

DECLARATION OF RESTRICTIONS

FOR

HARBOUR TOWNE

This is to certify that this is a true and correct copy of the Declaration recorded in the Office of the Recorder of Solano County, California, as Instrument No. 90-14377, on February 26, 1990, and rerecorded as Instrument No. 90-15709, on March 1, 1990, Solano County Records.

By:

Donna Wildes
Donna Wildes



First American Title Guaranty Company

Recorded at the Request of:

When Recorded Mail To:

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DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
HARBOUR TOWNE,
A PLANNED UNIT DEVELOPMENT

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DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
HARBOUR TOWNE

THIS DECLARATION ("Declaration") is made this _____ day of _____, 1990, by BEAR COVE PROPERTIES, a California limited partnership ("Declarant").

RECITALS

A. Declarant is the owner of certain real property located in the City of Vallejo, County of Solano, State of California, described in Exhibit A attached hereto and incorporated herein by this reference (the "Property").

B. Declarant has established a general plan, set forth in this Declaration, for the subdivision, improvement, and development of the Property, and each and every Lot and parcel comprising the Property, and any additional real property that may be annexed to this Declaration, and desires to secure the harmonious and uniform development of the Property in accordance with such plan.

DECLARATION

Declarant declares that the real property described in Exhibit A, and each and every Lot and other parcel of real property thereon, is, and shall be, held, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the following limitations, restrictions, easements, covenants, conditions, servitudes, liens and charges, all of which are declared and agreed to be in furtherance of a general plan for the development of said real property, and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of said real Property. These provisions are imposed upon Declarant, the Owners, and the Association and are for the benefit of all Lots and the Common Area, and shall bind the Owners and the Association. These provisions shall be a burden upon and a benefit to not only the original Owner of each Lot and the Association but also upon and to their successors and assigns. All covenants are intended as and are declared to be covenants running with the land as well as equitable servitudes upon the land.

ARTICLE 1.
DEFINITIONS

1.1 Architectural Committee. "Architectural Committee" means the committee of persons appointed and acting pursuant to Article 12 of this Declaration.

- 1.2 Articles. "Articles" means the Association's articles of incorporation and any amendments thereto.
- 1.3 Association. "Association" means the HARBOUR TOWNE AT GLEN COVE HOMEOWNERS ASSOCIATION, a California nonprofit mutual benefit corporation, and its successors and assigns.
- 1.4 Association Rules. "Association Rules" means the rules and regulations regulating the use and enjoyment of the Common Area and the Association Maintenance Areas adopted by the Board from time to time.
- 1.5 Board of Directors. "Board of Directors" or "Board" means the Board of Directors of the Association.
- 1.6 Bylaws. "Bylaws" means the Bylaws of the Association and any amendments thereto.
- 1.7 City. "City" means the City of Vallejo, the City in which the Project is located.
- 1.8 Common Area. "Common Area" means all real property owned by the Association for the common use and enjoyment of the Owners and shall include, upon conveyance to the Association, the plots of land designated as Lots E, F, G, H, and I, and K and the Private Streets named Cliff Walk Drive, Castle Hill Court, Marina Ridge court, and Narragansett Court, all as shown on the Subdivision Map. Without limiting the generality of the foregoing, the Common Area includes the Private Streets comprising a portion thereof, as hereafter defined. Except for the purposes of holding actual fee title and for the purposes of Section 1.19 hereof, the Association Maintenance Areas shall be treated in all respects as part of the Common Area of the Development.
- 1.9 County. "County" means the County of Solano, State of California, the County in which the Project is located.
- 1.10 Declarant. "Declarant" (as previously defined above) means BEAR COVE PROPERTIES, a California limited partnership, and its successors and assigns, if such successors and assigns are assigned the rights of Declarant pursuant to Section 14.12 below, or if such successor or assign is a Mortgagee acquiring Declarant's interest in the Project by foreclosure or by deed in lieu of foreclosure.
- 1.11 Declaration. "Declaration" means this Declaration of Covenants, Conditions, and Restrictions and its amendments, modifications, or supplements.
- 1.12 Dwelling. "Dwelling" means any portion of a building situated on a Lot and intended for residential use and occupancy.
- 1.13 Garage. "Garage" means the enclosed automobile sheltering structure situated on each Lot, as originally constructed by

Declarant or thereafter constructed or reconstructed in accordance with the provisions of this Declaration.

1.14 Lot. "Lot" means any plot of land designated as a Lot on the Subdivision Map, or in any subdivision map referred to in any supplement or amendment to this Declaration, together with any improvements which may be added to such Lot from time to time.

