

***PINEHURST ESTATES HOMEOWNERS ASSOCIATION, INC.***

***BY-LAWS***

**ARTICLE I**

**Name**

1.1 The name of this Corporation is Pinehurst Estates Homeowners Association, Inc. (hereinafter sometimes referred to as “HOA” or this “Corporation”).

**ARTICLE II**

**Offices**

2.1 This Corporation shall maintain a registered office and a registered agent located at the registered office in the State of Oregon. The Board of Directors may, at any time, change the location of the registered office and the person designated as the registered agent. This Corporation may also have other offices at such places as the Board of Directors may fix by resolution.

**ARTICLE III**

**Purpose**

3.1 This Corporation shall be organized and operated exclusively as a homeowners association as defined and in conformity with Section 528 of the Internal Revenue Code as now in effect and as hereafter amended.

3.2 Subject to the limitations stated in the Articles of Incorporation and the Amended Declaration of Deed Restrictions and Dedications for Pinehurst Estates recorded at Book 1017, Page 774, Records of Clatsop County, Oregon (hereinafter sometimes referred to as “Declaration”), as amended, the purposes of this Corporation shall be to engage in any lawful activities, none of which are for profit, for which corporations may be organized under Chapter 65 of the Oregon Revised Statutes and Section 528 of the Internal Revenue Code of 1954 (or its corresponding future code sections).

3.3 This Corporation’s primary purposes include but are not limited to the following:

3.3.1 The Corporation may engage without profit to its members in any such activities as may promote the health, safety, welfare and good of the

owners of Lots 1 through 47, Tracts "A", "B", "C", "D" and "E" as platted and dedicated to residential use in the Plats of "Pinehurst Estates Lots 1 - 24" recorded at Book 14, Page 111, Plat Records of Clatsop County, Oregon and "Pinehurst Estates Lots 25 - 51" recorded at Book 14, Page 120, Plat Records of Clatsop County, Oregon (hereinafter sometimes collectively referred to as "Plats"). In addition, this Corporation shall have financial responsibilities relating to that certain Oregon Silverspot Butterfly Habitat Conservation Plan attached as Exhibit "A" to the Declaration.

3.3.2 This Corporation shall be a mutual benefit non-profit corporation.

3.3.3 In carrying out its purposes as herein defined, this Corporation shall manage and supervise, for its membership, all of the rights, privileges, duties and obligations assigned to, taken by or commonly granted to the members as set forth in the Declaration and the Declaration of Deed Restrictions and Dedications for Pinehurst Estates I (hereinafter sometimes referred to as "Declaration I") which are by this reference incorporated herein, as well as any recorded instruments which may revise, amend, supplement or place said covenants and only as such covenants or other amendments apply to the ownership, use and enjoyment of any and all property situated within the Plat of Pinehurst Estates Lots 1 - 24 and the Plat of Pinehurst Estates Lots 25 - 51 exclusive of Lots 48 - 51 and Stellar Lane (hereinafter sometimes referred to as "Pinehurst Estates") designated as either lots or tracts.

3.3.4 To exercise all of the powers and privileges and to perform all the duties and obligations necessary for the care, maintenance and protection of the common right-of-way, common areas including Butterfly Habitat Dedication areas and other common amenities included in or appurtenant to Pinehurst Estates as more particularly defined in the Declaration and Declaration I, all of which are subdivided and dedicated by Pinehurst LLC, an Oregon Limited Liability Company. Such activity shall be in conformance with the Corporation's Articles of Incorporation, the Declaration and the Declaration I, as amended.

3.3.5 No part of the earnings of the Corporation shall inure to the benefit of any member or individual other than by acquiring, constructing or providing management, maintenance and care of association property other than by a rebate of excess membership dues, fees, assessments or upon dissolution pursuant to Article VIII of this Corporation's Articles of Incorporation.

3.3.6 No substantial part of the activities of the Corporation shall be for the dissemination of propaganda or otherwise attempting to influence legislation, and it shall not participate or intervene, including the publishing or distribution of statements, in any political campaign on behalf of any candidate for

public office. Notwithstanding any other provision of these By-laws, this Corporation shall not carry on any other activities not permitted of homeowner associations partially exempt from federal income tax under the Internal Revenue Code as now in force and effect or as hereafter amended.

3.3.7 The Corporation shall have all corporate powers provided in the Oregon Non-Profit Corporation Law, ORS Chapter 65, and as hereafter amended.

3.4 The duration of this Corporation shall be perpetual.

#### **ARTICLE IV Membership**

4.1 Initial Membership. The initial membership shall be comprised of the Initial Board of Directors who shall control the affairs of the Corporation through the HOA during the term of the Initial Board of Directors as defined at 7.1.1 below and as more fully set forth in the Declaration and as amended.

