ownership of a single Lot.

Section 3.2: Transfer

The Membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the conveyance of any Lot within the Property to the purchaser of such Lot. Any attempt to make a prohibited transfer is void and will not be reflected upon the books of the Association.

Section 3.3: Voting Rights

The Association shall have one class of voting Membership. Members shall all be Owners entitled to one (1) vote for each Lot as hereinafter provided in which they hold the interest required for the Membership. When more than one person owns a portion of the interest required for Membership, the vote for such Lot shall be exercised as they themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

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

Section 3.4: Suspension of Rights

In the event any Owner is in arrears in the payment of any Assessments or other amounts due the Association on any Community Owners' Association, said Owner's right to vote and enjoy other rights, as a Member of the Association, shall be suspended by the Board. Said Member shall remain suspended by the Board until all payments, including any accrued interest and attorney's fees, if applied by the Board, are paid current. The date that an Owner is in arrears is April 1st for each current calendar year.

Section 3.5: Corporate Ownership

In the event any Lot is owned by a corporation, partnership or other Association, the corporation, partnership or other 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 said 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; 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.

ARTICLE IV: Assessments

Section 4.1: Creation of the Lien and Personal Obligation of Assessments

Each Owner of any Lot within the Covered Property by acceptance by a Deed or other conveyance, whether or not it shall be expressed in any such Deed or other conveyance, is deemed to covenant and agrees to pay the Association: Regular Assessments, Special Assessments, and Capital Improvement Assessments, such Assessments to be fixed, established and collected from time to time. As hereinafter provided, these shall be a charge on the land and shall be a continuing lien (hereinafter "Assessment Lien") upon the Lot against which each such interest, costs and reasonable attorneys' fees shall also be the personal obligation of the Owner of such Lot at the time when the Assessment fell due.

Section 4.2: Purpose of Assessments

The Assessments levied by the Association shall be issued exclusively for the purpose of promoting the health, safety and welfare of Pineglen and the Members, enhancing the quality of life within Pineglen and enhancing and protecting the value, desirability and attractiveness of the Covered Property including, without limitation, the improvement and maintenance of the properties, services and facilities devoted to this purpose and discharge of the Association's duties under this Declaration and other agreements to which the Association is a party.

Section 4.3: Regular Assessments

The amount of the regular Assessments shall be determined by the Board, subject to the limitations of Section 4.4 of this Article, after giving due consideration to the current maintenance costs and future needs of the Association. Not later than fifteen (15) days after the beginning of each fiscal year, the Board shall estimate the total Common Expenses to be incurred for the forthcoming fiscal year, and shall determine the amount of the Regular Assessment against each Lot. Written notice of the annual Regular Assessments shall be sent to every Owner. Each Owner shall thereafter pay to the Association his Regular Assessment by April 1 of each calendar year. In the event the Board shall determine that the estimate of total charges for the current year is, or will become, inadequate to meet all Common Expenses for any reason, they shall determine the approximate amount of such inadequacy and issue a supplemental estimate of the total Common Expenses and determine the revised amount of Regular Assessments against each Owner.

Section 4.4: Maximum Regular Assessments

The maximum Regular Assessment may be increased by the Board from year to year, but not by more than: (1) the actual increase in local real estate taxes, if any, payable by the Association divided by the number of Lots subject to such assessment, or (2) an amount not to exceed five percent (5%) above the maximum Regular Assessment for the previous year. Increases in excess of the maximum assessment for Residential Lots may be authorized, subject to prior approval of the Board, by the affirmative vote of two thirds (2/3) of the votes cast by Members, each casting their votes in person or by proxy at a meeting duly called for such purpose.

Section 4.5: Capital Improvement Assessments

In addition to the Regular Assessments authorized above, the Association may levy, in any assessment year, a Capital Improvement Assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of 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 Members authorized by this Declaration to vote on such assessment, who are voting in person or by proxy at a meeting duly called for such purpose.

Section 4.6: Notice and Quorum for any Action Authorized Under Sections 4.4 and 4.5

Written notice of any meeting called for the purpose of taking any action authorized under Section 4.4 or 4.5 shall be sent to all Members involved with the matter with respect to which action is to be taken not less than 30 days or more than 60 days in advance of the meeting. At the first such meeting called, the presence of Members and of proxies entitled to cast sixty per cent (60%) of all the votes 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 4.7: Uniform Rate of Assessment

The Lots within the Covered Property and within property anticipated to be annexed, are expected to be developed with different kinds of improvements. Some Lots are to be improved with Detached Dwelling, some with Mobile Homes, and some with Townhouses. The Regular and Capital Improvement Assessments for each type of Lot may be different, but within each type of Lot, the Regular and Capital Improvement Assessments shall be uniform, and such assessments may be collected on a monthly basis.

Section 4.8: Reserve Fund for Improvements

Out of the Regular Assessments, the Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements on the Common Area and such other improvements as the Association is obligated to maintain under the Project Documents.

Section 4.9: Association's Rights in Spending Funds from Year to Year

The Association shall not be obligated to spend in any year all the sums received by it in such year (whether by way of Regular, Capital, or Special Assessments, fees or otherwise), and may carry forward as surplus any balance remaining. The Association shall not be obligated to reduce the amount of the Regular Assessment in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

Section 4.10: Special Assessments

Special Assessments shall be levied by the Board against Lots with respect to which particular costs have been incurred by the Association. In the event the Association undertakes to provide materials or service which benefit individual Lots and which can be accepted or not by individual Owners, such Owners in Accepting such materials or services shall be deemed to have agreed in writing that statements therefor from the Association shall be Special Assessments.

Section 4.11: Waiver of Use

No Member may exempt himself from personal liability for assessments duly levied by the Association, nor release the Lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon, or the abandonment of his Lot.

Section 4.12: No offsets

Assessments shall be payable in the amount specified by the assessment, and no offsets against such amount shall be permitted for any reason including, without limitation, a claim that the Association is not properly exercising its duties in maintaining the Common Area or enforcing these covenants, conditions and restrictions.

ARTICLE V: Nonpayment of Assessments

Section 5.1: Effect of Nonpayment of Assessments: Remedies of the Association

At the discretion of the Board, any assessment, or any installments of an assessment, not paid within the calendar year after the assessment, or the installment of the assessment, first became due shall bear interest from the due date at the current average local bank rate per annum. Each Owner may also be charged a late charge for each delinquent assessment or installment of an assessment in such amount as is determined by the Board. Any assessment, or any installment of an assessment, which is delinquent shall become a continuing charge against the Lot with respect to which such assessment was made. The Board may record a Notice of Delinquent Assessment against any Lot or Parcel as to which an assessment is delinquent and constitutes a lien and may establish a fixed fee to reimburse the Association for the Association's costs in recording such notice, processing the delinquency and recording a notice of payment, which fixed fee shall be treated as a collection cost of the Association secured by the assessment lien. The assessment lien shall have priority over all liens or claims except liens for taxes and other public charges in favor of a governmental body which are given priority by applicable law and liens which are specifically described in Section 5.2 of this Article.

