

**MERGER PLAN AND AGREEMENT
TO EFFECT A MERGER
OF
THE PINERY HOMEOWNER'S ASSOCIATION, INC.,
AND
THE PINERY ARCHITECTURAL CONTROL COMMITTEE, INC.**

THIS AGREEMENT is made this 12th day of December, 2007, by The Pinery Homeowner's Association, Inc. and The Pinery Architectural Control Committee, Inc., each being a Colorado nonprofit membership corporation acting pursuant to Sections 7-131-100 et seq. of the Colorado Revised Nonprofit Corporation Act, with regard to a proposed merger of these two corporations into The Pinery Homeowners' Association, Inc. and with regard to the properties and the Community generally known and described as "The Pinery" located in the County of Douglas, Colorado.

RECITALS

A. The Pinery Homeowner's Association, Inc. ("PHA") and The Pinery Architectural Control Committee, Inc. ("ACC") presently exist as distinct and separate corporations, requiring duplication of management duties and costs thereof; and

B. It has been preliminarily determined and approved by the Board of Directors of the PHA and the ACC that the requisite members of each be asked to approve the merger of the corporations into one corporation, thereby eliminating the duplication of management costs and resolving other issues within the Pinery Community;

NOW, THEREFORE, the PHA and the ACC enter into the following Merger Plan and Agreement to merge into the "The Pinery Homeowners' Association, Inc."

I. PLAN OF MERGER

PHA and ACC are proposed to be merged into The Pinery Homeowners' Association, Inc (hereinafter referred to as the new corporation, Association or merged corporation) if such merger is approved by the requisite percentage of members of each.

II. OBJECT OF THE MERGED ASSOCIATION

The object and purposes of the Merged Association, if approved by the separate members, are as follows:

(a) To operate and manage the common interest community known as "The Pinery," a planned community, as was created by implication through the applicable Protective Covenants and other documents;

- (b) To operate and manage the Property and Common Area included within the Community, situated in Douglas County, State of Colorado, subject to the applicable Protective Covenants, Plats, Maps, Bylaws and such Rules and Regulations as the Board of Directors may from time to time adopt;
- (c) To enhance and preserve the value of the properties of owners subject to the applicable Protective Covenants;
- (d) To maintain The Pinery as a community of the highest quality and value, and to enhance and protect the Property's value, desirability and attractiveness;
- (e) To perform all acts and services and exercise all powers and duties in accordance with the requirements for an association of owners charged with the administration of the Property or Real Estate under the terms of the Colorado Common Interest Ownership Act, as amended (the "Act") as applicable to common interest communities created prior to July 1, 1992, and as set forth in the applicable Protective Covenants and other documents;
- (f) To collect trash service fees from Owners who choose that service;
- (g) To collect dues and/or assessments as authorized in the Bylaws;
- (h) To act for and on behalf of the Members of the Association in all matters deemed necessary and proper for the protection, maintenance and improvement of the lands and improvements owned by the Members and this Association;
- (i) To provide for administration, maintenance, preservation, improvement and architectural review as contained in the applicable Protective Covenants;
- (j) To promote, foster and advance the health, safety and welfare of the residents;
- (k) To eliminate or limit the personal liability of Directors to the Association or to the Members for monetary damages for breach of fiduciary duty, as allowed by law;
- (l) To oversee the Architectural Control Committee (the "ACC") of the Association and the Community Services Committee (the "CSC") of the Association, as provided in the Bylaws of the Association;
- (m) To do any and all permitted acts suitable or incidental to any of the foregoing purposes and objects to the fullest extent permitted by law, and do any and all acts that, in the opinion of the Board, will promote the common benefit and enjoyment of the occupants, residents within The Pinery Community, and to have and to exercise any and all powers, rights and privileges which are granted under the Act, the applicable Protective Covenants, Bylaws and the laws applicable to a nonprofit corporation of the State of Colorado;

III. ARTICLES OF INCORPORATION

If this Merger Plan and Agreement is approved by the separate members, the respective Articles of Incorporation of the PHA and the ACC are to be replaced and superseded by the Articles of Amendment and Articles of Merger of the Association to be filed with the Colorado Secretary of State.

IV. BYLAWS

If the Merger Plan and Agreement is approved by the separate members, the respective Bylaws of the PHA and the ACC are to be replaced and superseded by the Bylaws of The Pinery Homeowners' Association, Inc., as amended from time to time.