1.15 Maintenance. "Maintenance" means the exercise of reasonable care to keep the Lots, Common Area, Private Streets, Association Maintenance Areas, Dwellings, driveways, landscaping and other improvements and fixtures in a state similar to their original condition, normal wear and tear excepted. Maintenance shall further mean, as it relates to landscaping, the exercise of regular fertilization, irrigation and other garden management practices necessary to promote a healthy, weed-free environment for optimum plant growth.

1.16 Member. "Member" shall mean and refer to every person or entity holding a membership in the Association.

1.17 Mortgage and Mortgagee. "Mortgage" shall mean and refer to a mortgage or deed of trust encumbering a Lot or other portion of the Development. A "Mortgagee" shall include the beneficiary under a deed of trust as well as the mortgagee under a mortgage, as well as any guarantor or insurer of a Mortgage, including, without limitation, any Mortgagees of Declarant. An "institutional" Mortgagee is a Mortgagee that is (i) a bank, (ii) a savings and loan association, (iii) an established mortgage company or other entity chartered under federal or state law whose principal business is lending money on the security of real property or investing in such loans, (iv) any insurance company, or (v) any federal or state agency or instrumentality, including without limitation the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC"), the Federal Housing Administration ("FHA"), and the Veterans Administration (the "VA"). "First Mortgage" and "First Mortgagee" shall mean a Mortgage or Mortgagee with priority over all other Mortgages and Mortgagees, respectively, encumbering the same Lot or other portion of the Development.

1.18 Association Maintenance Areas. "Association Maintenance Areas" means those portions of each Lot which are outside the area covered by (i) the Dwelling, (ii) the Garage, (iii) the fencing on each Lot, and (iv) the areas enclosed by and within such Dwelling, Garage, and fencing. Without limiting the generality of the foregoing, the Association Maintenance Areas include, without limitation, (i) the front yard (including walkways and landscaping, but excluding driveways) located within the portion of each Lot from the front yard fencing (as defined in this paragraph) to the sidewalk adjacent to the front boundary line of each Lot, and (ii) the rear and/or side portion of each Lot located outside of the fencing on the rear and/or side of each Lot; all as originally constructed by Declarant or as constructed

thereafter in accordance with the provisions of this Declaration. As used in this paragraph, "front yard fencing" means the fencing immediately adjacent to the front of each Dwelling and approximately parallel with the front boundary line of each Lot and approximately perpendicular to the side fencing of each Lot. Although owned in fee simple by the Owners of the applicable Lots of which they are a part, the Association Maintenance Areas shall be maintained by the Association as part of the Common Area. A set of plot plans for each of the Lots, showing the approximate location of location of the Association Maintenance Area on each Lot, shall be maintained at all times at the offices of the Association.

1.19 Owner. "Owner" shall mean and refer to each person or entity (including Declarant) holding a record ownership interest in a Lot. "Owner" shall also include a contract purchaser pursuant to a contract of sale recorded in the office of the Recorder of the County, provided that the vendor under such contract of sale has assigned all of his rights, title and interest to participate in the Association to the contract purchaser thereunder, and such assignment is either contained in said contract of sale or is otherwise recorded in the Office of the County Recorder. "Owner" shall also mean a Member of the Association, and ownership of a Lot shall include membership in the Association. "Owner" shall not include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation or as a contract purchaser under a contract of sale which does not satisfy the conditions set forth in this paragraph.

1.20 Patio Easement Area. "Patio Easement Area" shall mean the areas designated on the Map as "use easements" along the side property lines of most of the Lots. An easement (the "Patio Use Easement") for the use of each Patio Easement Area shall be and is granted to the adjacent Lot and the Owner thereof pursuant to the provisions of subsection 2.6(f) hereof. The permitted uses of the Patio Easement Area shall be as set forth in said subsection 2.6(f).

1.21 Private Street. "Private Street" shall mean any roadway constructed in the Common Area to provide ingress to and from the Project (including streets, street signs, street lights, traffic signs and marks, striping, and the storm drain facilities which are a part thereof), excluding therefrom any roadways constructed upon the Project which have been or shall be in the future dedicated to the City or County, as applicable. The Private Streets are the areas shown on the Subdivision Map as Cliff Walk Drive, Castle Hill Court, Marina Ridge Court, and Narragansett Court.

1.22 Project; Development. "Project" or "Development" means the Property and the improvements thereto and thereon.

1.23 Subdivision Map. "Subdivision Map" or "Map" means the recorded final subdivision map referred to in Exhibit A hereto, as modified by the recorded certificate of correction referred to in said Exhibit A.

1.24 Visible from Neighboring Property. "Visible from Neighboring Property" means, with respect to any given object, that such object is or would be visible to an average person six (6) feet tall standing on an assumed floor elevation one (1) feet above the surface of any neighboring property in the area involved, assuming that such property had an elevation equal to the highest elevation of the ground surface of that portion of the private area upon which such object is located.