Section 5.2: Subordination of the Lien to First Mortgages

The lien of the assessments provided for in this Declaration shall be subordinate to the lien of any first mortgage or first deed of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or non-judicial foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessment 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. Any delinquent assessment which is extinguished pursuant to a deed of trustor mortgage foreclosure may be relocated and assessed to all Lots as a Common Expense. Nothing in this Section shall be construed to release any Owner from his obligation to pay for any assessment levied pursuant to this Declaration.

Section 5.3: Cumulative Remedies

The Assessment Lien and the rights to foreclosure thereunder shall be in addition to, and not in substitution of, all other rights and remedies which the Association and its assigns may have hereunder and by law, including suit to recover a money judgment for unpaid assessments, as above provided.

ARTICLE VI: Duties and Powers of the Association

Section 6.1: Duties of the Association

The Association shall, in addition to such obligations, duties and functions as are assigned to it by other provisions of this Declaration, have the obligations, duties and functions (subject to the provisions of this declaration) to do and perform each and every one of the following for the benefit of the Owners and for the maintenance, administration and improvement of the Covered Property.

Annexed Lands. The Association shall accept as part of the Properties all real estate annexed pursuant to Article XII of this Declaration and accept all Owners thereof as Members of the Association, subject to the Membership requirements set for therein and in the Bylaws.

Operation and Maintenance of the Common Area. The Association shall operate, maintain, and otherwise manage or provide for the operation, maintenance, and management of the Common Area, together with all easements for operation and maintenance purposes and for the benefit of the Association or its Members over and within the Common Area; keep all improvements of whatever kind and for whatever purpose from time to time located thereon in good order, condition and repair; and maintain any parking areas free and clear of obstructions and in a safe condition for vehicular use at all times.

Water and Other Utilities. The Association shall acquire, provide and/or pay for water, sewer, garbage disposal, electrical, telephone and gas and other necessary utility services for the Common Area.

Taxes and Assessments. The Association shall pay all real and personal property taxes and assessments (if any) separately levied upon or assessed against the Association and/or any property owned by the Association. Such taxes and assessments may be contested by the Association.

Insurance. The Association shall obtain and maintain insurance as provided for herein.

Section 6.2: Powers and Authority of the Association

A. The Association shall have all the powers of a nonprofit corporation organized under the Nonprofit Corporation Law of the State of Arizona, subject only to such limitations upon the exercise of such powers as are expressly set forth in this Declaration, the Articles or the Bylaws. The Association shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under this Declaration, the Articles or the Bylaws, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association, including the following which are listed without intent to limit the foregoing articulation:

Assessments. To levy assessments on the Owners of Lots and to enforce payment of such assessments, all in accordance with the provisions of this Declaration.

Right of Enforcement. In its own name, on its own behalf or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of any Project Document and to enforce, by mandatory injunction or otherwise, all of the provisions thereof.

B. Easements and Rights-of-Way. To grant and convey to any third party easements and rights-of-way in, on, over or under the Common Area for the purposes of constructing, erecting, operating or maintaining thereon, therein or thereunder: (1) overhead or underground lines, cables, wires, conduits, or their devices for the transmission of electricity and for lighting, heating, power, telephone, community television, radio and audio, antenna facilities and, for the appropriate purposes, (2) public sewers, stormwater drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes and (3) any similar public or quasipublic improvement or facilities.

C. Employment of Manager and Employees. To employ the services of any person or corporation as manager, together with employees, to manage, conduct and perform the business obligations and duties of the Association as may be directed by the Board and to enter into contracts for such purpose. Such manager and employees shall have the right to ingress and egress over such portions of the Covered Property as is reasonably necessary for the purpose of performing such business, duties and obligations.

D. Right of Entry. Without liability to any Owner of a Lot, to cause its agent, independent contractors, and employees after reasonable notice to enter upon any Lot for the purpose of enforcing any and all of the provisions of Section 8.2 of Article VIII for the purpose of maintaining and repairing any portion of the Covered Property if for any reason whatever the Owner thereof fails to maintain it in good condition and repair so as to present an attractive exterior appearance as required by Section 8.2 of Article VIII or as reasonably required to promote or protect the general health, safety and welfare of the residents and users of the Covered Property,

E. Maintenance and Repair Contract. To contract and pay for, or otherwise provide for, the maintenance, restoration and repair of all improvements of whatever kind and for whatever purpose from time to time located upon or within the Common Area.

F. Insurance. To obtain, maintain and pay for such insurance policies or bonds, whether or not required by any provision of this Declaration, or any Bylaws, as the Association shall deem to be appropriate for the protection or benefit of the Association, the Members of the Board, the Members of the Architectural Committee, Owners, their tenants or guests, including, without limitation, fire and extended coverage insurance covering the Common Area, liability insurance, war risk insurance, malicious mischief insurance, automobile non-ownership insurance and performance and fidelity bonds.

G. Professional Services. To contract and pay for, or otherwise provide for, the services of architects, engineers, attorneys and certified public accountants and such other professional and nonprofessional services as the Association deems necessary.

H. Road Maintenance. To contract and pay for, or otherwise provide for, the construction, reconstruction, repair, replacement or refinishing of any roads, drives or other paved areas upon any portion of the Covered Property not dedicated to any governmental unit.

I. Protective Services. To contract and pay for, or otherwise provide for, fire, and such other protective services as the Association shall from time to time deem appropriate for the benefit of the Covered Property, the Owners, their tenants and guests.

J. General Contract. To contract and pay for, or otherwise provide for, such materials, supplies, furniture, equipment and labor as and to the extent the Association deems necessary.

K. Liens. To pay and to discharge any and all valid liens from time to time placed or imposed upon any Common Area on account of work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration.

L. Borrowing. To borrow money in such amounts, at such rates, upon such terms and security, and for such periods of time as is determined by the Board to be necessary or appropriate.

M. Ownership of Property. To own, maintain and otherwise manage all of the Common Area and all facilities, improvements and landscaping thereon, and all other property acquired by the Association.

N. Contribution from Owners. When possible, to enter into agreements with the Owners of Property not within the Covered Property whereby such Owners shall contribute to the payment of the costs and expenses of construction, maintenance, operation, repair, reconstruction, taxes, insurance and other charges attributable to portions of the Common Area which may directly or indirectly benefit such Lots.

O. Reserve. To establish and maintain a working capital and contingency fund in an amount to be determined by the Board.

Section 6.3: Association Rules

The Association shall also have the power to adopt, amend and repeal such rules and regulations as it deems reasonable (the Association rules) in furtherance of the purposes of the Association, including without limitation, the use of the Common Area and Common Facilities; provided, however, that the Association Rules may not discriminate among Owners except to reflect the different nature of their rights as provided herein and shall not be inconsistent with this Declaration, the Articles or the Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended or repealed shall be mailed or otherwise delivered to each Owner. Upon said adoption, the Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of any conflict between any such Association Rules and any other provisions of this Declaration, or the Articles or the Bylaws, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles or the Bylaws to the extent of any such inconsistency.

