

JUNIPER CREEK
TOWNHOMES ASSOCIATION
BYLAWS



MAY 2002

PINEHURST, NC

**BYLAWS
JUNIPER CREEK
TOWNHOMES ASSOCIATION**

**ARTICLE I NAME AND
LOCATION**

Section 1. Name. The name of the corporation is JUNIPER CREEK TOWNHOME ASSOCIATION, hereinafter referred to as the "Association."

Section 2. Location. The principal office of the corporation shall be located in the Village of Pinehurst, Moore County, North Carolina. The registered office of the Association may be, but need not be, identical with the principal office.

**ARTICLE II
DEFINITIONS**

Section 1. "Association" shall mean and refer to JUNIPER CREEK TOWNHOMES ASSOCIATION, a North Carolina non-profit corporation, its successors and assigns.

Section 2. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 3. "Declarant" shall mean or refer to Pinehurst Enterprises, Inc. and any successor to Pinehurst Enterprises, Inc.

Section 4. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Register of Deeds for Moore County, North Carolina.

Section 5. "Lot" shall mean and refer to any numbered plot of land, with delineated boundary lines, appearing on any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 7. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 8. "Properties" shall mean and refer to the "Existing Property" described in Article II, Section 1 of the Declaration and brought within the jurisdiction of the Association and such later additions as are

brought within the jurisdiction of the Association under Article II, Section 2 of the Declaration.

ARTICLE m

MEETING OF MEMBERS

Section 1. Annual meetings. The annual meeting of the Members shall be held on the first Tuesday of January at the hour of 2 EM, If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the second Tuesday in January.

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

Section 3. Place of Meetings. All meetings of the Members shall be held at such place, within Moore County, North Carolina, as shall be determined by the Board of Directors of the Association.

Section 4. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing *a* copy of such notice, postage prepaid, not less than 10 days nor more than 50 days before the date of such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 5. Quorum. The presence at the Annual Meeting of Members entitled to cast, or of proxies entitled to cast, 20% of the votes appurtenant to owners shall constitute a quorum for any action.

Section 6. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot. To be valid at a Special Meeting, a Proxy must clearly indicate the wishes of the Member(s) regarding the Agenda Proposal(s). Choices shall include: (1) Vote for the Proposal, (2) Vote against the Proposal, (3) Abstain from voting, (4) Discretion in voting is given specifically to a certain named individual or individuals.

Section 7. Waiver of Notice. Any Member may, at any time, waive notice of any meeting of the Members in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member at any meeting of the Members shall constitute a waiver of notice by the member of the time and place thereof except where a Member attends a

meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the Members are present at any meeting of the Members, no notice shall be required and any business may be transacted at such meeting.

Section 8. Informal Action by Members. Any action which may be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the Association's minute book.

ARTICLE IV BOARD OF DIRECTORS

Section 1. Number: The business and affairs of the Association shall be managed by a Board of five (5) Directors, who shall be members of the Association. In addition to the five (5) Directors, there shall be no fewer than two (2) alternate Directors elected. Elected alternate Directors may act as temporary replacements for any directors absent from Meetings.

Section 2. Term of Office. At the first annual meeting, and at each annual meeting thereafter, the Members shall elect five (5) directors to serve for a term of one year. Each director shall hold office until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

Section 3. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not fewer than the number of vacancies that are to be filled. Such nominations may be made from among Members.

Section 4. Elections. Except as provided in Section 5 of this Article, Directors shall be elected at the annual meeting of the Members by secret written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 5. Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a Director, the successor shall be selected by the remaining Board members from the list of alternates. Such list shall designate alternates as "first, second," etc. Such selected alternate shall serve for the unexpired term of the predecessor. The Members may elect a Director to fill any vacancy not filled by the Board within forty-five (45) days of the creation of a vacancy on the Board.