ARTICLE 2.

PROPERTY RIGHTS, RIGHTS OF ENJOYMENT, AND EASEMENTS

2.1 Ownership of Lot. Ownership of each Lot within the Development shall include title in fee simple to a Lot, a membership in the Association (which shall own the Common Area in fee simple), and any nonexclusive easement or easements appurtenant to such Lot over the Common Area or any other Lot, all as described in this Declaration, in the deed to the Lot, or in such other recorded instrument relating thereto, if any.

2.2 Nonexclusive Easements of Enjoyment; Association Rights. Every Owner has a nonexclusive easement of use and enjoyment in and to and throughout the Common Area and any improvements or facilities located therein, and for ingress, egress and support over and through the Common Area and Private Streets, and a nonexclusive easement for accepting and draining, upon and across the Common Area and Private Streets and the other Lots, rainwater or other water runoff from the Dwelling situated on each Lot. Each such easement shall be appurtenant to and pass with the title to every Lot, subject to the following rights and restrictions:

(a) The right of the Association to limit the number of guests and to adopt the Association Rules;

(b) The right of the Association to borrow money to improve, repair, or maintain the Common Area and Association Maintenance Areas, subject to the vote or written approval of at least sixty-seven percent (67%) of the total voting power of Owners, including therein at least sixty-seven percent (67%) of the total voting power of Owners other than Declarant;

(c) The right of the Association to assign, rent, license or otherwise designate and control use of any unassigned parking or storage spaces within, and any recreational facility situated upon, the Common Area;

(d) The right of the Association to suspend the right of an Owner to use any recreational or other facility in the Common Area as provided in Section 5.1(c) hereof;

(e) The right of the Association to adopt and enforce Association Rules concerning the control and use of the Private Streets and any other private streets, roadways and paving areas located upon or across the Common Area, including the right to regulate the kind of vehicles and their speed and the parking of vehicles upon the Private Streets and any such other private streets and roadways. Declarant and/or the Association is authorized to delegate to a municipality or other governmental entity or to contract with any private security patrol company to exercise its authorized rights in connection with the Private Streets and any other such private streets, roadways, and parking areas.

2.3 Entry or Use Rights. Each Lot or the Common Area, as the case may be, shall be subject to the following rights of entry and use:

(a) The right of Declarant or its designees to enter upon any portion of the Development to construct the improvements to the Development and to make repairs and remedy construction defects, provided that such entry shall not interfere with the use or occupancy of any occupied Lot unless authorized by its Owner, which authorization shall not be unreasonably withheld.

(b) The right of the Association, or its agents, to enter any Lot to cure any violation or breach of this Declaration or the Bylaws or the Association Rules, provided that at least thirty (30) days prior written notice of such violation or breach (except in an emergency) has been given to the Owner and provided that, within the thirty (30) day period, such Owner has not acted to cure the specified violation or breach. The Association shall be entitled to levy a special assessment for its costs of effecting such cure against the Owner in accordance with Section 6.5(d) below. The rights of entry and cure shall be immediate in case of an emergency originating upon or threatening any Lot, whether or not the Owner is present.

(c) The right of the Association, or its agents, to enter any of the Lots to perform its obligations and duties under this Declaration, including obligations or duties with respect to construction, maintenance, or repair for the benefit of the Common Area and the Association Maintenance Areas or the Owners in common; watering, planting, cutting, removing, and otherwise caring for the landscaping upon the Common Area and the Association Maintenance Areas, cleaning, repairing, replacing and otherwise maintaining or causing to be maintained any underground utility lines serving each Lot. The rights shall be immediate in case of an emergency originating upon or threatening any Lot, whether or not the Owner is present.

(d) The right of any Owner, or Owner's representatives to enter the Lot of any other Owner for purposes of performing installations, alterations or repairs to mechanical or electrical

easements or rights of way. However, no such easement may be granted if it would permanently interfere with the use, occupancy or enjoyment by any Owner of his Lot and/or any recreational facilities located in the Development, unless approved by all of the affected Owner or Owners and by the vote or written consent of holders of not less than seventy-five percent (75%) of the voting rights of each class of Members and their respective First Mortgagees, as applicable.

2.6 Easements. There are hereby specifically reserved for the benefit of the Lot Owners, in common and for each Owner severally, as their respective interests shall obtain, the easements, reciprocal negative easements, secondary easements, and rights-of-way as hereinafter described.

(a) There is reserved for the benefit of each Lot as dominant tenement, an easement for utility services over, under and through the Development, the Common Area, and each other Lot, jointly as the servient tenement.

(b) The Association shall have an easement appurtenant to the Common Area and all other Lots through each Lot for the maintenance and repair of the Common Area and the Association Maintenance Areas.