4.2 Types of Members.

4.2.1 Proprietary Member. After expiration of the term of the Initial Board of Directors, every person or entity who is an owner of any lot or private tract (including future lots created from tracts but exclusive of Tract "H") within Pinehurst Estates shall be a proprietary member of the HOA. Membership shall be appurtenant to and not be separated from ownership of any lot or privately owned tract. Ownership shall mean and refer to the record title owner, whether one or more persons or entities, of the fee simple title to any lot, including contract purchasers, but excluding those having an interest merely as security for performance of an obligation. Ownership of a lot or private tract (exclusive of Tract "H") shall be the sole qualification for membership.

4.2.2 Associate Member. Each lessee, renter or other occupant of a lot shall not be eligible for proprietary membership, but shall be an associate member of the HOA if they comply with and satisfy the conditions of the By-laws of this Corporation and its Articles of Incorporation. Such status shall continue in effect during such period as the associate member shall be an authorized tenant of a lot or tract. Associate membership shall have all of the rights and privileges and shall be subject to all the obligations and responsibilities of proprietary membership except the right to vote. At any time an associate member shall cease to be an occupant or resident of a lot or tract within the subdivision, or shall become a proprietary member, the associate member's rights and privileges as an associate member shall thereupon terminate.

#### **ARTICLE V**

## **Voting Rights**

5.1 During the term of the Initial Board of Directors as defined at 7.1.1 below, all membership votes shall be cast by the Initial Board of Directors. During the term of the Initial Board of Directors, the affairs of the Corporation shall be controlled and conducted by the Initial Board of Directors as set forth at 5.4 of the Declaration or as it is hereafter amended.

5.2 After the date specified in 7.1.1 below designating the term of the Initial Board of Directors, there shall be one vote per lot and one vote for Tract "E" and all other tracts that hereafter become privately owned. Provided, however, if any tracts shall be resubdivided or partitioned, each parcel or subdivided lot or tract shall also have one vote.

5.3 When more than one entity or person owns a lot or tract, their vote shall be cast as a fraction of one vote based upon their respective ownership interests.

5.4 Suspension of Voting Rights.

5.4.1 Voting rights of a member or members shall be suspended so long as dues or assessments pertaining to their lot or tract are delinquent. Such dues and assessments shall be delinquent after the date that said assessments or dues are designated for payment by the Board of Directors.

## **ARTICLE VI Membership Meetings**

6.1 Annual Meeting.

6.1.1 An annual meeting of the HOA shall be held on the Saturday during the Labor Day Holiday as recognized by the State of Oregon for purposes of a legal holiday each year, commencing with the year 2001 at the hour of 10:30 o'clock a.m. unless otherwise designated in the Notice of the Annual Meeting. During the term of the Initial Board of Directors, annual meetings shall be for informational purposes only. After the term of the Initial Board of Directors defined in 7.1.1 below, the purpose of the annual meetings shall be for electing officers and for transaction of such other business as may come before the annual meeting.

6.2 Special Meetings.

6.2.1 Special meetings of the members for any purpose or purposes, unless otherwise prescribed by statutes, may be called by the President of the Board of Directors, or by any two Board of Directors and shall be called by said President or two Board of Directors at the request of the owners of not less than 10% of the

lots and privately owned tracts within Pinehurst Estates and may be called directly by a group of persons owning not less than 25% of the lots and privately owned tracts within Pinehurst Estates.

### 6.3 Place and Time of Meetings.

6.3.1 The place and time of meetings shall be at a convenient location and time designated in the notice of the meeting. Unless otherwise provided for herein, the time of the meeting shall be designated in the notice.

### 6.4 Notice of Meetings.

6.4.1 Written notice stating the place, day and hour of meetings, and in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than seven (7) nor more than 50 days prior to the date of such meeting, either personally or by mail, by or at the direction of the President, or the Secretary or the officers or persons calling the meeting, to each member entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail, first class mail, postage fully prepaid thereon, addressed to the member at the most recent address of the member as it appears on the records of the HOA. Provided, however, any notice required to be given may be waived in writing, signed by the person or persons entitled to such notice, whether it be before or after the time stated therein and shall be equivalent to the giving of such notice.

### 6.5 Membership Quorum.

6.5.1 During the term of the Initial Board of Directors a quorum shall not be less than one director of the Initial Board of Directors.