Section 6.4: Contract with Others for Performance of Association's Duties

The Association may enter into contracts and transactions with others for performance of Association duties subject to restrictions and limitations contained in the Bylaws.

Section 6.5: Change of Use of Common Area and Procedure Therefor

Upon (a) adoption of a resolution by the Board stating that in the Board's opinion the then present use as a designated part of the Common Area is no longer in the best interest of the Owners and residents and (b) the approval of such resolution by a majority of the votes of Members who are voting in person or by proxy at a meeting duly called for such purpose, the Board shall have the power and right to change the use thereof (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use (1) shall be for the benefit of the owners and/residents, and (2) shall be consistent with any deed restrictions (or zoning regulations) restricting or limiting the use of the Common Area.

Section 6.6: Right of Entry

The Association shall have the right to enter into any Lot and any dwelling or other building thereon for emergency, security, and safety, which right may be exercised by the Board, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after notice to the Owner. It is intended that this right of entry shall include the right of the Association to enter a Lot and any dwelling or other building thereon to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board.

ARTICLE VII: Architectural and Landscaping Control

Section 7.1: Appointment of Architectural Committee

The Architectural Committee shall consist of not less than three (3) Members and shall be appointed by the Board and, if possible, at least one representative each from the Townhouses, the Single Family Dwellings and the Mobile Homes sections of Pineglen Subdivision.

Section 7.2: Obligation to Submit Plans and/or Sketches for Approval

No alterations, buildings or other structures or improvements shall be commenced, erected or maintained upon the Covered Property:

- A. Until there has been approved in writing by the Architectural Committee described below, plans and specifications showing the nature of the alterations, structure or improvements. Before granting such approval, the Architectural Committee shall have in its reasonable judgment determined that the plans and specifications conform to such architectural standards, if any, as may from time to time be adopted by the Board ("Architectural Standards"), and provide for a structure which is in harmony as to external design and location with surrounding structures and topography;
- B. Which are not constructed in accordance with such approved plans and specifications. Such plans and specifications are not subject to approval for engineering design, and by approving such plans and specifications neither the Architectural Committee, the Members thereof, or the Association assumes liability or responsibility therefor, or for any defect in any structure constructed from such plans and specifications. In determining whether to approve or disapprove such plans and specifications, the Architectural Committee shall have the right to reject and disapprove any such plans or specifications which in its opinion are not suitable or desirable with respect to the individual structure, the particular Community concerned, or the Covered Property as a whole. In this regard, the Association shall have the right to take into consideration the matters mentioned above, as well as the aesthetics of the proposed building or other structures, the harmony hereof with the surroundings, the effect of the building or other structures on neighboring property owners, including the view of adjacent neighboring property, and the effect on the Covered Property as a whole.

Section 7.3: Landscaping Standards

After the approval of the initial plot plan, the following are the landscaping standards:

- A. **Native** *[Amended June 16, 2008]* trees, before being removed, must be approved by the Architectural Committee. Bushes or shrubs on the Covered Property may be cut at the Owner's discretion without prior approval of the Architectural Committee.
- B. Without prior approval, any trees, bushes, shrubs or plants may be planted or placed upon the Covered Property in such manner as to enhance the preservation and aesthetic value of each Lot.
- C. The planting of such vegetation shall not infringe on the access to easements, visibility and rights of adjacent owners.

- D. No trees, bushes, shrubs, or plants shall be planted so that when fully grown, shall encroach on any other Owner's property. Nor shall such planting interfere with an individual's visibility around driveways. Individuals in violation of this paragraph will be required to move such plantings to conform to the intent of these Standards.

Section 7.4: Approval and Conformity of Plans

In the event that the Architectural Committee shall disapprove of plans and specifications submitted to it pursuant to this Declaration, such decision shall be appealable to the Board, and the Board's decision that approval was properly withheld shall be final and non-appealable. In the event that: (1) the Architectural Committee approves such plans and specifications, or (2) the Board approves or is deemed to have approved such plans and specifications after the Committee has disapproved the same, or (3) the Architectural Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the same have been submitted to it, then such plans and specifications shall be deemed approved.

[Amended June 16, 2008] In the event that a decision by the Architectural Committee is appealed to the Board by an Owner, if a member of the Architectural Committee is also a member of the Board, that member must abstain from voting on the appeal.

Section 7.5: Variance Procedure

In the event plans and specifications submitted to the Architectural Committee are disapproved: thereby for the reason that in the judgment of the Architectural Committee such plans and specifications are not in conformity with Architectural Standards or Landscaping Standards adopted by the Board, if any, the party or parties making such submission may submit a Request for Variance. Said Request shall be reviewed by the Architectural Committee whose written recommendations of approval or disapproval shall be submitted to the Board. The Board shall, in writing, either approve or disapprove the Request for Variance. In the event the Architectural Committee and the Board fail to approve or disapprove said request within thirty (30) days after said Request has been submitted to the Architectural Committee, said Request shall be deemed approved.

Section 7.6: Notice of Noncompliance or Noncompletion

Notwithstanding anything to the contrary contained herein, after the expiration of one (1) year from the date of issuance of a building permit by a municipal or other governmental authority for any improvement of the original structure, said improvement shall be deemed to be in compliance with all provisions of this Article unless prior to the expiration of such one (1) year period notice of such noncompliance, executed by a representative of the Board, shall appear of record in the Office of the County Recorder, or unless legal proceedings shall have been instituted to enforce compliance or completion.

[Amended February 14, 1996] After issuance of a city building permit for the purpose of building an original structure, (single family dwelling and mobile homes) have one (1) year to complete construction.

Section 7.7: General Provisions

- A. The Architectural Committee may establish, subject to approval by the Board, rules pertaining to its review of plans and specifications. Such rules may provide for, without limitation, the number of sets of plans and specifications to be submitted, and the approval or disapproval of plans and specifications by two or more of the Members of the Architectural Committee. Unless such rules are complied with, such rules may provide that the plans and specifications shall be deemed not to have been submitted.
- B. The address of the Architectural Committee shall be the Pineglen Owners' Association C/O the Architectural Committee in accordance with the notice provisions of this Declaration. Such address shall be the place for the submission of plans and specifications, and the current Architectural Standards and Landscaping Standards shall be kept by the Chairman of the Architectural Committee.

Section 7.8: Enforcement Remedies

The Association may, at its option, enforce the provisions of this Article by means of any remedy available at law or inequity including, with limitation, the right to seek specific performance or to enjoin the continuance of the noncompliance with or violation of said provisions, or by means of any other remedy deemed appropriate by the Association. The failure of any such remedies to be employed upon one or more occurrences giving rise to such remedies shall not be a waiver of the right to employ such remedies. If in any action to enforce said provisions the Association prevails against the party in violation of said provisions, said party in violation shall pay the costs of action and the reasonable attorneys' fees incurred by the Association.

[*Amended February 14, 1996*] Any complaint of noncompliance by a Member in good standing must be presented in writing to the Board for action and signed by complainant.