(c) Each Owner agrees, by acceptance of his deed, to permit free access to slopes or drainage ways located on his Lot, which slopes or drainage ways affect said other Lots, when such access is essential for the maintenance of permanent stabilization on said slopes or for the maintenance of said drainage ways for the protection or use of said other Lots.

(d) Each Owner agrees, by the acceptance of his deed, not to interfere with or obstruct the established drainage pattern over his Lot from or to adjacent or other Lots. For the purpose of this paragraph, "established drainage" means the drainage that existed at the time that such Lot is conveyed to an Owner by Declarant. Each Lot has been graded to provide the correct drainage pattern for water flow, and each Owner acknowledges, by acceptance of his deed, that he may not alter or interfere with this drainage, and that Declarant shall not be responsible for any alterations or interference in the drainage pattern as it was established at the time that each Lot was graded.

(e) Each Owner agrees, by the acceptance of his deed, that his Lot may be granted subject to easements for installation and maintenance of the utilities, sewer pipelines and facilities, and drainage facilities, over each of said Lots, and all pipelines and other facilities located and to be located in said easements, are reserved as shown on the said recorded Map and such easements that may be recorded by the parties hereto either prior or subsequent to the recordation of this Declaration. Within these easements, no structure shall be placed or permitted and no

changes may be made which may change the direction in the flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easement. The easement areas of each Lot and all improvements within it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. No structure shall be placed within an easement which will interfere with the use of, or the maintenance of, the facilities for which the easement has been granted. In addition, easements for all sewer pipelines and other sewer facilities located and to be located within public roads, streets or highways abutting each of said Lots are hereby reserved.

(f) (1) As set forth in Section 1.20 above, certain Lots contain Patio Easement Areas which shall be subject to Patio Use Easements as hereinafter granted and described. With respect to each Patio Easement Area, a perpetual Patio Use Easement over each Patio Easement Area is hereby granted to the immediately adjacent Lot and the Owner thereof, as the dominant tenement, over each Lot containing a Patio Easement Area, if any, located on each Lot, as the servient tenement.

(2) The Patio Easement Areas and the Patio Use Easements shall be for the exclusive use of the Lot and Lot Owner benefiting therefrom, and shall be used for patio and sideyard purposes only. The Lot and Lot Owner benefiting from each Patio Use Easement shall be responsible for the maintenance of the applicable Patio Easement Area in the same manner as if the Patio Easement Area were a part of such Owner's Lot. Each Lot and Owner benefiting from a Patio Use Easement shall indemnify, defend, and hold harmless the Lot and Owner burdened by such Patio Use Easement with respect to any claims, damages, costs, and expenses incurred in connection with the use or maintenance of the applicable Patio Easement Area.

2.7 Other Easements. Each Lot and its Owner and the Association, as the case may be, is declared to be subject to all easements, dedications, and rights-of-way granted or reserved in, on, over and under the Property and each Lot as shown on the Subdivision Map.

2.8 Delegation of Use. Any Owner may delegate his rights of use and enjoyment, including easements, in the Development to the members of his family, his guests and invitees, to his lessees, tenants, employees, and invitees, and to such other persons as may be permitted by the Bylaws and the Association Rules, subject, however, to this Declaration and said Bylaws and Association Rules. However, if an Owner has sold his Lot to a contract purchaser or has leased or rented it, the Owner, members of the Owner's family, and the Owner's guests, tenants, employees, and invitees shall not be entitled to use and enjoy any of such rights in the Project while the Owner's Lot is occupied by the contract purchaser or tenant. Instead, the contract purchaser or tenant,

while occupying such Lot, shall be entitled to use and enjoy such rights, including the recreational facilities, and may delegate the rights of use and enjoyment in the same manner as if such contract purchaser or tenant were an Owner during the period of his occupancy. Each Owner shall notify the Association of the names of any contract purchasers or tenants of such Owner's Lot. Each Owner, contract purchaser, or tenant shall also notify the secretary of the Association of the names of all persons to whom such Owner, contract purchaser, or tenant has delegated any rights of use and enjoyment and the relationship that each such person bears to the Owner, contract purchaser, or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of Owners. No such delegation shall relieve an Owner from liability to the Association or to other Owners for payment of assessments or performance of the covenants, conditions and restrictions contained in this Declaration. Any lease, rental agreement or contract of sale entered into between an Owner and a tenant or contract purchaser of a Lot shall require compliance by the tenant or contract purchaser with all of the covenants, conditions and restrictions contained in this Declaration, which provision shall be for the express benefit of the Association and each Owner. The Association and each Owner shall have a right of action directly against any tenant or contract purchaser of an Owner, as well as against the Owner, for nonperformance of any of the provisions of this Declaration to the same extent that such right of action exists against such Owner.

ARTICLE 3. USE RESTRICTIONS

3.1 Residential Use. Lots shall be used for residential purposes only. Except as otherwise expressly provided in this Declaration, no part of the Development shall ever be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such nonresidential purpose. The foregoing notwithstanding, for a period of three (3) years from the date of recordation of this Declaration, Lots owned by Declarant may be used by Declarant or its designees as models, sales offices, and construction offices for the purpose of developing, improving, and selling Lots in the Development.

3.2 Leasing. Nothing set forth in this Declaration shall prevent an Owner from leasing or renting his Lot for residential purposes; provided, however, that (i) any lease or rental agreement shall be in writing and any lessee or renter thereunder shall agree to abide by and be subject to all terms and provisions of this Declaration and the Association rules, (ii) any lease or rental agreement shall comply with Section 2.8 above; and (iii) any lease or rental agreement shall specify that failure to abide by such provisions shall be a default under said lease or rental agreement; and provided further that with the exception of a Mortgagee in possession of a Lot following a default on a Mortgage, a foreclosure proceeding, or acceptance of a deed or

other arrangement in lieu of foreclosure, no Owner shall rent or lease his Lot for transient or hotel purposes.

3.3 Maintenance; Owner's Responsibility. Except as provided in Section 5.2(b), Each Owner of a Lot shall be responsible for maintaining the structures located upon his Lot, including without limitation the equipment and fixtures in the structure and its walls, roof, ceilings, windows and doors, together with the rear yard drain located on his Lot, all fencing located on his Lot, and all landscaping behind the front yard fence and within the rear and side yard fencing on each Lot, as constructed by Declarant, in a clean, sanitary, workable and attractive condition. However, each Owner has complete discretion as to the choice of furniture, furnishings, and interior decorating, except that windows may be covered only by drapes, shutters, blinds or shades and cannot be painted or covered by foil, cardboard, or other similar materials. Each Owner shall also be responsible for maintenance, repair, and replacement of all plumbing, electrical, heating, air-conditioning, and gas lines, conduits, apparatus, and equipment servicing his Lot and Dwelling, and repair, replacement, and cleaning of the windows and glass located thereon. If an Owner is required to make any repair or if the Owner desires to construct any improvement or install any fixture or equipment that will affect or involve any bearing wall or other structural member, the prior written approval of the Architectural Committee must first be obtained. However, such approval need not be obtained to make emergency repairs, provided that the structure so affected is restored to its original condition at the Owner's expense.

3.4 Oil Drilling. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind, shall be permitted upon or in the Development, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted upon the surface of the Development or within five hundred (500) feet below the surface of the Development. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted upon the Development.

3.5 Offensive Conduct; Nuisances. No noxious or unreasonable activities, including but not limited to, repair of automobiles or other motorized vehicles, shall be carried on, upon or within the Development, nor shall anything be done thereon which may be or become an annoyance or nuisance to the residents of the Development, or which shall in any way interfere with the quiet enjoyment of occupants of Lots. Unless otherwise permitted by the Association, no Owner shall serve food or beverages, cook, barbecue or engage in similar activities, except within such Owner's Lot. Unless permitted by the Association, no Owner shall install recreational, play or athletic equipment or engage in such activities within the Common Area or Association Maintenance Areas.

3.6 Parking Restrictions. Unless otherwise permitted by the Association, no automobile shall be parked or left on any property

subject to this Declaration other than on or within a Garage or assigned or appurtenant parking stall or space or in any designated guest parking area or space. No boat, trailer, camper, truck, or commercial vehicle shall be parked or left on any part of the Development other than in a parking area designated by the Association for the parking and/or storage of such vehicles. However, parking by commercial vehicles for the purpose of making deliveries shall be permitted in accordance with the Association Rules. Garages shall be used for the parking of automobiles only and shall not be converted to living or recreational activities. Garage doors shall remain closed at all times except when being used to enter or exit.

3.7 Signs. No signs of any kind shall be displayed to the public view on or from any Lot or on or from the Common Area or Association Maintenance Areas without the approval of the Association, except such signs as may be used by Declarant or its designees for the purpose of developing, improving, and selling Lots within the Project for a period of time not to exceed the date on which the last Lot is sold by Declarant, or three (3) years from the date of recordation of this Declaration, whichever is sooner. In exercising its rights under this provision, Declarant shall not unreasonably interfere with the use of the Common Area and Association Maintenance Areas by any Owner. The foregoing notwithstanding, one sign of customary and reasonable dimensions advertising a Lot for sale or rent may be placed with each Lot, the location and design thereof to be subject to the approval of the Association; provided, however, that if local ordinance or regulation allows a for-sale or for-rent sign or signs of larger dimensions, such ordinance or regulation shall control as to such dimensions.