6.5.2 After the term of the Initial Board of Directors, those persons present in person or by proxy at any annual or special meeting of the members held after due compliance with the requirements of notice as set forth in the By-laws of this Corporation, shall constitute a quorum. Provided, however, such number shall be not less than the owners of 15% of the lots and privately owned tracts within Pinehurst Estates.

6.5.3 The vote of the a majority of the votes entitled to be cast by members present or represented by proxy at a meeting in which such a described quorum is present shall be necessary for the adoption of any matter voted upon by the members unless a greater proportion or members is required by State Statute, the Articles of Incorporation or the Declaration, as amended.

### 6.6 Member Proxies.

6.6.1 At any meeting of the membership, a member may vote by proxy executed in writing by the member or by his or her duly authorized attorney in fact. Such proxy shall be filed with the Secretary of the Corporation before or at the time of the meeting. No proxy shall be valid more than eleven (11) months after the date of its execution, unless otherwise provided for in the proxy.

#### 6.7 Member Voting.

6.7.1 Upon the demand of any member, the vote for directors and upon any question before the meeting shall be by written ballot. All elections for directors shall be decided by non-cumulative plurality vote; all other questions may be decided by majority vote, except as otherwise provided by State Statute, the Articles of Incorporation, these By-laws or the Declaration, as amended. Provided, however, when directed by the Board of Directors, the elections for the directors or officers may be conducted by mail.

### **ARTICLE VII Board of Directors**

#### 7.1 Number and Qualifications.

7.1.1 Initial Board of Directors. The number of directors constituting the Initial Board of Directors of this Corporation is three. The initial Board of Directors may, but do not have to be members of the Corporation. The Initial Board of Directors shall serve until the happening of either of the following events, whichever occurs first:

(a) On a date which is not later than 120 days after Pinehurst LLC has conveyed all 47 lots within Pinehurst Estates; or

(b) Any sooner time determined by Pinehurst LLC to turn over control of the affairs of the Corporation pursuant to the Declaration.

Any vacancy of the Initial Board of Directors shall be filled by the remaining director(s) or Pinehurst LLC if no director(s) remain. The names and addresses of the persons who shall serve as directors until the term of the Initial directors expires or their successors are appointed to take office are:

Richard T. Charlton  
5426 NW Burning Tree Court  
Portland, OR 97229

Richard T. Schroeder

2701 NW Vaughn, Suite 442  
Portland, OR 97210

Leo G. Graham  
Post Office Box 560  
Forest Grove, OR 97114

Each of the above named Initial Board of Directors have consented to this appointment.

7.1.2 Board of Directors. The number of directors constituting the Board of Directors after expiration of the term of the Initial Board of Directors is seven. The seven directors shall be elected at a membership meeting to be held within 120 days after the expiration of the term of the Initial Board of Directors. The director positions shall be for three years. Provided, however, director positions 1 and 2 shall serve until the next annual meeting after the expiration of the term of the Initial Board of Directors, or one year, whichever is shorter. Director positions 3 and 4 shall serve until the second annual meeting after the expiration of the term of the Initial Board of Directors. Director positions 5, 6 and 7 shall serve until the third annual meeting after the expiration of the Initial Board of Directors. Directors 1, 2, 3 and 4 elected to replace the initial Board of Directors may initially serve less than a three year term. Directors 5, 6 and 7 elected to replace the Initial Board of Directors may initially serve more than a three year term. An election shall be held at each annual meeting to elect the replacement directors for those whose terms have expired. The directors shall be elected by a plurality vote of the members of the Corporation voting in person or by proxy at annual meetings. All directors elected shall serve until their successors have been duly elected and qualified. All directors, after the Initial Board of Directors, shall be individuals or representatives of corporations or associations who are members of this HOA.

## 7.2 Vacancies.

7.2.1 All vacancies of the Board of Directors shall be filled by appointment by the remaining directors to complete the term of the vacancy. If no directors exist to appoint members to vacant terms then a special meeting shall be held and the directors shall be elected by the membership to complete the term of the respective vacancies.

## 7.3 Duties.

7.3.1 After the term of the Initial Board of Directors, the business and affairs of the HOA shall be managed by the Board of Directors. The directors in all cases shall act as a Board and they may adopt such additional rules and regulations for the conduct of their meetings, the management of the HOA and the carrying out

of the HOA's responsibilities created by the Articles of Incorporation, these By-laws and the Declaration, and as duly amended, and as they may deem proper and not inconsistent with the above described Articles of Incorporation, these By-laws, the Declaration, the laws of this State and future amendments thereto.