V. RESOLUTION BY DIRECTORS APPROVING AND RECOMMENDING THE MERGER PLAN AND AGREEMENT

The Board of Directors for the PHA and the ACC have adopted a resolution approving (i) the Articles of Amendment and Articles of Merger; (ii) the Bylaws for "The Pinery Homeowners' Association, Inc."; and (iii) this Merger Plan and Agreement, and each have directed that these documents be submitted to their separate members with a recommendation for approval.

VI. RECOMMENDATION OF ADOPTION OF THIS MERGER PLAN AND AGREEMENT BY MEMBERS

The members of PHA and ACC are to be asked to vote for and to approve (1) the proposed merger; (2) Articles of Amendment and Articles of Merger; and (3) the Bylaws for "The Pinery Homeowners' Association, Inc."

VII. EFFECT OF MERGER

1. The Articles of Merger, if approved by the separate members, are to be filed with the Colorado Secretary of State and the Certificate of Merger will then be issued. The Bylaws for the Merged Association will be executed and approved only upon issuance of a Certificate of Merger. Upon issuance of a Certificate of Merger by the Colorado Secretary of State, the PHA and the ACC shall be merged into one corporation and the separate existence of each has ceased. The new corporation or Association, The Pinery Homeowners' Association, Inc., will then be subject to all of the duties and liabilities of a corporation organized under the Colorado Nonprofit Corporation Act and under applicable provisions of the Colorado Common Interest Ownership Act. The new Merged Association shall also then possess all of the rights, privileges, immunities, and franchises, of a public as well as a private nature, of each of the consolidating corporations; and all property, real, personal, and mixed, all debts due on whatever account, all other causes in action, shall be deemed transferred to and vested in the new

Association without further act or deed; and the title to any real estate or any interest therein vested in any of the corporations shall not revert or be in any way impaired by reason of this merger.

2. The owners within the Pinery shall be entitled to elect members to the Board of Directors of the Merged Association as set forth in the Bylaws of the PHA.
3. The Pinery Homeowners' Association, Inc. will assume the contracts, liabilities, and obligations of the ACC.
4. The Pinery Homeowners' Association, Inc. will agree to accept all banking and other accounts of or from the ACC.
5. No contracts, agreements, easements, licenses and other obligations of the PHA and or the ACC will be terminated, vacated or otherwise eliminated.
6. Each neighborhood in the Pinery shall continue to be subject to the restrictions, architectural requirements, and enforcement provisions of their applicable protective covenants, as amended or may be amended, of record with the Douglas County Clerk and Recorder. Upon issuance of a Certificate of Merger by the Colorado Secretary of State, each Board of Directors of the PHA and the ACC assign their rights, powers, and duties conveyed pursuant to these declarations to the Board of Directors of The Pinery Homeowners' Association, Inc., including authority under each of the existing protective covenants.
7. The "The Pinery Homeowners' Association, Inc." will be responsible and liable for all of the liabilities and obligations of the corporations merged; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted as if the merger had not taken place or the new Association may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by this merger.
8. The percentage of common expense liabilities shall be as provided for in the applicable existing protective covenants, as amended, of record. Each eligible property in the Pinery shall be entitled to vote as provided for in the Bylaws, as amended.
9. The proposed merger may be abandoned at any time prior to the effective date of merger, (i) by either PHA or ACC, by resolution of any one of their Board of Directors, for any reason whatsoever, or (ii) by PHA and ACC, each acting by its Board of Directors, by mutual consent, for any reason. Further, the proposed merger shall be deemed abandoned if the Articles of Merger are not filed by December 30, 2008.

IN WITNESS WHEREOF, The Pinery Homeowner's Association, Inc., the and The Pinery Architectural Control Committee, Inc., the parties to the merger, have caused this Agreement to be signed in their respective corporate names and on their behalf by their respective Presidents or Vice-Presidents and attested by their respective Secretaries or Assistant Secretaries.

THE PINERY HOMEOWNER'S ASSOCIATION, INC.

By: *Joe Mousis*
President
Date: 12/5/07

ATTEST:

Susan L. Arnold
Secretary
Date: 12/12/07

THE PINERY ARCHITECTURAL CONTROL COMMITTEE, INC.

By: *Joe Mousis (acting)*
President
Date: 12/5/07

ATTEST:

Deleta B. Jones
Secretary
Date: 12/12/07