ARTICLE VIII: Maintenance Obligations

Section 8.1: Maintenance of Common Area

The Association shall maintain the Common Area and Common Facilities including, but not limited to, the landscaping, walkways, riding paths, parking areas, drives, streets and recreational facilities, roofs, interiors and exteriors of the Buildings and structures that constitute part of such Common Area and Common Facilities. The Association shall use a reasonably high standard of care in providing for the repair, management and maintenance of said property, so that said project will reflect a high pride of ownership. The Association may, at its option, accomplish the maintenance obligations provided herein with its own employees and equipment or may contract with another party to accomplish said maintenance obligations.

Section 8.2: Maintenance and Installation Obligations

Every Owner shall (a) maintain the exterior of his dwelling, roof, walls, fences and/or the exterior and roof of any other improvement or structure located or placed on his Lot in good condition and repair; and (b) maintain his site and the landscaping thereon in an attractive condition in compliance with such rules and regulations as the Association may adopt.

[Amended February 14, 1996] Every Owner shall maintain his Lot and the landscaping thereon in an attractive condition in compliance with such rules and regulations as the Association may adopt. Landscaping must be kept in an attractive condition to meet the aesthetics of the area within one (1) year after completion of the original structure.

[Amended February 14, 1996] Maintenance of a vacant Lot: All beetle infected trees, dead trees, fallen trees and other debris are the responsibility of the owner. If any of the foregoing responsibilities are not completed, after notification, the Association has the right to contract the work performed at the expense of the owner. This is enforceable and in Article VI, Section 6.6, Page 13 - **RIGHT OF ENTRY**.

Section 8.3: Damage or Destruction of Common Area by Owners

No Owner shall in any way damage or destroy the Common Area or interfere with the activities of the Association in connection therewith. Any expenses incurred by the Association by reason of any such act of an Owner shall be paid by said Owner, upon demand, to the Association to the extent that the Owner is liable therefor under Arizona Law, and such amounts shall be lien on any Lots owned by said Owner. The Association may enforce collection of any such amounts in the same manner as provided elsewhere in this Declaration for the collection and enforcement of assessments.

ARTICLE IX: Insurance

Section 9.1: Scope of Coverage

The Association shall maintain, to the extent reasonably available, the following insurance coverage:

- A. Property insurance on the Common Area insuring against all risk of direct physical loss in an amount equal to the maximum insurable replacement value of the Common Area, as determined by the Board; provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement costs of the insured property, exclusive of land, excavations and other items normally excluded from a property or policy;
- B. Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000.00. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of the Common Area and all other portions of the Covered Property which the Association is obligated to maintain under this Declaration;
- C. Workers compensation insurance to the extent necessary to meet the requirements of the laws of Arizona;
- D. "Agreed Amount" and "Inflation Guard" endorsements;
- E. Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association or the Owners.

Section 9.2: Provisions of Insurance Policies

The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions:

- A. There shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and Members of their household;
- B. No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery on the policy;
- C. The coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust;
- D. A "Severability of Interest" endorsement shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners;
- E. Name the Association as the insured.

Section 9.3: Fidelity Bonds

The Association shall maintain blanket fidelity bonds for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, including, without limitation, any management agent to whom the Association has delegated some or all of the responsibility for the handling of such funds. The total amount of fidelity bond coverage shall be based upon the best business judgment of the Board, and shall not be less than the estimated maximum amount of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. In no event shall the aggregate amount of such fidelity bonds be less than a sum equal to three months assessment on all Lots plus adequate reserve funds. Fidelity bonds obtained by the Association must also meet the following requirements:

- A. The fidelity bonds shall name the Association as an obligee;
- B. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions;
- C. The bonds shall provide that they may not be cancelled or substantially modified (including cancellation from non-payment of premium) without at least ten (10) days prior written notice to the Association and each first mortgagee.

Section 9.4: Payment of Premiums

With respect to any insurance obtained by the Association pursuant to Section 9.1 and 9.3 of this Article, the Association shall pay such premiums for such insurance in which case the amount of such premiums shall be included in the budget of the Association.

Section 9.5: Insurance Obtained by Owners

Each Owner shall be responsible for obtaining insurance for his own benefit and at his own expense covering his Lot, and all improvements located thereon, and his personal property and providing personal liability coverage to the extent such insurance is not obtained by the Association.

Section 9.6: Disbursement of Proceeds

Proceeds of insurance policies shall be disbursed as follows:

- A. If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Common Area, or, in the event if it is determined, as provided for in Section 9.3 of this Article, that the damage or destruction to the Common Area for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds in Section 9.6 hereof.
- B. With the affected Owner or Owners and their mortgagee(s) as their interest may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account.

Section 9.7: Damage and Destruction

Immediately after the damage or destruction by fire or other casualty to all or any part of the properties covered by insurance written in the name of the Association, the Board, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the properties to substantially the same condition in which they existed prior to the fire or other casualty.

Any damage or destruction to the Common Area shall be repaired or reconstructed unless at least seventy-five (75%) of the eligible vote of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days.

In the event that it should be determined by the Association in the manner described above that the damage or destruction of the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then, and in that event, the Common Area shall be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition.

ARTICLE X: Eminent Domain

The term "Taking" as used in this Article shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened taking of all or any portion of the Common Area,

the Members hereby appoint the Board and such persons as the Board may delegate as their attorney-in-fact to represent all of the Members in connection with the taking, including any condemnation proceedings or negotiations settlements and agreements with the condemning authority for acquisition of the Common Area or part thereof. The Board shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemner in lieu of engaging in a condemnation action. Any awards received on account of the taking shall be paid to the Association for the use and benefit of the Owners and their mortgagees as the interest may appear. In the event of a taking of less than all of the Common Area, the same rules as the restoration and replacement of the Common Area and the improvements thereon shall apply as in the case of damage or destruction of improvements upon the Common Area. In the event of a total taking, the Board may, in its sole discretion, retain any award in the general funds of the Association or distribute pro rata all or a portion thereof to the Members.

ARTICLE XI: Use Restrictions

Section 11.1: Use of Covered Property

The portion of the Covered Property described in Exhibit "A" shall be developed and used for townhouses. The portion of the Covered Property described in Exhibit "B" shall be developed and used for detached single family dwellings and mobile homes.

Additional real property may be annexed to and become part of the Covered Property as provided in Article XII hereof, and such property shall be developed and used for such residential purposes as shall be specified in the Supplementary Declaration recorded to annex such additional real property as provided in Article XII hereof.

Nothing herein shall be deemed to prevent the leasing of a Lot from time to time by the Owner thereof, subject to all the provisions of the Project Documents. Any Owner who leases his Lot shall promptly notify the Association in writing and shall advise the Association of the term of the lease and the name of each lessee.

[Amended October 31, 2021] **Short Term Leases.** The leasing, rental, or occupancy of any Lot or portion of any Lot within the Association shall not be for a term of less than thirty (30) days; nor shall the advertisement for lease, rent or occupancy for consideration of any Lot, or portion of any Lot within the Association, be for a term of less than thirty (30) days.