#### 7.4 Meetings.

7.4.1 Meetings of the Board of Directors, regular or special, may be held either within or without this state and upon not less than 72 hours written notice. Attendance of a director at any meeting shall constitute waiver of notice of such meeting except where a director attends a meeting for the express purposes of objecting to the transaction of any business because the business is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

#### 7.5 Quorum for a Board of Directors Meeting.

7.5.1 At any meeting of the Board of Directors after the initial Board of Directors, a quorum shall consist of not less than four (4) directors. If a meeting is convened with less than a quorum of directors present, a majority of the directors present may adjourn the meeting, from time to time, without further notice of the date to which the meeting is adjourned.

#### 7.6 Board of Directors Action.

7.6.1 The act of the majority of the directors present at a meeting in which a quorum is present shall be the act of the Board of Directors.

#### 7.7 Director Consent.

7.7.1 A director of the Corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have consented to the action taken unless his dissent shall be entered into the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the Corporation within 24 hours after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

#### 7.8 Action Without a Meeting.

7.8.1 Pursuant to ORS 65.341, any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if all

directors entitled to vote on a matter consent in writing setting forth the action so taken, and is delivered to the Corporation's secretary for inclusion in the minutes of the Corporation. A consent signed as provided for herein has the effect of a meeting vote and may be described as such in any document. The action taken is effective when the last director signs the consent unless the consent specifies an earlier or later effective date.

## 7.9 Committees.

7.9.1 General Provisions. The Board of Directors may, by resolution adopted by a majority of the directors in office, designate an executive committee or any other committee that consists of one or more directors and as many additional non-board members of the Corporation as determined by the Board to advise the Board or to exercise the management of the Corporation relative to the specific matter for which the committee is created and pursuant to the function authorized in writing by the Board. Provided, however, these general provisions do not apply to the Architectural Committee, which is specifically defined in 7.9.2 below.

7.9.2 Architectural Committee. See Article VIII below.

## 7.10 Removal.

7.10.1 Other than the directors of the Initial Board of Directors or their successors serving during the term of the Initial Board of Directors defined at 7.1.1 above, member elected directors may be removed from office by a majority vote of a quorum of the members acting in person or by proxy at a meeting called for the purpose of considering such removal. A director missing three or more consecutive meetings without a reason satisfactory to the Board of Directors may be removed by affirmative vote of two-thirds of the remaining directors.

## 7.11 Board of Directors Authority.

7.11.1 The Board of Directors shall have exclusive authority to:

(a) Manage the Corporation's property and the responsibilities of the HOA; and

(b) Contract on behalf of the HOA for all goods and services necessary for the operation of the HOA's affairs and Corporate property; and

(c) Pay for all contracted goods and services by common expense assessments; and

(d) Maintain a bank account or accounts in the name of the HOA and authorize persons to draw upon such accounts; and

(e) Do all things incident to the administration and implementation of the provisions and purposes of this HOA as otherwise provided by the Articles of Incorporation, these By-laws, the Declaration and State Statute; and

(f) Butterfly habitat maintenance including Tracts “K” and “L”. Provide additional funding for Oregon Silverspot Butterfly Habitat in an amount not to exceed \$3,500.00 per year by equal annual assessments of the owners of Lots 1 - 47 and the owners of any future lots developed within Pinehurst Estates from tracts and Lots 48 - 51 of Pinehurst Estates Lots 25 - 51 and any future lots developed from Tracts “K” and “L” in order to provide for the Habitat maintenance of Tracts “E”, “K” and “L” as more fully set forth at 2.15.5 of the Declaration and the Oregon Silverspot Butterfly Habitat Conservation Plan attached as Exhibit “A” to the Declaration, both of which are hereby incorporated by reference. Perform all rights and duties of the HOA including those set forth in Article VII of the Declaration which is hereby incorporated by reference.

(g) Settle any and all boundary disputes involving any and all properties, including lots, tracts, easements or property rights owned by the HOA. This includes the right to settle and establish common boundary lines even if it requires a relinquishment of some property so long as the relinquishment does not violate any applicable State or local governmental rules, regulations or laws, including but not limited to landuse regulations.

7.11.2 The Board of Directors may not conduct any business for profit for the Corporation and the Board’s authority shall be exercised in compliance with the Declaration, as amended, the Articles of Incorporation, these By-laws, State Statutes and Internal Revenue Code, respectively.

#### 7.12 Board of Directors Officers.

7.12.1 The Board of Directors shall annually elect a President, a Secretary and a Treasurer who shall be authorized to execute all contracts and other instruments on behalf of the HOA as authorized by the Board. The President shall preside at all meetings of the Board and of the membership. After the term of the initial Board of Directors, no President shall serve more than two (2) consecutive terms. The Board may elect such other officers and grant to such elected officers, including the secretary and treasurer, such authorities and duties as the Board deems advisable.