Section 6. Compensation. No Director shall receive compensation for any service that he may render to the Association. However, the Board of Directors may, upon the vote of the Board, assign one or more of its members to act in a management capacity at any time when an outside management firm or person is not contracted, and the Board may distribute economic compensation as reasonable to its members. At any time when the Board, or a Director, or a designee acts in a management capacity, the gross compensation shall not exceed the total amount budgeted for Administrative Management. Any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

ARTICLE V

MEETING OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held a minimum of four (4) times a year on a quarterly basis. All Board meetings shall be open to all members at all times.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any three (3) Directors, after not less than three (3) days notice to each Director. Special Meetings shall be held only upon the most extreme business necessity, and only actions directly related to such extreme necessity shall be transacted at such a Special Meeting. Any actions taken at such a Special Meeting shall be subject to ratification at the next regularly scheduled Board of Directors Meeting.

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

Section 4. Informal Action by Directors. Action taken by a majority of the directors without a meeting is nevertheless Board action if written consent to the action in question is signed by all of the Directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken, and shall be subject to ratification at

the next regularly scheduled Board of Directors meeting.

Section 5. President. A President of the Board of Directors shall be elected by the directors at the organizational meeting and shall preside over all Board meetings. In the event there is a vacancy in the office of the Presidency, a President shall be elected by the Board of Directors. The Vice President shall serve in the President's place until such time as a President is elected.

Section 6. Liability of the Board. The members of the Board of Directors shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the members of the Board against all contractual liability with respect to any contract made by them on behalf of the Association, except to the extent that they are Owner(s). At all times, all Directors and Officers of the Association shall avoid any conflicts of interest. It shall be the duty of each Director and Officer to state for the record, if and when any possible conflict of interest may exist. Directors shall refrain from voting for or against any proposal which may give them a possible business advantage, economic gain or other profit; entitlement or advancement, or material consideration.

ARTICLE VI POWERS AND DUTIES OF THE BOARD OF DIRECTORS

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

(a) Adopt and publish rules and regulations governing the Common Area and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) Suspend the voting rights and right to use the recreational facilities by a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

(c) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;

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

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

(f) Employ attorneys to represent the Association when deemed necessary;

(g) Grant easements for the installation and maintenance of sewerage, utilities or drainage facilities upon, over, under and across the Common Area without the consent of the membership when such easements are requisite for the convenient use and enjoyment of the Properties;

(h) Appoint and remove at their pleasure, all officers, agents, and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient.

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

(a) Cause to be kept a complete record of all of its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members entitled to at least one-fourth (1/4) of the votes of owners. A newsletter, addressed to all members, shall be published by the Board of Directors. The primary focus of the newsletter shall be on the transactions and decisions made by the Board. Said newsletter shall be caused to be published no less than two times per year;

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

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

(1) Fix the amount of the annual assessment against each Lot at least forty-five (45) days before January 1 of each year. The annual assessment may be increased from time to time without a vote of the membership to an amount necessary to continue current services provided by Juniper Creek Townhome Association (see Declaration of Covenants Article V, Section 3A);

(2) Send written notice of each assessment to every Owner subject thereto at least thirty (30) days before its due date;

(3) Foreclose the lien against any property within sixty (60) days after due date, after a second notice to the Owner of the amount and requirement of payment of said assessment. The Board or its agents are also authorized to bring an action at law against the Owner personally obligated to pay the same.

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

(e) Procure and maintain adequate liability insurance covering the Association and the directors and officers thereof and adequate hazard

liability insurance on the property owned by the Association and by the Owners as provided in the Declaration;

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

(g) Cause the Common Area to be maintained, and

(h) Cause the exterior of the dwellings to be maintained.

ARTICLE VII OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of the Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

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

Section 3. Term. Each officer of the Association shall be elected annually by the Board and each shall hold office for one (1) year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

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

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

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

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

Section 8. Compensation. No officer shall receive any compensation from the Association for acting as such, except that should the Board of Directors assign the President or other Officer the duty to act as manager

for the Association, the Board of Directors may compensate such officer in an amount, and in a manner suitable for the effort expended for the assignment. It is provided, however, that the total compensation for management of the Association shall not exceed the amount budgeted for management, whether the management duties are handled by a contracted firm, or by the designated officer(s) of the Association. No Director shall vote for or against compensation for his assigned duties. Any compensation to an officer shall be recorded and published within the minutes of the Association and within the pages of the required newsletter.