Grandfather Provision. Notwithstanding the restrictions set forth in this Article XI and the amendment immediately preceding, any Owner who, prior to January 1, 2021, has leased his or her respective Lot for less than thirty (30) days and who provides the Association, on or before the date which is thirty (30) days after the recording date of the Short Term Lease Amendment, evidence satisfactory to the Association confirming such leasing of their Lot prior to the recording date of this Short Term Lease Amendment, shall not be prevented from leasing their respective Lots for rentals having a lease term of less than thirty (30) days. Any such Owner shall be bound by all other restrictions set forth in Section 11.1 of the Original Declaration.

Section 11.2: No Industrial or Commercial Use

No part of the Covered Property shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, industrial, commercial manufacturing, mercantile, or other such non-residential purposes; provided, however, that the Association shall have the right to establish, operate and maintain, or to authorize another party to establish, operate and maintain, in or on the Common Area, such food, beverage, recreational and athletic services as it deems appropriate for the enjoyment of the Common Area, regardless of whether such facilities and services are of a commercial nature.

Section 11.3: Offensive Activities: Nuisances

No noxious or offensive trade or activity shall be carried on within any part of the Covered Property, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, a particular Community or the Covered Property as a whole, or which shall in any way interfere with the quiet enjoyment of each of the Owners of his respective Lot or dwelling unit, or which shall in any way increase the rate of insurance. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any property, and no odors shall be permitted to arise therefrom, so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such property. No exterior lighting may be erected on any Lot which creates a nuisance to any other Lot or occupier thereof. The Board in its sole discretion shall have the right to determine the existence of any such nuisance.

Section 11.4: Temporary Structures

No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall hereafter be used on any part of the Covered Property at any time as a residence, either temporarily or permanently.

Section 11.5: Vehicles. For Townhouses see Section 11.21

Except as otherwise specifically permitted in this Declaration, no trailer, camper, boat, motorhome or similar equipment shall hereafter be permitted to remain upon any part of the Covered Property outside of a garage or other enclosed storage building approved by the Architectural Committee. [Amended 7-31-2014] Exception: A utility trailer less than 10 feet in length and 6 feet in height may be stored in the back Lot only if it is out of sight from the front at street level. Smaller boats, kayaks and canoes (including their trailers) less than 20 feet in length and 6 feet in height may be stored in the back Lot only if it is out of sight from the front at street level. Utility trailers, boats, kayaks and canoes more than 20 feet in length and over 6 feet in height must be stored in the RV Lot or other storage location.

No inoperable vehicle of any kind shall be left on any part of the Covered Lot. No vehicle of any kind, including automobiles and trucks, shall be permitted to be parked other than temporarily on any street, alley, or common area within the Covered Property. Temporary parking shall mean parking of vehicles belonging to guests of Owners, delivery trucks, service vehicles and other commercial vehicles being used in the furnishing of service to the Association or the Owners and parking of vehicles belonging to or being used by Owners for loading and unloading purposes with a maximum of 72 hours. A variance to this rule may be applied for with the Board. The Board may adopt rules for the regulation of the admission and parking of vehicles within the Common Area, including the assessment of charges to Owners who violate or whose invitees violate such rules. Any charges so assessed shall be Special Assessments. *[Amended 7-31-2014]* Operational vehicles shall be parked only in garages, carports, in front of homes, residential driveways or in designated areas assigned by the Pineglen Owners' Association and approved by the Architectural Committee. The parking of vehicles in Lots is not permitted except for the purposes of loading and unloading passengers and goods and not to exceed six (6) consecutive hours or eight (8) total hours in any twenty-four (24) hour period.

Section 11.6: Air Conditioners

For Townhouses see Section 11.21. No air conditioning or heating units, compressors or similar devices shall be erected, constructed, placed or installed or permitted to remain on the rooftop of any structure upon any Lot unless the same have been approved pursuant to the provision of the Article herein entitled "Architectural and Landscaping Control."

Section 11.7: Animals

For Townhouses see Section 11.21: Except as may otherwise be permitted by the Board, no animals, birds, fowl, poultry, or livestock, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any property and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance. Upon the written request of any Owner, the Board shall determine whether, for the purposes of this Section, a particular animal is a generally recognized house or yard pet, or nuisance, or whether the number of animals on any such property is reasonable. Any decision rendered by the Board shall be enforceable as other restrictions contained in this Declaration.

[Amended June 16, 2008] All of the above is subordinate to the Show Low City Code regarding animals, and is enforceable by the City. Requests for enforcement by Pineglen are subsequent to proof of failed verbal and written requests to the City of Show Low.

Section 11.8: Antennas

For Townhouses see Section 11.21. No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors on any property, whether attached to a building or structure or otherwise, unless approved by the Architectural Committee.

[Amended June 16, 2008] Satellite dishes need to be approved by the Architectural Committee.

Section 11.9 Utility Service

Except as approved in writing by the Architectural Committee, no lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed, maintained or modified anywhere in or upon any property.

Section 11.10: Trash Containers and Collection

No garbage or trash shall be placed or kept on any property except in covered containers of a type, size and style which are approved by the Architectural Committee. In no event shall such containers be maintained so as to be visible from neighboring property except to make the same available for collection, and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash and garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot. These conditions shall be monitored by the Architectural Committee.

Section 11.11: Storage of Firewood

All firewood stored outside shall be stored at the rear of the Covered Property and in a manner that is not offensive to any neighboring property.

Section 11.12: Clothes Drying and Laundering

For Townhouses see Section 11.21. Outside clothes lines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any property so as to be visible from neighboring property and all clotheslines shall be confined to fenced yard areas. No laundering will be permitted on a Lot except inside a permitted structure.

Section 11.13: Encroachments

No tree, shrub, or planting of any kind on any property shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way, or other area from ground level to a height of twelve (12) feet, without the prior approval of the Architectural Committee.

Section 11.14: Machinery and Equipment

No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any residential property except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a residence, appurtenant structures, or other improvements. *[Amended June 16, 2008]* Machinery and equipment must be actively in use to remain on property, with an appropriate time period set by the Architectural Committee.

Section 11.15: Restriction on Further Subdivision and Time Shares

No Lot shall be further subdivided or separated into smaller Lots by any Owner, and no portion less than all of any such Lot, nor shall any easement or other interest therein, be conveyed or transferred by any Owner without the prior written approval of the Board. Neither the ownership nor occupancy of any Lot shall be in time shares.

Section 11.16: Signs

Except as otherwise permitted by the Board, no signs whatsoever, including but not limited to commercial, advertising, political and similar signs, shall be erected or maintained anywhere on a residential Lot including, but not limited to, the inside or outside of windows in any building located on a residential Lot, except:

- A. Such signs as may be required by legal proceedings;
- B. Not more than one (1) residential identification sign with a combined total face area of two (2) square feet or less for each Lot; and
- C. One (1) "For Rent " or "For Sale" sign not larger than five (5) square feet for each Lot.