#### 7.13 Indemnification.

7.13.1 Every director and officer of the HOA shall be indemnified by the Corporation against all liabilities and expenses, including attorney fees, which may be incurred by or imposed upon him or her in connection with any matter or proceeding in which he or she may become involved by reason of his or her being or having been a director or officer of this Corporation, except in cases where the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of these duties. Such indemnification shall include settlements which are in the best interest of the Corporation. The foregoing right of indemnification shall be in addition and not exclusive of all other rights to which such director or officer may be entitled.

7.14 Reimbursement.

7.14.1 Directors may be reimbursed for reasonable expenses directly attributable to the performance of their duties and responsibilities of directors upon approval of the Board of Directors.

7.15 Open Meetings.

7.15.1 All meetings of the Board of Directors shall be open to the members of the HOA.

## **ARTICLE VIII Architectural Committee**

8.1 Purpose.

8.1.1 The purpose of the Architectural Committee is to require that future development is in harmony and compatible with the character of the Pinehurst Estates environment, topography and pre-existing structures and further in order to carry out the Architectural Committee's duties and responsibilities set forth in the Declaration, as amended.

8.2 Initial Architectural Committee.

8.2.1 The Initial Architectural Committee shall be comprised of the following four (4) persons who are hereby appointed to constitute the Initial Architectural Committee:

Richard T. Charlton

5426 NW Burning Tree Court  
Portland, OR 97229

Richard T. Schroeder  
2701 NW Vaughn, Suite 442  
Portland, OR 97210

Leo G. Graham  
Post Office Box 560  
Forest Grove, OR 97114

Craig Kiest  
2892 NW Upshur  
Portland, OR 97210

8.2.2 Term. The Initial Architectural Committee shall serve for the same period as the Initial Board of Directors as defined at 7.1.1 above.

8.2.3 Duties. This Initial Architectural Committee shall perform the responsibilities and functions designated for the Architectural Committee during the term of the Initial Board of Directors or until they resign or are replaced by the Initial Board of Directors or in their absence, a replacement is appointed by the Declarant as provided in 8.2.1 of the Declaration. Action by the committee will require concurrence by any two of the four members.

### 8.3 Architectural Committee.

8.3.1 Commencement. The Architectural Committee shall start when the Declarant turns over control as set forth in 7.1.1 above. The new Board of Directors shall appoint the members of the Architectural Committee which shall be comprised of not less than three nor more than five persons appointed by the majority of the HOA Board of Directors at the end of the term of the Initial Architectural Committee. The new Board of Directors serving after Pinehurst LLC turns over control of the HOA as set forth in 7.1.1 above, shall appoint one member to serve until the next annual meeting of the HOA, appoint one member (or more if the committee is comprised of more than three people) to serve until the second annual meeting of the HOA and appoint one member (or more if the committee is comprised of more than three people) to serve until the third annual meeting of the HOA. At each annual meeting of the HOA thereafter, one or more member(s) shall be appointed or reappointed to fill the position of a member(s) whose term has expired for a three year term. If any Architectural Committee member is unable or

unwilling to act, the HOA Board of Directors shall select a successor to fill out the unexpired term. No Architectural Committee member, however appointed, shall receive any compensation from the HOA or make any charge for his or her services. Provided, however, the Architectural Committee members shall be entitled to reimbursement from the HOA for their out of pocket expenses incurred for purposes of performing the duties of the Architectural Committee. The Architectural Committee persons shall be members of the HOA.

8.3.2 Procedures. In the event the Architectural Committee fails to approve or disapprove plans or specifications within 45 days after full and final plans and specifications have been submitted to it, approval shall be deemed granted and the related covenants shall be deemed to have been complied with fully. The 45 day time for response shall be deemed complied with if the Architectural Committee notice is provided to the lot or tract owner in person or mailed within 45 days as determined by the date of mailing of the application to the committee and response by the committee to the applicant or the date of actual hand delivery. Such notice shall be delivered or mailed to the applicant or the applicant's designee at the address designated by the applicant for such purposes in his or her application. If no such address is provided, the response time is tolled for 21 days after such address is provided.

8.3.3 Action. Except as otherwise provided herein, any two persons of a three person committee or any three persons of a five person committee of the Architectural Committee shall have the power to act on behalf of the Architectural Committee without the necessity of meeting (but with reasonable prior notice to all committee persons) and without the necessity of further consultation with the remaining persons on the committee. The Architectural Committee may render its decision only by a written instrument setting forth the action taken by the Architectural Committee.