3.8 Antennae, External Fixtures, Etc. No television or radio poles, antennae, flagpoles, clotheslines or other external fixtures other than those originally installed by Declarant or as approved pursuant to Article 12 below, and any replacement thereof, shall be constructed, erected or maintained on or within any Lot, including any structures thereof. No wiring, insulation, air conditioning or other machinery or equipment other than that originally installed, installed by Declarant, or as approved pursuant to Article 12 below, and any replacements thereof, shall be constructed, erected or maintained on or within any Lot, including any structures thereof. Each Owner shall have the right to maintain television or radio antennae within completely enclosed portions of his Dwelling. The location of common antennae or connection facilities for any cable television serving more than one Lot shall be as designated by the Association or the Architectural Committee, and each Lot and its Owner shall be subject to the right of the Association to install, use, and maintain such common antennae or facilities.

3.9 Awnings, Etc. No awnings, ornamental screens, screen doors, sunshades or walls of any nature shall be erected or maintained on or around any portion of any structure or elsewhere

within the Development except such as are installed in accordance with the original construction of the Development, and any replacement thereof, or as are authorized and approved by the Association or the Architectural Committee.

3.10 Animals. No animals, reptiles, rodents, birds, fish livestock or poultry shall be kept in any Lot or elsewhere within the Development, except that domestic cats, fish, and birds within bird cages may be kept as household pets within any Lot, provided they are not kept or raised therein for commercial purposes, or in unreasonable quantities as determined by the Board and/or as set forth in the Association Rules from time to time. All dogs must be maintained on a leash while in the Common Area. The Association shall have the right to prohibit maintenance of any animal that in the sole and exclusive opinion of the Board constitutes a nuisance to any other Owner. Each person bringing or keeping a pet upon the Development shall be liable to other Owners, their family members, guests, invitees, tenants, and contract purchasers, and their respective family members, guests, and invitees, for any damage to persons or property proximately caused by any pet brought upon or kept upon the Development by that person or by members of his family, his guests or invitees.

3.11 Gas or Liquid Storage. No tank for the storage of gas or liquid fuel shall be installed on or in the Development unless such installation is done by Declarant or has been approved by the Association or the Architectural Committee.

3.12 Diseased Plants. No plants or seeds infected with noxious insects or plant diseases shall be brought upon, grown, or maintained within the Development.

3.13 Restricted Use of Recreational Vehicles, Etc. No boat, truck, trailer, van, camper, recreational vehicle, or tent shall be used as a living area while located on the Development. No truck, trailer, van, camper, or recreational vehicle may be stored within the Development unless it is that Owner's principal means of transportation. However, trailers or temporary structures for use incidental to the initial construction of the Development or the initial sales of Lots may be maintained within the Development, provided that such use does not unreasonably interfere with any Owner's use of the Common Area. Such trailers or structures shall be promptly removed on completion of all initial construction and sales.

3.14 Trash Disposal. Trash, garbage or other waste shall be kept only in sanitary containers. No Owner shall permit or cause any trash or refuse to be kept on any portion of the Development other than in the receptacles customarily used therefor. Except on the scheduled day for trash pickup, these receptacles shall be located in places specifically designated for such purpose.

3.15 Outside Drying and Laundering. No exterior clothesline shall be erected or maintained and there shall be no exterior

drying or laundering of clothes on balconies, patios, porches, or other outside areas.

3.16 Fires. There shall be no exterior fires whatsoever except barbecue fires contained within receptacles therefor and such other fires as may from time to time be permitted by the Association Rules.

3.17 Mailboxes. There shall be no exterior newspaper tubes and no freestanding mailboxes unless freestanding mailboxes are required by the United States Postal Service, in which event their design; construction and placement shall be as originally determined by Declarant or as approved by the Architectural Committee. Unless otherwise required by the United States Postal Service, any such mailboxes shall be constructed by the Declarant and maintained by the Association.

3.18 Basketball Standards. Basketball standards are specifically prohibited from being attached to the front or back of a Dwelling or placed in the front, back, or side yard of any Lot, unless their design, construction and placement shall have been first approved by the Architectural Committee.

3.19 Common Area Trees. No Owner shall cut, trim, prune, remove, replace, or otherwise alter or affect the appearance or location of any living tree, plant, or other vegetation located in any portion of the Common Area or Association Maintenance Areas without the prior written consent of the Architectural Committee. Should any Owner fail to comply with the restriction imposed by this provision, the Association may recover from such Owner the cost of restoring or replacing any such vegetation, together with any consequential damages resulting therefrom.

3.20 Exterior Alterations. Except as provided in Article 12 below, no Owner shall, at his expense or otherwise, make any alterations or modifications to the exterior of the buildings, railings or walls situated within the Development without the prior written consent of the Association or the Architectural Committee and the holder of any Mortgage then of record whose interest may be affected thereby.

3.21 Division of Lots. None of the Lots shall be divided by subdivision map or parcel map, or otherwise, without the prior approval of the Association and the holder of any Mortgage then of record whose interest may be affected thereby.

3.22 Compliance With Laws, Etc. Nothing shall be done or kept in any Lot or in the Common Area which might increase the rate of, or cause the cancellation of, insurance on the Development, or any portion thereof, without the prior written consent of the Association. No Owner shall permit anything to be done or kept in his Lot which is in violation of any law, ordinance, statute, rule or regulation of any local, county, state or federal body. No Owner shall allow furniture, furnishings or other personal

belongings of such Owner to remain within any portion of the Common Area or Association Maintenance Areas except as may otherwise be permitted by the Association.

3.23 Indemnification. Each Owner shall be liable to the remaining Owners for any damage to the Common Area or Association Maintenance Areas which may be sustained by reason of the negligence of that Owner, members of the Owner's family, the Owner's contract purchasers, tenants, guests or invitees, but only to the extent that any such damage is not covered by casualty insurance in favor of the Association. Each Owner, by acceptance of his deed, does further agree for himself and for the members of his family, his contract purchasers, tenants, guests or invitees, to indemnify each and every other Owner, and to hold him harmless from, and to defend him against, any claim of any person or persons for personal injury or property damage occurring within the Lot of the particular Owner, except to the extent (i) that such injury or damage is covered by liability insurance in favor of the Association or other Owner, or (ii) the injury or damage occurred by reason of the negligent act or omission of the Association or of any other Owner or person temporarily visiting said Lot.

3.24 Future Construction. Nothing in this Article 3 or elsewhere in this Declaration shall limit the right of Declarant, its successors and assigns, to complete construction of improvements to the Common Area and to Lots owned by Declarant or to alter the foregoing or to construct such additional improvements as Declarant deems advisable prior to completion and sale of the entire Development. The rights of Declarant hereunder and elsewhere in this Declaration may be assigned by Declarant to any successor to all or any part of Declarant's interest in the Development, by an express assignment incorporated in a recorded deed or other instrument transferring such interest to such successor or to a Mortgagee acquiring Declarant's interest in the Development by foreclosure or by deed in lieu of foreclosure.

3.25 Owner's Obligation for Taxes.

(a) To the extent allowed by local law, all Lots and the membership of an Owner in the Association shall be separately assessed and taxed so that all taxes, assessments and charges which may become liens prior to First Mortgages under local law shall relate only to the individual Lots and not to the Development as a whole. Each Owner shall be obligated to pay any taxes or assessments assessed by the County Assessor against his Lot and against his personal property.

(b) Until such time as real property taxes have been segregated by the County Assessor of the County, they shall be paid by the respective Owners. The proportionate share of the taxes for a particular Lot shall be determined by dividing the initial sale price or offered initial sale price of the Lot by the total initial sales prices and offered initial sales prices of all

Lots within the Development (the term "offered initial sales price" means the price at which an unsold Lot is then being offered for sale by Declarant). If, and to the extent that taxes are not paid by any Owner of a Lot and are allowed to become delinquent, they shall be collected from the delinquent Owner by the Association, and the Association shall be entitled to reasonable attorneys' fees and costs incurred in connection with such collection.

3.26 Improvements. Structures and improvements (including accessory structures) located or placed upon Lots shall conform to the following standards:

(a) All Dwellings shall have a net floor area in excess of 1200 square feet, excluding Garages, patios and/or deck areas. Unless approved by the Architectural Committee and by the appropriate City agency or agencies having jurisdiction thereof, (i) no improvements on a Lot may be expanded beyond the established footprint of such improvements as originally constructed by Declarant, and (ii) no improvements on a Lot may be constructed or reconstructed higher than the height as originally constructed by Declarant.

(b) Parking areas for not less than two (2) automobiles shall be provided within each Lot by Garages constructed by Declarant or which conform to the requirements of the Architectural Committee. No Owner shall convert, either temporarily or permanently, his Garage to any other use (with the exception of Garages converted to sales areas by Declarant, subject to Section 3.1 hereof).

3.27 Restrictions on Common Area, Etc. Except as otherwise set forth in this Declaration, the Common Area and Association Maintenance Areas, except for any structures located thereon, shall be improved and used only for (i) vehicular and pedestrian movement within the Development, including access to Lots; (ii) recreational use by the Owners and occupants of Lots and their guests, subject the Association Rules; and (iii) beautification of the Development and providing privacy to the residents thereof. Without limiting the generality of the foregoing, the following shall apply:

(a) No activity shall be carried on in the Common Area and the Association Maintenance Areas which shall be contrary to the Association Rules.