Section 9. Duties. The duties of the officer are as follows:

President

(a) The President shall be the principal executive officer of the Association, and subject to the control of the Board, shall supervise and control the management of the Association. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

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

Secretary

(c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board. The Secretary shall cause to be published a newsletter for the membership of the Association, and shall be reimbursed for the time and materials used to produce such a newsletter.

Treasurer

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

each to the Members. The Treasurer shall not vote for or against the distribution of funds or compensation as provided for within this section of the Bylaws.

ARTICLE VIII

COMMITTEES

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE IX BOOKS

AD RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost. The Treasurer shall cause to be inserted into the Association newsletter information regarding the location of the Association's records and books. Information regarding the costs involved in obtaining copies of records and related information shall be published in the Association Newsletter. Information regarding the reasonable business hours and/or other relevant details shall be published in this Association Newsletter.

ARTICLE X

ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within sixty (60) days after the due date, the assessment shall bear interest from the date of the delinquency at the rate of eight per cent (8%) per annum or the maximum interest rate permitted to be legally charged under the laws of the State of North Carolina at the time of such delinquency, whichever is greater, plus such late charge as may be established by the Board of Directors, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property; and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waiver or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

**ARTICLE XI
AMENDMENTS**

Section 1. These Bylaws may be amended at a regular or special meeting of the Directors, by a vote of a majority of a quorum of Directors present. These Bylaws also may be amended by petition signed by 67% of the Owners. Bylaw Amendments should be published in the Association newsletter.

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

**ARTICLE XII
MISCELLANEOUS**

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

**ARTICLE XIII
INDEMNIFICATION OF DIRECTORS,
OFFICERS AND OTHERS**

The Association shall indemnify any director or officer or former director or officer of the Association or any person who may have served at the request of the Association as a director or officer of another corporation, whether for profit or not for profit, against expenses (including attorney's fees) or liabilities actually and reasonably incurred by him in connection with the defense of or as a consequence of any threatened, pending or completed action, suit or proceeding (whether civil or criminal) in which he is made a party or was (or is threatened to be made) a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty.

The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, bylaw, agreement, vote of members or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

The Association may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the

Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability.

The Association's indemnity of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association, as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall be reduced by any amounts such person may collect as indemnification (I) under any policy of insurance purchased and maintained on his behalf by the Association or (II) from such other corporation, partnership, joint venture, trust or other enterprise. Nothing contained in this Article XIII, or elsewhere in these Bylaws, shall operate to indemnify any director or officer if such indemnification is for any reason contrary to any applicable state or federal law.

ARTICLE XIV ARBITRATION

Any claim which shall be made against one or more members of the Board of Directors shall be settled by arbitration except as otherwise provided herein, in the Declaration or under any applicable law, and judgment upon the award may be entered in any court having jurisdiction thereof. Such arbitration shall be commenced upon the delivery of such claim, in writing, to one or more members of the Board; and shall be before one disinterested arbitrator if one can be agreed upon, otherwise before three disinterested arbitrators, one named by the Director(s), one by the Owner(s) and one by the two thus chosen. The arbitrator or arbitrators shall determine the controversy in accordance with the laws of North Carolina as applied to the facts found by him or them. If the Director(s) or the Owner(s) shall refuse or fail to so name an arbitrator within thirty (30) days after written notice from the other party requiring the naming of an arbitrator, then the arbitrator so named by the party not in default hereunder shall have the power to proceed to arbitrate and determine the matters in controversy as if he were an arbitrator appointed by both parties for that purpose, and his award in writing signed by him shall be final. The rules of procedure for the arbitration hearing may be adopted by the arbitrators. All arbitration proceedings shall be conducted in Moore County, North Carolina.

All Members, Owners, and Directors of the Association are hereby put on notice that reasonable efforts should be made by all parties to settle any internal dispute and attempt to resolve issues of conflict without resort to external arbitration. The Board of Directors should estab-

lish an internal system for resolution of matters which is impersonal and rational for all concerned. Should external arbitration be required, the Arbitrators are directed by these Bylaws to require payment of all related costs of arbitration by the parties who have unreasonably avoided the internal dispute system, regardless of the final outcome of the matters arbitrated or resolved by the Arbitration Process.