#### 8.3.4 Required Approval of Plans.

**(a) There shall be no ground disturbance of any kind until approval in writing by the Architectural Committee and any and all other governmental entities or organizations having jurisdiction and regulations relating to the property.**

(b) No residence, building, garage or any structure or improvement of any kind or nature, including landscaping and timber or tree removal shall be commenced, erected, placed or altered on any lot or tract until the construction plans and specifications, and a plan showing the nature, shape, height, materials, and colors together with detail plans showing the proposed location of the same on the particular lot or tract and proposed landscaping shall have been submitted to and approved in writing by the Architectural Committee as defined

herein at 8.3.2. All plans and specifications for approval by the Architectural Committee shall be submitted at least 45 days prior to the start of the proposed construction unless such time is waived in writing by the Architectural Committee.

8.3.5 Right of Entry. Any agent or officer of the HOA and the Architectural Committee, may, at any reasonable hour or hours during construction or remodeling, enter and inspect any lot or tract or residence as to its maintenance or improvements to determine if there has been compliance with the provisions hereof. Any agent or officer of the HOA and the Architectural Committee, may, in like manner, inspect any lot or tract for compliance with the provisions hereof. The Board of Directors of the HOA and the Architectural Committee and any agent or officer thereof shall not thereby be deemed guilty in any manner of trespass for reasonable entry for inspection. The Architectural Committee shall issue a "Certificate of Completion and Compliance" as to any lot or tract so inspected which is found to be complete and in compliance.

8.3.6 Evidence of Compliance with Restrictions. Records of the Association with respect to compliance with the provisions of these By-laws and the Declaration, as amended, shall be conclusive evidence as to all matters shown by such records to the extent same are available. All records demonstrating compliance with the provisions of this Declaration shall be recorded in the Records of the Clatsop County Clerk by the lot or tract owner receiving such approval. Issuance of a Certificate of Completion and Compliance by the Architectural Committee showing the plans and specifications for the improvements or other materials herein provided for, have been approved and that such improvements have been made in accordance therewith, or a certificate as to and relating to the requirements of these By-laws or the Declaration as amended, by the Architectural Committee shall be conclusive evidence that shall justify and protect any title company insuring title to any lots or tracts subject to these By-laws and said Declaration, as amended, and shall fully protect any purchaser or encumbrancer in connection therewith from claims of non-compliance herewith. After the expiration of one year following the completion of construction under a building permit issued by the municipal or other governmental authority, and written notice thereof and application for approval is delivered to the Architectural Committee more than two (2) months prior to the expiration of the one year period, any structure, work, improvement, or alteration shall be deemed to be in compliance with the provisions hereof unless a "Notice of Non-Compliance" executed by the Architectural Committee shall have been delivered to the lot or tract owner as provided herein or unless legal proceedings shall have been commenced to enforce compliance or completion. The burden of proof of compliance or the herein defined waiver of compliance is on each lot or tract owner.

8.3.7 Construction by Pinehurst LLC or this Corporation. This Article VIII shall not govern construction, improvements, or alterations by

Pinehurst LLC or the HOA upon portions of the Pinehurst Estates owned by Pinehurst LLC or the HOA. However, the Architectural Committee shall approve in writing all plans and original construction by Pinehurst LLC or the HOA prior to commencement of such construction and file same with the Clatsop County Clerk, the Secretary of the HOA and the Architectural Committee. Nothing contained herein limits Pinehurst LLC or the HOA's right to add improvements not described in the Declaration, as amended, or these By-laws.

8.3.8 Non-Waiver. Failure by the Architectural Committee to enforce any provision of the Declaration or these By-laws shall not constitute abandonment or negate the legal effect of any such failure to meet such requirements unless notice in writing of such failure to act is provided to the Architectural Committee and they fail to initiate necessary measures to obtain compliance with the provisions of these By-laws or the Declaration within 180 days of receipt of such notice.

8.3.9 Non-Compliance with Provisions of these By-laws or the Declaration, as amended. In the event that any owner of a lot or tract shall violate any provisions of these By-laws, the Declaration, as amended, or other rules or regulations adopted by the HOA, then the HOA acting through its Board of Directors or Initial Board of Directors, respectively, shall notify the offending owner in writing that the violation exists and that the owner is responsible for such violation. If the lot or tract owner does not correct the violation to the satisfaction of the Initial Board of Directors or the Board of Directors, respectively, either may, on behalf of this Corporation:

(a) Notify the owner in writing that his or her voting rights are suspended for the time that the violation remains unabated;

(b) Require the lot owner to restore a lot, tract, easement, or other parts thereof to its prior condition if any change is made or action taken without prior required approvals;