Section 11.17: Mineral Exploration

No property shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind: gravel, earth, or any earth substance of any kind.

Section 11.18: Diseases, Insects and Rodents

No owner shall permit any object or condition to exist upon any property which shall induce, breed or harbor infectious plant disease, noxious insects, or rodents of any kind.

Section 11.19: Restrictions on Detached Single Family Dwellings

All Lots designated as Detached Single Family Dwellings shall be subject to the following additional restrictions:

- A. All of said Lots shall be Residential Lots and shall be improved only with detached single family dwellings and such other improvements as are expressly permitted herein.
- B. All structures on said Lots shall be of new onsite construction; no buildings shall be moved from any other location into any of said Lots, with the exception of new prefabricated homes with the approval of the Architectural Committee.
- C. No dwelling shall be erected which contains less than nine hundred (900) square feet of ground floor area if two story or fifteen hundred (1,500) square feet total for a single story dwelling, excluding any garage, porches and patios. No dwelling shall be more than two stories in height and no more than one dwelling shall be built on one Lot;
- D. The lines of the walls or vertical supports nearest to the property line of any house or any garage, carport, covered patio or porch incident thereto shall be restricted as follows:

1. The front shall not be closer than twenty-five (25) feet, or further than thirty four (34) feet, from the front property line.
2. The rear shall be no closer than twenty (20) feet from the rear property line.
3. The sides shall be no closer than eight (8) feet from the side property line on interior Lots, and on corner Lots shall not be closer than twenty (20) feet on the streetside.
4. These side property line restrictions shall not prevent the projection of cornices, eaves and coolers to a depth of not more than two (2) feet from the side walls of the dwelling or other permitted building, but no such projection shall be closer than 5 feet to any Lot line; provided that this side line restriction shall not prevent the construction of a covered porch or patio to a point not closer than eight (8) feet to the side property line other than the street side property line on a corner Lot.

[Amended June 16, 2008] Exception to the above: Detached wooden storage sheds are allowed: these must be approved by the Architectural Committee as to height, dimensions, placement on lot. Material and color must be compatible with dwelling. Sheds must be used for storage purposes only, not as workshops, or any other purpose, and no heating or cooling units or any other electrical connections are allowed in these structures. Sheds must be placed to the rear of the dwelling, out of the line of direct view from the street. Supplemental Information: enclosed is a copy of requirements of the City of Show Low, which also need to be followed.

[Amended 7-31-2014] Except for a garage or carport, no building or structure or house or trailer of any nature, detached from the main building, either temporary or permanent, shall be built, erected, placed or maintained on any residential Lot. No garage shall be commenced or erected on any Lot until construction of the main buildings on such a Lot has begun.

- E. No solid wall or fence over two and one-half (2 1/2) feet high shall be constructed or maintained nearer to the front street line of any Lot than the front walls of the buildings erected on such Lot, and in the case of any of said Lots on which no residence has been constructed, no solid wall or fence over two and one-half (2 1/2) feet high shall be constructed or maintained closer than thirty (30) feet to the front property line of any Lot. No side or rear fence and no side or rear wall shall be more than six (6) feet in height. No hedge more than three (3) feet in height shall be permitted closer than twenty (20) feet to the front line of any said Lots.
- F. None of said Lots shall be used for residential purposes prior to installation of water flush toilets, and all bathroom toilets or sanitary conveniences shall be inside the buildings permitted hereunder.
- G. No building shall be erected on, over or across the easements for public utilities and/or irrigation as shown on the Plat of Pineglen Park Unit I.

Section 11.20: Restrictions on Mobile Home Lots

All Lots designated as Mobile Home Lots, including the Lots described in Exhibit D, shall be subject to the following restrictions:

- A. All of said Lots shall be Residential Lots and shall be improved only with mobile homes and such other improvements as are expressly permitted herein.
- B. Mobile home setback shall comply with the current City Code minimums.
- C. All Lot Owners shall install approved driveways and concrete or wood patios when placing a mobile home and other improvements on their Lot and must be approved in writing by the Architectural Committee.
- D. All mobile homes placed on Lots in Pineglen shall be underpinned so as to hide the wheels or under-carriage used for transport so that the unit sits at no more than two (2) feet above ground level at lowest point and in compliance with the mobile home installation code of the local government.

[Amended February 14, 1996] All mobile homes in Pineglen Park shall meet standards as to size, type, quality, and location as set by the Association and shall obtain the approval of the Architectural Committee. Mobile homes are restricted to single family occupancy. All mobile homes shall be new or newly painted.

The appearance of all mobile homes and other structures or buildings shall be approved in writing by the Architectural Committee prior to placement or erection on any Lot. Porches are required and they must be attached directly to the dwelling unit. Consent in writing to the installation or erection of structures and materials used for the construction of said type appurtenances must be approved by the Architectural Committee. No mobile home having less than seven hundred fifty (750) square feet of living area, and not less than twelve (12) feet in width, exclusive of porches, covered patios and covered carports, shall be permitted on any lot in Pineglen Park.

[Amended February 14, 1996] Construction of carports and garages is required and must be completed in a period of one (1) year after the issuance of the City building permit for the purpose of installing a mobile home on a lot.

Mobile homes shall have wood or hardboard siding and shingle roofs. *[Amended June 16, 2008]* Metal roofs are allowed if the color is compatible with the siding, and must be approved by the Architectural Committee. Skirting of mobile homes shall be completed within 120 days from final inspection by City of Show Low. Skirting must be of materials compatible with the siding, i.e., hard board, stone block or brick.

Section 11.21: Restrictions on Townhouses

- A. In addition to the regular assessment for the recreation and all other Common Areas, the Townhouse Lot Owners may be assessed for, but not limited to, Townhouse casualty insurance, snow removal and road maintenance.
- B. A special assessment against each Townhouse Lot Owner shall be made for, but not limited to, snow removal and road maintenance and shall be equal to each Townhouse Lot Owners' fractional interest in the Village common elements as a fraction of the annual expenditures. The above special assessment shall be made by the Treasurer at the end of the year based on the annual expenditures for the above listed expenses. *[Amended June 16, 2008]* Snow removal shall be necessary if the road is not navigable by a traditional front or rear wheel-drive automobile.
- C. *[Amended 7-31-2014]* Individual Insurance coverage: Owners obtain their own individual insurance coverage with a company of their choice and pay the premiums directly to that company. The Townhouse Owners are entirely responsible for their own policies as well as any liability the change might incur.
- D. If any Common Ground expense is caused by the misconduct of any Townhouse Lot Owner, the Association may assess that expense exclusively against that particular Townhouse Lot Owner.
- E. It is the responsibility of each Townhouse Owner to furnish to a buyer or renter a copy of the Association Charter, Bylaws, Covenants, Conditions, Restrictions and Association Rules and Regulations prior to close of escrow, if a sale, or prior to any rental or lease agreement. A signed receipt for the documents received from the buyer or renter shall be delivered to the Association Secretary and be filed in the records of the Association. The Association shall not be responsible for any liability arising from any Owner, buyer or renter conflict.
- F. It is the responsibility of each Townhouse Owner to maintain the exterior, roof, and/or improvements on each Owner's Townhouse Lot in good condition and repair.
- G. It is the responsibility of each Townhouse Lot Owner to maintain all landscaping thereon in an attractive manner and in compliance with such rules and regulations as the Board may adopt. Each Townhouse Lot owner is responsible for maintaining all fences, removal of dead or diseased trees and the maintenance of storm drainage ditches to effect runoff of water on each Owner's Lot.
- H. The Association is empowered to have weeds cut, trash removed and any needed maintenance done on a Townhouse Owner's Lot when it is deemed by the Board to be out of compliance with any of the CC&R Rules and Regulations, and such Townhouse Lot Owner refuses to comply. Expenses incurred to bring the Townhouse Owner's Lot into compliance will be billed to the Townhouse Lot Owner as a special assessment under Article I, Section 1.3, Special Assessments.