(b) No Owner shall make any alteration or improvement to the Common Area or the Association Maintenance Areas or remove any plantings, structures, furnishings or other objects therefrom except with the written consent of the Board.

(c) The Owner of each Lot shall be liable to the Association for all damage to the Common Area or the Association Maintenance Areas or to any improvements thereon or thereto,

including but not limited to buildings, recreational facilities, streets, street signs, street lights, traffic signs and marks, striping, storm drain facilities and landscaping, caused by such Owner, his guests, invitees, agents or other occupant of such Owner's Lot.

(d) No automobiles, boats, motorcycles, trailers, campers, motor homes or similar equipment shall be stored in any portion of the Common Area or the Association Maintenance Areas (including without limitation any driveway portion of the Common Area) and no such equipment shall be repaired thereon or therein. No dismantled or wrecked vehicle (including parts) or equipment shall be parked, stored, deposited or the like in the Common Area or the Association Maintenance Areas.

3.28 Speed Limit. The vehicular speed limit on the Private Street shown as Harbour Towne Drive on the map shall not exceed twenty (20) miles per hour, and such speed limit shall be reflected in appropriate signage to be maintained by the Association pursuant to Section 5.2(b) below.

3.29 Preservation of Views. No tree, shrubbery, or other obstruction (i.e., satellite dishes) of any kind shall be planted, erected, or maintained, as the case may be, on any Lot in such a manner as to unreasonably obstruct or interfere with the View obtainable from each Lot. As used herein, the term "View", as applied to each Lot, shall mean the view corridor (if any) within the side boundaries of each Lot, projected through the rear boundary of each Lot on the same plane as the more elevated of (i) the building pad for the Dwelling, or (ii) the top of any solid fence on the rear line of the Lot (as originally constructed by Declarant). The question of unreasonableness shall be determined by the Architectural Committee, and the determination of the Architectural Committee shall be final and shall be binding upon every Owner. The Architectural Committee shall also be empowered to force the cutting, pruning, or trimming of trees and shrubs in order to preserve the View on each Lot.

3.30 Enforcement. The failure of any Owner to comply with the provisions of this Article 3, or with any other provision of this Declaration, shall give rise to a cause of action in the Association and in any aggrieved Owner for the recovery of damages, or for injunctive relief, or both.

ARTICLE 4.

THE ASSOCIATION; MEMBERSHIP AND VOTING RIGHTS

4.1 Formation. The Association is a nonprofit mutual benefit corporation formed under the laws of the State of California, and upon the close of the first Lot sale to an Owner, shall be and become charged with the duties and vested with the powers set forth in the Articles, the Bylaws, and this Declaration.

4.2 Association Action. Except as to matters expressly requiring the approval of Owners as set forth in this Declaration, the Articles, or the Bylaws, the affairs of the Association, including without limitation the exercise of its powers and duties, shall be conducted by the Board, such officers as the Board may elect or appoint, or such persons or entities with delegated authority under the provisions of Section 5.1(d) below.

4.3 Membership.

(a) Qualifications. Each Owner, including Declarant, shall be a Member of the Association. Membership shall be appurtenant to each Lot, and the holding of an ownership interest in a Lot shall be the sole qualification for membership, provided that no Owner shall hold more than one membership even though such Owner, including Declarant, may own, or own an interest in, more than one Lot. Ownership of a Lot or interest therein shall be the sole qualification for an entitlement to membership in the Association. Each Owner shall remain a Member of the Association until such time as his ownership or ownership interest in all Lots in the Development ceases for any reason, at which time his membership in the Association shall automatically cease. A Member shall not include (i) persons or entities who hold an interest in a Lot merely as security for performance of an obligation, (ii) contract purchasers not qualifying as Owners under Section 1.20 above, or (iii) trustees under any instrument securing performance of an obligation.

(b) Members' Rights and Duties. Each Member shall have the rights, duties and obligations set forth in this Declaration, the Articles, Bylaws, and Association Rules, as the same may be amended from time to time .

(c) Transfer of Membership. The Association membership of each person or entity who owns, or owns an interest in, one or more Lots shall be appurtenant to each such Lot, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon a transfer of title to each such Lot or interest therein and then only to the transferee thereof. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot or interest therein shall operate automatically to transfer the membership rights in the Association appurtenant thereto to the new Owner thereof.

4.4 Voting.

(a) Majority Approval Required. Except as otherwise provided in this Declaration, the Articles, or the Bylaws, and subject to the provisions of Section 4.4(b) below, all matters requiring the approval of Owners shall be deemed approved if Owners holding a majority of the total voting power of all Owners assent to by written consent or if approved at any duly called regular or special meeting at which a quorum is present, either in