(c) Impose fines upon the owner to the extent such fines shall be provided for in these By-laws or rules adopted by the Initial Board of Directors or the Board of Directors of the HOA;

(d) After reasonable prior notice of non-compliance, enter the offending lot or tract and remove the cause of such violation, or alter, repair, or change the item which is in violation of these By-laws, the Declaration, as amended, or the rules or regulations of the HOA in such manner as to obtain complete compliance thereof. In such case, the enforcing party or entity may assess such owner for 120% of the entire direct cost and indirect cost of the work done,

which amount shall be immediately due and payable to such party. Such costs shall be the personal obligation of the owner of the offending lot or tract and may be made a lien on the lot or tract. The collection of such a lien may be conducted in compliance with the applicable provisions of Article VI (6.4) of the Declaration, as amended, which are hereby incorporated by reference;

(e) Bring suit or action against the owner of the lot or tract on which the offending action is occurring on behalf of the HOA to enforce the provisions of the Declaration, as amended, these By-laws or the HOA's rules and regulations;

(f) Do any of the above in conjunction with each other.

The above referenced remedies are non-exclusive. Provided, however, prior to each remedy selected by the respective Board of Directors, the lot or tract owner shall have the right to a hearing before the Initial Board of Directors or Board of Directors of the HOA, respectively, to contest their determination or the decision of the Architectural Committee. If the lot or tract owner wishes a hearing, he or she must notify the Initial Board of Directors or Board of Directors, respectively, in writing, within ten (10) days of notice of deficiency or violation for which he or she requests a hearing. The hearing shall be conducted as soon as reasonably feasible.

## **ARTICLE IX**

### **Assessments**

9.1 Annual Budget. The Board shall create an annual budget and estimate the annual common expenses in advance for each calendar year. Such expenses shall include but not be limited to:

9.1.1 Cost of Maintaining the Facilities Within Pinehurst Estates together with its Responsibilities for the Endangered Species Habitat Preservation (Tracts "E", "K" and "L"). See 2.15 of the Declaration and 7.11.1(f) above.

9.1.2 Costs of goods, supplies and services to provide for maintenance, repair and operation of the common facilities including the endangered species habitat preservation for Tracts "E", "K" and "L" and to thereby carry out the duties and responsibilities of the HOA.

9.1.3 Costs of insurance and bonds required by these By-laws including but not limited to corporate (HOA) officer errors and omissions insurance.

9.1.4 Legal and accounting costs for operation of the HOA and enforcement of the Articles of Incorporation, By-laws and the Declaration, as amended, as same are applicable to Pinehurst Estates and the HOA's

responsibilities set forth in said Declaration, as amended, the Articles of Incorporation and these By-laws.

9.1.5 Such other reasonable costs and expenses as may be paid for and on behalf of promoting the interest of the HOA and its members.

9.1.6 A contingency fund.

## 9.2 Limitations.

9.2.1 The Board of Directors shall not intentionally and voluntarily obligate the HOA for costs in excess of \$50,000 in the aggregate during any calendar year without first obtaining an affirmative vote of the owners of a majority of the lots and tracts for which votes may be cast at a duly called meeting at which such matter is addressed. Provided, however, this limitation does not apply to any matters pertaining to litigation.

## 9.3 Levy of Assessment.

9.3.1 Upon adoption by the Initial Board of Directors or Board of Directors, respectively, the annual assessments and any special assessments of the members of the HOA shall be levied by mailing to the owner of each lot at the address shown in the records of the Association, a written statement setting forth the amount of the assessment against the owner's lot(s). All annual assessments and any and all special assessments must be fixed at a uniform and equal rate per lot for services rendered and costs incurred by the HOA pursuant to its duties and responsibilities required by the Declaration, as amended, these By-laws and State Statutes. An undeveloped lot which is capable of being used for residential purpose shall be subject to assessment as if a residence were in place. Each annual assessment shall be effective as of January 1 of such year. The due date for payment shall be established by the respective Board of Directors and may be paid in annual, semi-annual, quarterly, or monthly basis in the discretion of the respective Board of Directors. Notwithstanding the time such written notice is given or the estimate is made, the assessment shall be due and payable for the period or periods as the respective Board of Directors may determine for purposes of establishing any liens therefor. Any amount of an assessment which is not

paid when due shall bear interest from the date thereof until paid at the following rate per annum:

(a) From the date payment is due until the first annual meeting of the members thereafter, 12% per annum; after the annual meeting interest shall be at a rate per annum which the members shall establish at each

such annual meeting to be in effect until the next annual meeting. If no such rate is so established by the members, then the rate shall be 12% per annum.