- I. No part of Village property shall ever be used, allowed, or authorized for any business or any other non-residential purposes. No noxious or offensive trade or activity shall be carried on upon any part of the Townhouse Lots or Common Grounds (roadways). Roadways are provided and maintained for the sole purpose of entering and exiting the development, and their use is prohibited for non-highway vehicles and any activity which deters from the enjoyment of the owners, such as noise, dust, pollution, horns, whistles, bells, etc. Vehicle speed in excess of 5 MPH shall be deemed a nuisance; containers for trash picked up weekly shall be removed from roadside as soon as possible and concealed within owners Lot.
- J. Vehicles. Except as otherwise specifically permitted in this Declaration, no trailer, camper, boat, motorhome, or off-road vehicles or similar equipment shall be permitted to remain upon any part of Townhouse Village property, deeded or Common Ground, outside of a garage. No vehicle of any kind, including autos and trucks, shall be parked other than temporarily, on any roadway. Due to limited parking, each Owner is to secure parking, on the Owner's Lot which will not restrict the entry or exit of emergency vehicles and equipment.
Temporary parking shall mean vehicles belonging to guests and such delivery trucks and service vehicles as required by the Owners. Loading or unloading of Owners' vehicles, including motorhomes and travel trailers, is limited to *[Amended 7-31-2014]* 72 hours. A variance to this rule may be applied for with the Board. The Board may adopt rules for the regulation of the admission and parking of vehicles within the Common Area, including the assessment of charges to Owners who violate or whose invitees violate such rules. Any charges so assessed shall be Special Assessments. Operational vehicles shall be parked only in garages, carports, in front of homes, residential driveways or in designated areas assigned by the Pineglen Owners' Association and approved by the Architectural Committee. The parking of vehicles in yards is not permitted except for the purposes of loading and unloading passengers and goods and not to exceed six (6) consecutive hours or eight (8) total hours in any twenty-four (24) hour period.
- K. Except as otherwise specifically permitted in this Declaration, no trailer, camper, boat, motorhome or similar equipment shall hereafter be permitted to remain upon any part of the Covered Property outside of a garage or other enclosed storage building approved by the Architectural Committee. *[Amended 7-31-2014]* Exception: A utility trailer less than 10 feet in length and 6 feet in height may be stored in the back yard only if it is out of sight from the front, at street level. Smaller boats, kayaks and canoes (including their trailers) less than 20 feet in length and 6 feet in height may be stored in the back yard only if it is out of sight from the front at street level. Utility trailers, boats, kayaks and canoes more than 20 feet in length and over 6 feet in height must be stored in the RV Lot or other storage location.
- L. Air Conditioning. No air conditioning or heating units, compressor or similar devices shall be erected, placed or installed or permitted to remain on the rooftop of any structure upon a Townhouse Lot.
- M. Antennas. No antenna or other device for transmission or reception of signals shall be erected unless approved by the Architectural Committee in writing, including satellite dishes attached

to unit.

- N. Clothes Drying and Laundering Outside. No facilities for such is permitted.
- O. Animals. No animals other than a reasonable number of recognized house or yard pets shall be maintained on any property and then only if kept solely as domestic pets. No animal shall be allowed to make an unreasonable amount of noise or to become a nuisance. Owners of pets shall make every effort to remove animal waste and prevent such animal from littering the Owner's property and Common Grounds. Unleashed animals in the development are not permitted. Any decision rendered by the Board shall be enforceable as other restrictions contained in this Declaration.
- P. Architectural and Landscaping Control. No structure or improvement or modification of any Townhouse shall be commenced, erected or maintained upon any Lot or any exterior addition or change or alteration in any unit including: fences, solar panels, awnings, patio covers, storage sheds, and including the changing of the color of any unit until approved by the Architectural Committee.
- Q. The reconstruction after destruction by casualty or otherwise of any Townhouses shall be considered to be in compliance with all rules and regulations so long as the exterior elevations, surfaces and colors of the reconstructed structures are substantially the same as that which existed prior to such destruction. Such reconstruction shall be conclusively deemed to be in substantial compliance with such Townhouse plans if it has received the approval of the Architectural Committee and the written assent of a majority of all Townhouse Owners. The Architectural Committee cannot disapprove the reconstruction if the majority of the Townhouse Owners approve the reconstruction after a joint meeting with the Architectural Committee and a discussion on any problem areas.

ARTICLE XII: Annexation of Additional Property

Section 12.1: Annexation Pursuant to Approval

Additional real property may also be annexed to the Covered Property and subjected to this Declaration and the jurisdiction of the Association upon the consent of two-thirds (2/3) of the eligible Members by recording a Supplementary Declaration, as described in Section 12.2 of this Article.

Section 12.2: Supplementary Declarations

The annexations authorized under the foregoing sections shall be made by recording a Supplementary Declaration of Covenants, Conditions and Restrictions, or similar instrument, with respect to the additional property and shall describe such property and extend the provisions of this Declaration to such property. Such Supplementary Declarations shall specify the purposes for which the real property described therein may be used, and may contain such complementary additions and modifications of the Covenants, Conditions and Restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the annexed property and as are not inconsistent with the provisions of this Declaration. In no event, however, shall any such Supplementary Declaration revoke, modify or add to the Covenants established by this Declaration within the Covered Property then existing except as hereinafter otherwise provided.

Upon recording of any Supplementary Declaration, Owners shall also have a right and nonexclusive easement of enjoyment in and to the Common Area within the real property so annexed in accordance with the provisions of such Supplementary Declaration and an obligation to contribute to the costs of improvement, operation and maintenance of such Common Area within the annexed lands in like manner as if such Common Area had been originally located within the original Common Property.

Section 12.3: Assessments and Votes Appurtenant to Annexed Lots.

All Assessments and voting privileges provided herein which are appurtenant to annexed Lots shall become effective immediately upon Annexation.

ARTICLE XIII: Designation and Conveyance of Common Area.

Section 13.1: Designation and Conveyance

Upon the consent of two-thirds (2/3) of eligible Members, any Lot Owner may convey, transfer or assign realproperty, improvements located thereon or an interest therein to the Association and designate the same as Common Area.

ARTICLE XIV: General Provisions

Section 14.1: Enforcement

The Association and any Owner shall have the right to enforce by proceedings at law or inequity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment hereto, including the right to prevent the violation of any such restrictions, conditions, covenants or reservations and the right to recover damages or other dues for such violation.

Failure by the Association or by any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 14.2: Severability

Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 14.3: Term

The covenants, conditions and restrictions of this Declaration shall run with and bind the Covered Property for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by two-thirds (2/3) of eligible Members has been recorded prior to the end of such 20 year or 10 year period.

Section 14.4: Construction of this Declaration

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development, management and operation of a residential community and for the maintenance of the Covered Property. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Arizona law shall govern the validity and interpretation of this Declaration.

Section 14.5: Amendments

Subject to the other provisions of this Declaration, this Declaration may be revoked or amended as follows:

- A. This Declaration may be amended by any group of Eligible Owners representing not less than seventy five per cent (75%) of the Lots. *[Amended June 16, 2008]* This Declaration may be amended by any group of ELIGIBLE Owners representing not less than sixty-six (66%).
- B. An amendment which requires the affirmative written assent or vote of the Owners as herein above provided shall be effective when executed by the President and Secretary of the Association, who shall certify that the amendment has been so approved, and when the amendment has been recorded in the office of the County Recorder.
- C. Notwithstanding the foregoing, any provision of this Declaration, the Articles, Bylaws or Association Rules which expressly requires the approval of a specified percentage of the voting power of the Association or mortgagees for action to be taken under said provision can be amended only with the affirmative written assent or vote of not less than the same percentages of the voting power of the Association and/or mortgagees.

Section 14.6: Mortgage Protection Clause

No breach of covenants, conditions or restrictions herein contained, for the enforcement of any lien provisions herein, shall defeat or render invalid the lien of any deed of trustor mortgage made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and

effective against any such lienholder in possession of a Lot and any Owner whose title is derived through foreclosure or trustee's sale, or otherwise, with respect to a Lot.

Section 14.7: Nuisance

The result of an act or omission violating any provision, condition, restriction, covenant, easement, or reservation contained in this Declaration, in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result, and may be exercised by the Association or any Member. Such remedy shall be deemed cumulative and not exclusive.

Section 14.8: Attorneys' Fees

In the event action is instituted to enforce any of the provisions contained in this Declaration, the party prevailing in such action shall be entitled to recover from the other party thereto, as part of the judgment, reasonable attorneys' fees and costs of such suit. In the event the Association is a prevailing party in such action, the amount of such attorneys' fees costs shall be a Special Assessment with respect to the Lot involved in the action.

Wherever this Declaration provides for the recovery of attorneys' fees, or reasonable attorneys' fees, such fees shall be determined by the judge.

Section 14.9: Notices

If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, this Declaration or resolution of the Board to be given to any Owner or Resident then, unless otherwise specified herein or in the resolution of the Board, such notice requirement shall be deemed satisfied if notice of such action or meeting is published once in any newspaper in general circulation within the City of Show Low or Pineglen. This section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other manner.

Section 14.10: Personal Covenant

To the extent the acceptance of a conveyance of a Lot created a personal covenant by the Owners of such Lot, such personal covenant shall terminate and be of no further force or effect from and after the date, when a person or entity ceases to be an Owner except to the extent this Declaration may provide otherwise with respect to the payment of money to the Association.

Section 14.11: Non-liability of Officials

To the fullest extent permitted by law, neither the Association, the Board, the Architectural Committee, any other committees of the Association or any Member, or any officer, director or employee of any of the above, shall be liable to any Member of the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission or the like made in good faith, whether or not erroneous or negligent, and which such Association, Board, Committees or person reasonably believed to be within the scope of their duties and rights. The Association shall indemnify and hold harmless to the full extent permitted by law, such Association, Board, Committees or persons with respect to any of

such decisions, approval or disapproval of plans and specifications, course of action, act, omission or the like, and, to defray the costs of this indemnification obligation, the Board shall assess each Owner for such Owner's share of such costs.

Section 14.12: Additional Declarations

In the event of a conflict between this Declaration and any covenants, conditions or restrictions subsequently recorded, this Declaration shall prevail and be controlling.

Section 14.13: References to the Covenants in Deeds

Deeds to and instruments affecting any or any part of the Covered Property may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration; but, regardless of whether any such reference is made in any Deed or instrument, each and all of the covenants, conditions and restrictions herein set forth shall be binding upon the Grantee-Owner or other person claiming through any such deed or instrument and his heirs, executors, administrators, successors and assigns.

Section 14.14: Violation of the Law

Any violation of any state, municipal, or local law ordinance or regulation, pertaining to the ownership, occupation or use of any property within the Covered Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

Section 14.15: Number and Gender

The singular, wherever used in this Declaration, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions of this Declaration apply either to corporations or individuals, man or woman, shall in all cases be assumed as though in each case fully expressed.

Section 14.16: Survival of Liability

The termination of Membership in the Association shall not release or release any such former Member from any liability or obligation incurred under or in any way connected with the Association during the period of such Membership, or impair any rights or remedies which the Association may have against such former Member arising out of, or in any way connected with, such Membership and the covenants and obligations incident thereto.

Section 14.17: Conflicts in Project Documents

In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and any of the other Project Documents, the provisions of this Declaration shall prevail.

Section 14.18: Joint and Several Liabilities

In the case of Joint Ownership of a Lot, the liabilities and obligations of each of the joint Owners set forth in or imposed by this Declaration shall be joint and several.

EXHIBIT "A"

Description of the portion of the Covered Property known as Pineglen Village.

EXHIBIT "B"

Master Declaration of Covenants, Conditions and Restrictions for Pineglen Park and Pineglen Village

Description of the Portion of the Covered Property known as Pineglen Park Unit I:

Pineglen Park Unit I as shown in the plat recorded in Book 14, Pages 49 and 50, records of Navajo County, Arizona.

EXHIBIT "C"

Master Declaration of Covenants, Conditions and Restrictions for Pineglen Park and Pineglen Village

Description of Detached Single Family Dwelling Lots:

Lots 1 through 35 of Pineglen Park Unit I as shown in the plat recorded in Book 14, pages 49 and 50, records of Navajo County, Arizona.

[Single family housing]

EXHIBIT "D"

Master Declaration of Covenants, Conditions and Restrictions for Pineglen Park and Pineglen Village

Description of Mobile Home Lots

Lots 36 through 71 of Pineglen Park Unit I, as shown in the plat recorded in Book 14, pages 49 and 50, records of Navajo County, Arizona.

[Mobile homes]

EXHIBIT "E"

Master Declaration of Covenants, Conditions and Restrictions for Pineglen Park and Pineglen Village

Description of Real Property to be used as common Elements and/or recreational facilities:

Tract "B" of Pineglen Village Unit I as shown in the plat recorded in Book 14, Pages 47 and 48 and in Docket 918, page 348 in the records of Navajo County, Arizona.

[Clubhouse and RV Park]