9.3.2 Non-Payment Penalties. So long as said assessments are not paid, all privileges provided to the membership by the HOA except for the right to utilize the roads for ingress and egress, should be held in abeyance. All assessments or dues not paid within 45 days after the due date shall be subject to a late charge established by the respective Board of Directors in addition to the interest.

9.3.3 Enforcement. Unpaid assessments shall be enforced by the Board of Directors pursuant to the procedures set forth in 6.4 of the Declaration, as amended, which is hereby incorporated by reference.

## **ARTICLE X**

### **Fiscal Year**

10.1 The fiscal year for this Corporation shall begin on the 1st day of January of each year.

## **ARTICLE XI**

### **Corporate Seal**

11.1 This Corporation shall not have a corporate seal.

## **ARTICLE XII**

### **Attorney's Fees**

12.1 Should legal action be necessary to interpret or enforce any provision of these By-laws, the Articles of Incorporation or the Declaration, as amended, or to collect any assessment provided for herein, the prevailing party shall be entitled to recover from the losing party all costs and expenses incurred by the prevailing party in connection with such suit or action including the costs of foreclosure or other title report, expert witness fees, deposition costs and such amounts as the court may determine to be reasonable as attorney's fees at trial and upon any appeal thereof, together with all out of pocket costs of the proceedings and for all post judgment reasonable attorney's fees and costs for collection of the judgment. Such right to attorney's fees and reimbursement of costs and expenses apply even though no litigation may be instituted.

## **ARTICLE XIII**

### **Amendment**

13.1 By vote of a majority of the Initial Board of Directors or Board of Directors authorized to vote, the By-laws may be altered, amended or repealed or new By-laws may be adopted. The By-laws may contain any provision for the regulation and management of the affairs of the Corporation not inconsistent with State law, the Articles of Incorporation or the Declaration, as amended.

#### **ARTICLE XIV General Provisions**

14.1 Severability. Invalidity of any one or more of the provisions of these By-laws by judgment or court order shall in no way effect any other provisions which shall remain in full force and effect.

14.2 Notices. Unless otherwise provided herein, any notice required to be sent to any member or owner of a lot or tract under the provisions of this Declaration shall be deemed to have been properly sent when mailed first class mail, postage prepaid, to the last known address provided to the Board of Directors, in writing, by the person or party who appears as a member or owner of a lot or tract on the records of this Corporation at the time of said mailing.

14.3 Governing Law. These By-laws pertain to property located within Clatsop County, Oregon. These By-laws shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of Oregon.

14.4 Venue. Venue for any litigation involving these By-laws, the Articles of Incorporation, the Declaration, as amended, or compliance with State Statutes shall be the Clatsop County Circuit Court, Clatsop County, Oregon, unless otherwise consented to by the respective HOA Board of Directors.

14.5 Time of the Essence. Time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof.

14.6 Construction. Headings at the beginning of each paragraph and subparagraph are solely for convenience and are not part of this agreement. Whenever required by the context of these By-laws, the singular shall include the plural and the masculine shall include the feminine, and vice versa. Unless otherwise indicated, all references to paragraphs or subparagraphs or numbers of paragraphs are to this agreement. All exhibits or documents referred to in this agreement are attached and incorporated by this reference.

14.7 Conflicts. Should any provision or provisions of these By-laws be in conflict with the Articles of Incorporation or the Declaration, as amended, the provisions of the Articles of Incorporation and the Declaration, as amended, shall govern.

ADOPTED this 31st day of July, 1999.

**PINEHURST ESTATES HOMEOWNERS ASSOCIATION, INC.**

By:

Richard T. Charlton, President of  
Initial Board of Directors

By:

Richard T. Schroeder, Secretary of  
Initial Board of Directors

STATE OF OREGON            )  
  :  ss  
County of Clatsop            )

Personally appeared before me Richard T. Charlton, who being first duly sworn, did say that he is the President of the initial Board of Directors of the Pinehurst Estates Homeowners Association, Inc., a Corporation and that said instrument was signed on behalf of said Corporation by authority of its Board of Directors; he acknowledge said instrument to be the Corporation's voluntary act and deed.

Notary Public for Oregon  
My Commission Expires:

STATE OF OREGON            )  
  :  ss  
County of Clatsop            )

Personally appeared before me Richard T. Schroeder, who being first duly sworn, did say that he is the Secretary of the initial Board of Directors of the Pinehurst Estates Homeowners Association, Inc., a Corporation and that said instrument was signed on behalf of said Corporation by authority of its Board of Directors; he acknowledge said instrument to be the Corporation's voluntary act and deed.

Notary Public for Oregon  
My Commission Expires: