

After Recording Return To:

K. Layne Morrill
Aqua Vista Square, L.L.C.
One East Camelback Road
Suite 340
Phoenix, Arizona 85012

Lincoln County, Oregon
01/27/2012 03:35:47 PM
DOC-DECLAR

2012-00638

Cnt=1 Pgs=36 Stn=20

\$180.00 \$11.00 \$15.00 \$10.00 \$7.00 - Total =\$223.00



00054110201200006380360362

I, Dana W. Jenkins, County Clerk, do hereby certify
that the within instrument was recorded in the Lincoln
County Book of Records on the above date and time.
WITNESS my hand and seal of said office affixed.



Dana W. Jenkins
Dana W. Jenkins, Lincoln County Clerk

**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS**

AVS TOWNHOUSE PUD

**A CLASS II PLANNED COMMUNITY
UNDER THE OREGON PLANNED COMMUNITY ACT**

TABLE OF CONTENTS

RECITALS 1

PURPOSE 1

ARTICLE 1: DESCRIPTION 1

 1.1 Name 1

 1.2 Location 1

 1.3 Legal Description 1

 1.4 Lots and Common Area 1

 1.5 Oregon Planned Community Act 1

 1.6 Declarant 2

 1.7 Declarant Improvements 2

ARTICLE 2: AFFORDABILITY COVENANTS 2

 2.1 Intent 2

 2.2 Covenant Holder 2

 2.3 Duration of Covenant 2

 2.4 Affordable Rental 2

 2.5 Affordable Sale 2

 2.5.1 Principal Residence 2

 2.5.2 Qualified Lessor 2

 2.5.3 Eligible Buyers 3

 2.5.4 Sale Price on Initial Sale 3

 2.5.5 Sale Price on Resale 3

ARTICLE 3: COMMUNITY ASSOCIATION 3

 3.1 Creation and Succession 3

 3.2 Powers and Obligations 4

 3.3 Membership 4

 3.4 Voting Rights 4

 3.5 Bylaws 4

 3.6 Member Meetings 4

 3.7 Turnover Meeting 4

 3.8 Common Area Sales and Liens 5

ARTICLE 4: OWNERSHIP RIGHTS 5

 4.1 Lots 5

 4.2 Common Area 5

 4.3 Easements 5

 4.3.1 Platted Easements 5

 4.3.2 Common Area 6

 4.3.3 Encroachment 6

 4.3.4 Association Easements 6

 4.3.5 Government and Utility Easements 6

 4.3.6 Declarant Easements 7

ARTICLE 5: CONSTRUCTION RESTRICTIONS	7
5.1 Construction and Modification	7
5.2 Setbacks and Height Restrictions	7
5.3 Exterior Finish and Window Coverings	7
5.4 Auxiliary Structures	7
5.5 Common Area	8
ARTICLE 6: ARCHITECTURAL CONTROL COMMITTEE	8
6.1 Purpose and Authority	8
6.2 Membership: Appointment and Removal	8
6.3 Declarant's Rights	8
6.4 Written Approval of Proposed Work	8
6.5 Approval Standards	9
6.6 Timing of Approval	9
6.7 Action Without Meeting	9
6.8 Effective Period of Approval	9
6.9 Right of Entry	9
6.10 Evidence of Compliance	10
6.11 Precedent Not Binding	10
6.12 No Liability	10
ARTICLE 7: USE RESTRICTIONS	10
7.1 Residential Use	10
7.2 Long Term Rentals	11
7.2.1 Term	11
7.2.2 Tenant Compliance	11
7.2.3 Member Liability	11
7.2.4 Suspension of Rental Rights	11
7.3 No Vacation Rental	11
7.4 Use of Common Area	11
7.5 Animals	11
7.6 Nuisance	11
7.7 Parking	11
7.7.1 Motor Vehicles	12
7.7.2 Street Parking	12
7.7.3 Recreation Vehicles	12
7.7.4 Vehicles in Disrepair	12
7.7.5 Violators Towed	12
7.7.6 Repairs	12
7.8 Garage	12
7.9 Signs	12
7.10 Utilities, Antennas, Clotheslines	12
7.11 Temporary Structures	13
7.12 Liability for Debris or Damage	13
7.13 Additional Rules	13

ARTICLE 8: EXTERIOR MAINTENANCE	13
8.1 Intent	13
8.2 Lot Appearance	13
8.3 Landscaping and Outdoor Lighting	13
8.4 Maintenance and Repair of Improvements	13
8.5 Maintenance and Repair of Common Area	13
8.6 Association May Perform and Assess	14
ARTICLE 9: INSURANCE	14
9.1 Authority to Purchase	14
9.2 Townhouse Owners - Members	14
9.3 Coverage	14
9.4 Premiums	16
9.5 Limitations	16
9.6 Insurance Trustee	17
ARTICLE 10: CASUALTY DAMAGE RECONSTRUCTION OR REPAIRS	18
10.1 Use of Insurance Proceeds	18
10.2 Proceeds Insufficient	18
10.3 Restoration Not Required	18
10.4 Responsibility	18
10.5 Estimate of Costs	19
ARTICLE 11: ASSESSMENTS	19
11.1 Covenant to Pay Assessments	19
11.2 Uniform Rate of Assessment	19
11.3 Purpose of Assessments	19
11.4 Reserve Account	19
11.5 Regular Assessments	20
11.6 Commencement of Regular Association/Payments of Association Expenses. . .	20
11.7 Additional Assessments for Special Benefit	20
11.8 Special Assessments for Capital Improvements	21
11.9 Delinquency; Assessment Lien and Enforcement	21
11.10 Priority of Assessment Liens	21
11.11 Assessment Certificate	21
11.12 Transfer Fee	22
11.13 Surplus or Common Profits	22
ARTICLE 12: ENFORCEMENT	22
12.1 Association Sanctions	22
12.2 Emergency Procedure	22
12.3 Interest, Expenses, and Attorney Fees	22
12.4 Non-exclusiveness and Accumulation of Remedies	23
12.5 Effect of Breach	23
12.6 Effect of Nonenforcement	23
12.7 Nonliability	23

ARTICLE 13: GENERAL PROVISIONS	23
13.1 Severability	23
13.2 Duration	23
13.3 Amendment	23
13.4 No Right of Reversion	24
13.5 Rights of Mortgagees Relating to Maintenance	24
13.6 Option to Purchase	24
13.7 Notices	24
13.8 Assignment	24
13.9 Indemnification	25
13.10 Jurisdiction and Venue	25
13.11 Interpretation	25

**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
AVS TOWNHOUSE PUD**

RECITALS

WHEREAS, JHWF, LLC d/b/a Aqua Vista Square, L.L.C., an Oregon limited liability company (hereafter referred to as "Declarant"), is record owner of certain real property located in the City of Yachats, which has been approved by the Yachats Planning Commission as the AVS Townhouse PUD; and

WHEREAS, Declarant desires, for the benefit of all residents and owners of AVS Townhouse PUD to: (a) provide for the maintenance and replacement of Common Areas and (b) impose certain covenants, restrictions and easements.

NOW, THEREFORE, Declarant hereby imposes these declarations on the Property:

PURPOSE

For the purpose of protecting the value and desirability of the Property, it shall be managed, held, sold and conveyed as a planned community subject to the laws of the State of Oregon, ordinances of the City of Yachats, any other applicable government regulations, and the following covenants, conditions, restrictions, and easements ("CC&Rs") which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any portion thereof, their heirs, successors and assigns, and shall inure to the benefit of said parties and each of them.

ARTICLE 1

DESCRIPTION

- 1.1 **Name.** The name of the planned community is AVS Townhouse PUD.
- 1.2 **Location.** AVS Townhouse PUD is located entirely within the city limits of the City of Yachats, County of Lincoln, State of Oregon.
- 1.3 **Legal Description.** The legal description of all the Property included in AVS Townhouse PUD is set forth on **Exhibit "A"** attached hereto and incorporated herein.
- 1.4 **Lots and Common Area.** AVS Townhouse PUD is comprised of six (6) individual lots (each a "Lot" and collectively the "Lots"), each of which shall be used for the construction of one Townhouse building, and Common Area Tracts A through C for use by all owners and permitted tenants. The legal descriptions of each Lot shall be with reference to the final plat recorded to be recorded in the records of Lincoln County promptly following the recordation of this Declaration. For convenient reference a copy of the plat depicting the Lots and the Common Area is attached hereto as **Exhibit "B"** and incorporated herein.
- 1.5 **Oregon Planned Community Act.** AVS Townhouse PUD is a Class II Planned Community as defined in ORS § 94.550(4) and is subject to the Oregon Planned Community Act, ORS §§ 94.550 to 94.783.

1.6 Declarant. Declarant is the initial owner of the Property and the developer of AVS Townhouse PUD. All Declarant's rights and obligations under this Declaration shall inure to and be binding upon Declarant's successors and assigns.

1.7 Declarant Improvements. Except as may be provided for under the terms of a separate contract between Declarant and the owner of a Lot, Declarant has no obligation to provide landscaping or add improvements to any Lots. Declarant shall cause the Common Area to be improved with landscaping and related improvements as generally described on Exhibit "C" hereto with such modifications as seem necessary or appropriate during the course of construction of those improvements.

ARTICLE 2

AFFORDABILITY COVENANTS

2.1 Intent. Declarant intends by this Article 2 to create Affordability Covenants as defined in and authorized by ORS §§ 456.270 *et seq.*

2.2 Covenant Holder. Our Coastal Village, Inc., an Oregon public benefit corporation ("OCV") is a public charity under section 501(c)(3) and section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986, one of whose purposes is to provide affordable housing for low and moderate income households, and is an eligible covenant holder under ORS § 456.270(3)(c). OCV has provided and will provide subsidies to the AVS Townhouse PUD. OCV and its successors and assigns shall be the covenant holder of the Affordability Covenant set forth in this Article 2 (each a "Covenant Holder").

2.3 Duration of Covenant. Subject to the provisions of Section 2.5, the Affordability Covenant created by this Article 2 shall endure for a period of thirty (30) years from the recordation of this Declaration (the "Term") and shall be enforceable in all respects by a Covenant Holder. Upon the expiration of the Term, the Affordability Covenant shall have no further force or effect and shall cease to be enforceable.

2.4 Affordable Rental. During the Term, Townhouses (and flats within Townhouse buildings) on any Lot shall be rented only to households with income between 50% and 100% of area median income ("AMI") as defined in ORS § 456.270(2) (each an "Eligible Tenant"), as their primary residence, and only in compliance with Sections 7.1, 7.2, and 7.3 of this Declaration. Only one (1) Eligible Tenant with income greater than 80% of AMI shall be permitted for each two Eligible Tenants with income at or less than 80% of AMI. Rental rates shall not exceed the amount which, at the commencement of the term of the lease would cause the Eligible Tenant's total housing cost for the rented Townhouse or flat to equal thirty percent (30%) of household income. Annual re-certification of income eligibility is required by each Tenant in order to continue renting. If the Eligible Tenant's income has increased on re-certification, but still qualifies, the rent may be increased appropriately. Total housing cost for this purpose includes rent and electric utility charges.

2.5 Affordable Sale.

2.5.1 Principal Residence. During the Term, the Townhouse on any Lot shall be sold only for use as the buyer's principal residence.

2.5.2 Qualified Lessor. During the Term, the Townhouse on any of Lots 1-5 shall be sold only in conjunction with the conveyance of legal title to the Lot to a community land trust or other exempt organization (including OCV or a single member limited liability company wholly owned by OCV) whose purpose is to provide affordable housing for low or moderate income households (a "Qualified Lessor") and the concurrent ground lease of the Lot by such Qualified Lessor to an Eligible Buyer under a ground lease for a term of at least ninety (90) years at a nominal rental rate ("Qualified Ground Lease"). Any Qualified Lessor to whom legal title to a Lot is conveyed and who is not the Covenant Holder is hereby granted a third party right of enforcement (as defined in ORS § 456.270(7)) as to the Affordability Covenants set forth in this Article 2. Any Qualified Ground Lease may impose additional covenants, conditions, and restrictions designed to ensure the permanent affordability of the Townhouse on the Lot covered by the Qualified Ground Lease for future Eligible Buyers, and such additional covenants, conditions, and restrictions: (a) may extend for periods longer than the Term but no longer than the term of the Qualified Ground Lease; (b) may include any provision permitted by ORS §§ 456.270 *et seq.*; and (c) shall not contain any provisions that are contrary to, or conflict with, the terms of this Declaration, except as expressly permitted in this Section 2.5.2.

2.5.3 Eligible Buyers. During the Term, the Townhouse on any Lot shall be sold only to an Eligible Buyer. An Eligible Buyer shall be either: (a) for the first sale of a Townhouse on Lots 1-5 by Declarant, a household with income between 50% and 100% of AMI, and only one (1) Eligible Buyer with income greater than 80% of AMI shall be permitted for each two Eligible Buyers with income at or less than 80% of AMI; or (b) for re-sales of a Townhouse on Lots 1-5 after the first sale by Declarant, a household with income between 50% and 120% of AMI.

2.5.4 Sale Price on Initial Sale. The net sale price of the first sale of a Townhouse by Declarant to an Eligible Buyer shall be at a price, not in excess of all construction costs for the Townhouse and its allocable share of costs of construction of the Common Area and all sales and closing costs, which will permit the Qualified Buyer's total housing cost ("Total Housing Cost") to equal thirty percent (30%) of the Eligible Buyer's income at the date of the sale contract. Total Housing Cost includes principal and interest payments on a loan secured by the Townhouse; casualty and liability insurance; mortgage insurance if any is required; property taxes, if any; monthly fees, lease and stewardship fees charged under a Qualified Ground Lease; and monthly assessments by the Association.

2.5.5 Sale Price on Resale. The sale price of a Townhouse on any re-sale transaction to an Eligible Buyer after the initial sale by Declarant shall not exceed the lesser of: (a) the price which, considering any down payment assistance for which the Eligible Buyer qualifies, will permit the Total Housing Cost of the Qualified Buyer to equal thirty percent (30%) of the Eligible Buyer's income at the date of the sale contract; and (b) any re-sale price limit set forth in the Qualified Ground Lease.

ARTICLE 3

COMMUNITY ASSOCIATION

3.1 Creation and Succession. Declarant has created an Oregon non-profit mutual benefit corporation named "AVS Townhouse Association, Inc." (the "Association"). The Association shall have property, powers, and obligations as set forth in this and other recorded declarations and covenants for the benefit of the Property and its Members. The existence of the Association shall

be perpetual. However, if for any reason the entity operating as the Association is dissolved, the Members may create a new Oregon non-profit corporation entity to operate as the Association. All property, powers, and obligations of the Association shall automatically vest in such other Oregon non-profit corporation, or if one is not created, then all property, powers, and obligations of the Association shall automatically vest in an unincorporated association comprised of all the Members. The unincorporated association shall function to the fullest extent possible in accordance with this Declaration, Bylaws and any other applicable regulations existing at the time of the dissolution.

3.2 Powers and Obligations. The Association shall have the power and obligation to: (a) own, manage, maintain and administer the Common Area and facilities of AVS Townhouse PUD; (b) administer and enforce this Declaration; (c) collect and disburse assessments and charges; and (d) take such actions and establish such rules and Bylaws as are deemed useful to the management and operation of the Association and the Property in accordance with the provisions of this Declaration.

3.3 Membership. Each owner of one or more Lots in AVS Townhouse PUD, including Declarant, is a Member of the Association. An owner is the person named as: (a) the grantee on a duly executed and recorded deed; (b) the vendee on a duly executed and recorded contract of sale; or (c) notwithstanding (a) or (b) the lessee under a Qualified Ground Lease. The holder of a security interest in a Lot is not an owner. Whenever a Lot or Townhouse is sold, membership is automatically transferred to the new owner effective upon recording of either the deed, the contract of sale, or the memorandum of the Qualified Ground Lease. It is the duty of each Member to provide the Association with: (i) a copy of the Member's: (A) recorded deed; (B) recorded contract of sale; or (C) recorded memorandum or assignment of memorandum of Qualified Ground Lease and (ii) the Member's current mailing address, facsimile number and email address; and (iii) the Member's then current telephone number. If two or more persons own a Lot jointly, the owners jointly shall constitute one Member. If an entity owns a Lot, the entity shall designate in writing one natural person to act as the Member with respect to such entity.

3.4 Voting Rights. Except as provided herein, a Member shall have one (1) vote for each Lot owned with respect to all matters on which Members are entitled to vote. The owner of Lot 6, from and after completion of a Townhouse building containing two stacked flats, shall have two (2) votes, one (1) per stacked flat, with respect to all matters on which Members are entitled to vote. Except as provided herein, until the day following the Turnover Meeting (as defined in Section 3.7), Declarant shall have four (4) votes for each Lot owned, with respect to all matters on which Members are entitled to vote. From and after completion of a Townhouse building containing two stacked flats on Lot 6, Declarant shall have eight (8) votes as to Lot 6, four (4) votes per stacked flat. Unless otherwise provided in this Declaration or the Bylaws, a proposed action or resolution shall carry if approved by a simple majority of the total number of votes cast at a Member meeting at which a quorum is present. An abstention shall not count as a vote cast. A Member may vote by proxy, provided the proxy's authority is in writing and signed by the Member. When more than one (1) person or entity owns a Lot, the vote for such Lot may be cast as they shall determine, but in no event will fractional voting be allowed. Fractionalized or split votes shall be disregarded, except for purposes of determining a quorum. No change in the ownership of a Lot shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof as provided in Section 3.3.

3.5 Bylaws. The Association shall adopt Bylaws required under ORS § 94.635 which shall be recorded as provided in ORS § 94.625 (the "Bylaws").

3.6 Member Meetings. Member meetings shall be held as provided for in the Bylaws.

3.7 Turnover Meeting. In accordance with ORS § 94.609, Declarant shall call a special Member meeting ("Turnover Meeting") no later than 90 days after the earlier of: (a) at least four (4) Lots from the group consisting of Lots 1 through 5 have been conveyed to owners other than the Declarant and other than a person or entity who controls, is controlled by, or under common control with the Declarant ("Declarant Affiliate"); or (b) the date on which Declarant elects by written notice to all Members to terminate its voting preferences (the "Termination Date"). The purpose of the Turnover Meeting is to transfer the administrative responsibility from Declarant to the Association in accordance with ORS § 94.616. If Declarant fails to call the Turnover Meeting within the time stated, any Member may do so. If at the time of the Turnover Meeting Declarant or Declarant's Affiliate have not completed sales of all Lots and construction of Townhouses thereon, the Declarant shall continue to hold all of Declarant's rights hereunder, other than voting and administrative control, until such development is complete.

3.8 Common Area Sales and Liens. After the Turnover Meeting, the Association shall not convey any Common Area to another person or subject the Common Area to any lien or encumbrance without the prior approval of Members owning at least 66.66% of the Lots.

ARTICLE 4

OWNERSHIP RIGHTS

4.1 Lots. Title to each of the six (6) Lots of AVS Townhouse PUD as depicted on the final plat of AVS Townhouse PUD shall be conveyed in fee to an owner. Title may be held by any Eligible Household or Qualified Lessor. Title may be freely conveyed by an owner, but all conveyances are subject to covenants, conditions, restrictions, and easements of record, including this Declaration. For purposes of this Declaration, the owner of a Lot is the person named as: (a) the grantee on a duly executed and recorded deed; (b) the vendee on a duly executed and recorded contract of sale; or (c) notwithstanding (a) or (b) the lessee under a Qualified Ground Lease. Holders of security interests in Lots are not owners.

4.2 Common Area. Declarant shall convey the Common Area to the Association no later than sixty (60) days after the Turnover Meeting.

4.3 Easements. Deeds to individual Lots may, but are not required to, set forth the easements specified in this Article 4. Each Lot shall have the burden and benefit of the easements described herein, regardless of whether the easements are described in the Lot's deed of conveyance. An "easement holder" is the person who has the benefit of an easement over another person's property, which is the "encumbered property." An easement holder may not use an easement for any purpose other than the intended use of the easement. The owner of the encumbered property may use the encumbering easement to the extent that such use does not interfere with the easement holder's rights to use the easement. Easements in AVS Townhouse PUD include the following:

4.3.1 Platted Utility Easements. Lots and the Common Area are subject to public and private utility easements shown on the recorded plat of AVS Townhouse PUD and on any supplemental plat. Private utility easements are for the exclusive use of the Lot(s) to which the utilities provide service. An easement holder shall give notice to the owner(s) of the encumbered Lot(s) and to the Association at least two weeks prior to construction or repair within the easement, except in an emergency where reasonable notice shall be given, if possible. Within two (2) weeks after completion, the easement holder shall restore any property damaged in the course of the construction or repair. If the easement holder fails to do so, the Association may thereafter restore the damaged

property and charge the easement holder for the cost of restoration. If the bill for such charge is not paid within ten (10) days of receipt, the unpaid amount, and all costs and attorneys' fees incurred by the Association in connection therewith, plus interest at a rate of twelve percent (12%) per annum compounded annually, shall become a lien on the easement holder's Lot.

4.3.2 Common Area. Every Member shall have a non-exclusive easement over the Common Area for the use and enjoyment of the Common Area. This easement is appurtenant to and shall pass with title to each Lot. Any Member may delegate the rights of use and enjoyment of the Common Area to the Member's family, tenants, or guests provided they reside within the Member's Townhouse building in AVS Townhouse PUD and provided said Member gives the Association advance written notice of any such delegation. As long as Declarant owns any Lot, Declarant and Declarant's Affiliate shall have a non-exclusive easement over the Common Area to carry out all activities necessary and convenient for discharging Declarant's obligations or exercising Declarant's rights, including but not limited to, the sale of Lots, the construction of Townhouses and Common Area improvements, and all related activities. Easements over the Common Area are subject to the following conditions: (a) the right of the Association to limit the number of guests to use the Common Area; (b) the right of the Association to grant easements for public utilities or for other public purposes consistent with the intended use of the Common Area; and (c) the provisions of this Declaration, the Bylaws, and the rules and regulations established from time to time by the Association. Use of the Common Area for residential purposes is prohibited. No Member may use the Common Area in a manner that interferes with use of the Common Area by any other Member, Declarant, or the Association.

4.3.3 Encroachment. If an encroachment results from construction, reconstruction, or repair approved by Declarant or the Architectural Control Committee, or as a result of shifting, settlement or movement of any portion of AVS Townhouse PUD, an easement for the encroachment exists to the extent that any Lot or Common Area encroaches on any other Lot or Common Area. An easement continues for maintaining the encroachment so long as the encroachment exists. This provision does not relieve any Member, Declarant, or the Association of liability for knowingly violating the recorded plat of AVS Townhouse PUD or this Declaration. Where the action of a party creates an encroachment and, at any time prior to substantial completion of the action, the party has actual knowledge of or is made aware of the encroachment, the party may be held liable for monetary damages for the encroachment and subject to a court order to remove the encroachment.

4.3.4 Association Easements. The Association shall have, in addition to any other easements granted in this Declaration or in any other instrument, the following easements: (a) all non-utility easements set forth on the plat of AVS Townhouse PUD; (b) an easement over each Lot for utilities; and (c) an easement over each Lot for installation and maintenance of landscaping installed by Declarant or the Association (if to be maintained by the Association) which shall include, but not be limited to such portions of the northern fifteen (15) feet of the AVS Townhouse PUD as are within Lots 1 and 3; the western five (5) feet of Lot 3; and the eastern five (5) feet of Lots 1 and 2. The Association shall also have such easements and licenses as Declarant may hereafter grant from time to time and shall have such easements and licenses over the Common Area and over individual Lots as are reasonably necessary to perform the duties and obligations of the Association as stated in this Declaration, the Bylaws and rules and

regulations of the Association, as they may be amended from time to time. The Association shall maintain its easements.

4.3.5 Government and Utility Easements. Government entities and utility companies shall have such easements and licenses over the Common Area and over individual Lots as are reasonably necessary to perform their functions.

4.3.6 Declarant Easements. Declarant hereby reserves perpetual easements under, over, and across the Common Area, and under, over and across the utility easement area of each Lot as shown on the final plat of AVS Townhouse PUD for the purpose of erecting, installing, constructing, maintaining and operating sewers and drainage and irrigating systems, and pipes, wires, cables and conduits for lighting, heating, power, telephone and any other method of conducting and performing any public or quasi-public utility service or function beneath, upon, or above the surface of such Common Area and such utility easement areas. Within the easements consisting of the setback areas, no structure, fence, planting or other materials may be placed or permitted to remain which may damage or interfere with the installation or maintenance of such utilities or facilities, or which may change the direction of flow of water through drainage channels or facilities in the easements or which may obstruct or retard the flow of water through drainage channels in the easements; provided, however, with prior written approval of the Association, a Member may install fencing or plant shrubs, bushes, or flowers in the easement if the Member agrees to remove the same at the Member's expense whenever it is necessary to have access to the land surface or sub-surface within the easement for any purpose specified herein and conditioned upon the Member making all necessary provision for alternate drainage facilities within the Member's Lot if surface drainage or sub-surface drainage is interrupted or altered.

ARTICLE 5

CONSTRUCTION RESTRICTIONS

5.1 Construction and Modification. No Townhouse may be built in AVS Townhouse PUD other than according to plans and specifications approved by Declarant or the Architectural Control Committee. No Townhouse in AVS Townhouse PUD may be repainted, retrimmed, or remodeled in any way that changes the exterior appearance of the Townhouse other than according to plans and specifications approved by Declarant or the Architectural Control Committee. If a Townhouse in AVS Townhouse PUD is partially or totally destroyed and the Member determines to repair or rebuild the Townhouse, the repair or rebuilding shall be done according to the same plans and specifications existing at the time the Townhouse was destroyed, except for any modifications that are approved in writing by the Declarant or the Architectural Control Committee, or modifications required in order to obtain a building permit under then applicable law. Manufactured homes are absolutely prohibited.

5.2 Setbacks and Height Restrictions. The setbacks and height restrictions of each Townhouse shall comply with the setback restrictions set forth in the Findings and Order of the Yachats Planning Commission dated 11-1-11 in Case No. 1-THPUD-PC-11. No Townhouse in AVS Townhouse PUD shall be remodeled or rebuilt in any way that changes the setbacks or height restrictions of the structure other than according to plans and specifications approved by Declarant. Chimneys, cornices, overhangs and eaves may extend into the required setbacks.

5.3 Exterior Finish and Window Coverings. Repair or replacement of any part of the exterior of a Townhouse may only be done using the same materials and colors as those being

repaired or replaced or a reasonable equivalent approved by the Association. Window coverings shall be curtains, shutters, drapes, shades, or blinds that are commercially manufactured or are of quality comparable to those that are commercially manufactured.

5.4 Auxiliary Structures. Auxiliary structures including but not limited to a mailbox, newspaper delivery box, woodshed, barbecue, pet enclosure and the like, may be constructed or placed on each Lot subject to Declarant's or Association's prior written approval. The appearance of any such auxiliary structure shall be unobtrusive, tasteful, and compatible with the design of AVS Townhouse PUD. No other structures or equipment may be placed on any Lot or Townhouse.

5.5 Common Area. The Common Area shall constitute open space for the use and benefit of Members. No improvements shall be constructed in the Common Area other than what Declarant will construct. Trash receptacles serving the Common Area may be located only at places approved by the Declarant or the Architectural Control Committee and shall be screened from view in a manner approved by the Declarant or the Architectural Control Committee.

ARTICLE 6

ARCHITECTURAL CONTROL COMMITTEE

6.1 Purpose and Authority. The purpose of this Declaration is to provide for and require all improvements to be in harmony with the general plan of improvement of the Property in order to insure the highest quality of development. Therefore, all improvements not approved by or undertaken by the Declarant or the Builder shall require prior written approval of the Architectural Control Committee, which is the body charged with maintaining the quality of AVS Townhouse PUD. The approval of plans and specifications submitted to the Architectural Control Committee may be withheld not only because of their non-compliance with any of the specific covenants, conditions, and restrictions contained in this Declaration, but also because of the dissatisfaction of the Association acting by and through the Architectural Control Committee with any and all other matters or things which, in the judgment of the Architectural Control Committee, would render the proposed structure, improvement or Lot alteration in any manner inharmonious with the general plan of improvement of AVS Townhouse PUD.

6.2 Membership: Appointment and Removal. The Architectural Control Committee shall be composed of three members elected by a majority vote of the Association's Board of Directors. At the first such election, one member shall be elected to serve a one-year term, one member shall be elected to serve a two-year term, and one member shall be elected to serve a three-year term, so that the terms of the three members will be staggered, one ending each year. The nominee receiving the highest number of votes shall be a three (3) year Director, the next highest number of votes shall be the two (2) year Director, and the third highest number of votes shall be the one (1) year Director. If any member of the Architectural Control Committee is unable or unwilling to act, the Association's Board of Directors shall elect a successor to serve out the unexpired term. No member of the Architectural Control Committee shall receive compensation for his or her services. The members of the Architectural Control Committee are officers of the Association.

6.3 Declarant's Rights. With respect to construction of improvements or alterations on Members' Lots which is subject to Declarant's approval, Declarant alone shall act in place

of the Association and the Architectural Control Committee in exercising the rights and fulfilling the obligations given under this Article.

6.4 Written Approval of Proposed Work. Except for construction, repair, replacement, modification or landscaping approved by Declarant, no Townhouse or any structure or improvement of any kind or nature, including landscaping, shall be commenced, erected, placed or altered on any Lot until the construction plans and specifications, and a plan showing the nature, shape, height, materials and colors together with detailed plans showing the proposed location of the same on the particular Lot and the proposed landscaping and drainage have been submitted to and approved in writing by the Architectural Control Committee. All plans and specifications for approval by the Architectural Control Committee must be submitted at least forty-five (45) days prior to the start of construction unless a shorter time is approved in writing by the Architectural Control Committee. The Architectural Control Committee may condition its approval of proposals and plans and specifications as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving material already submitted. All decisions of the Architectural Control Committee, including without limitation, approvals, disapprovals and waivers, shall be in writing and shall require the consent of at least two of its members.

6.5 Approval Standards. The Architectural Control Committee shall not approve any proposed work if it finds the proposed work would be inappropriate for the particular Lot or incompatible with the design standards of AVS Townhouse PUD. In making its decision, the Architectural Control Committee shall take into consideration the siting, shape, color, design, height, view impairment, and any other factors which the Committee reasonably finds material and relevant. If the Architectural Control Committee does not approve a proposed work, it shall provide the applicant with a specific written description of the reason(s) for not granting approval, so that the applicant may have a meaningful basis for modifying the proposal to meet with the Committee's approval.

6.6 Timing of Approval. In the event the Architectural Control Committee fails to approve or disapprove plans and specifications within forty-five (45) days after such plans and specifications have been submitted to it, the submitted plans and specifications shall be deemed approved. The forty-five (45) day time for response shall be deemed complied with if the Architectural Control Committee's notice is provided to the applicant in person or mailed within forty-five (45) days as determined by the date of mailing by the Committee. Such notice shall be delivered or mailed to the applicant at the address designated by the applicant for such purpose in his or her application.

6.7 Action Without Meeting. Except as otherwise provided herein, any two members of the Architectural Control Committee shall have the power to act on behalf of the Architectural Control Committee without the necessity of meeting and without the necessity of consulting with the remaining member of the Committee, if such consultation cannot occur in a timely fashion. Such members shall render their decision by written document setting forth the action taken and signed by both approving members.

6.8 Effective Period of Approval. If construction on the proposed work is not commenced within one (1) year after the date of approval, the approval is automatically revoked unless the effective time of the approval is extended in writing by the Architectural Control Committee.

6.9 Right of Entry. Any officer or duly authorized agent of the Association, including any member of the Architectural Control Committee, may, at any reasonable hour or

hours during construction or remodeling, enter and inspect any Lot or Townhouse as to its maintenance or improvements to determine if there has been compliance with the approved plans and specifications and with the provisions of this Declaration. The Association, and any officer or duly authorized agent thereof, shall not thereby be deemed guilty of any manner of trespass, invasion of privacy, or other legal wrong for such entry or inspection. The Association may issue a certificate of completion and compliance as to any property so inspected after all construction or repair has been completed.

6.10 Evidence of Compliance. Records of the Association with respect to compliance with the provisions of this Declaration shall be conclusive evidence as to all matters shown by such records to the extent the same are available. Records demonstrating compliance with the provisions of this Declaration may be provided to the County Clerk for recording in the records of the Lincoln County Recorder by the Member receiving approval. Issuance of a certificate of completion and compliance by an officer of the Association showing that the plans and specifications for the improvements or other matters herein provided for have been approved and that such improvements have been made in accordance therewith, or a certificate as to any matter relating to this Declaration by an officer of the Association shall be conclusive evidence that shall justify and protect any title company insuring title to any property subject to this Declaration and shall fully protect any purchaser or encumbrance holder in connection therewith. After the expiration of one (1) year following the issuance of a building permit therefor by municipal or other governmental authority, and written notice thereof is delivered to the Architectural Control Committee, 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 Association shall have been recorded in the office of the Lincoln County Recorder, or unless legal proceedings have been instituted to enforce compliance or completion.

6.11 Precedent Not Binding. The Architectural Control Committee shall treat each application for approval on a case by case basis. The Committee is not bound to approve a proposed work solely because it previously approved a similar work, and the Committee is not bound to disapprove a proposed work solely because it previously disapproved a similar work.

6.12 No Liability. Neither the Architectural Control Committee as a whole nor any individual Member of the Committee shall be liable to any Member, occupant, builder, architect, developer, or any other person or entity for any damage, loss or prejudice claimed to have been suffered as a result of any decision made by the Committee, provided that the Committee or the individual Member of the Committee acted in good faith in making the decision.

ARTICLE 7

USE RESTRICTIONS

7.1 Residential Use. Lots 1-5 shall be used exclusively for one single family Townhouse. Lot 6 may be used for two stacked flats, one or both of which may be rented in compliance with Section 7.2. Unless authorized by the Association, no trade, craft, business, profession, or commercial or similar activity shall be conducted on any Lot or in any home, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or businesses be kept or stored on any Lot or in any home. The Association may authorize any of the restricted uses that is otherwise lawful if it determines that only normal residential activities would be observable outside the Townhouse and that the use would not be in violation of applicable government ordinances. Approval by the Association does not constitute approval by the applicable governmental agency. Members and Declarant may use

Lots and homes for any of the following purposes without Association authorization: (a) activities relating to the sale or resale of Townhouses in AVS Townhouse PUD; (b) activities relating to the construction of homes or facilities in AVS Townhouse PUD; (c) maintaining a personal, professional or business library; (d) maintaining personal, professional or business records and accounts; (e) handling personal, professional or business telephone calls and faxes; (f) using a computer for personal, professional or business matters; and (g) conferring with personal, professional or business associates, clients and customers.

7.2 Long Term Rentals. Members may rent homes in AVS Townhouse PUD to Eligible Households in compliance with Article 2, upon the following additional terms and conditions:

7.2.1 Term. The term of the rental is not less than thirty (30) days.

7.2.2 Tenant Compliance. Tenants shall comply with the provisions of this Declaration, Association Bylaws, and all other applicable rules and regulations.

7.2.3 Member Liability. Members shall be liable for their tenants' and guests' violations of this Declaration, the Bylaws, or any other applicable rules and regulations.

7.2.4 Suspension of Rental Rights. If a tenant or series of tenants renting a Townhouse violate(s) this Declaration, Association Bylaws, or any other applicable rules and regulations two (2) or more times within any 12-month period, the Association may suspend the Member's rental rights for a period of up to 12 months.

7.3 No Vacation Rental. No Member shall rent any Lot or Townhouse in AVS Townhouse PUD for periods of less than thirty (30) days.

7.4 Use of Common Area. No Member shall place or cause to be placed on any portion of the Common Area, any trash, structure, equipment, improvement, furniture, package or object of any kind, except as may be allowed in proper designated receptacles. Such areas shall be used for no purpose other than as open space, hiking and grilling/picnicking in designated areas. All Common Areas are provided for the use of the Members and their guests. Rules and regulations may be adopted by the Board of Directors, setting out the hours the various facilities will be available for use, and the conditions attendant thereto. Compliance with such rules and regulations as determined by the Board of Directors is essential to the harmonious operation of the facilities.

7.5 Animals. Except for a maximum of one (1) common household pet which may not be used for commercial purposes and which must be controlled so as not to be a nuisance, no animals, livestock, or poultry may be bred, raised or kept on any Lot. A pet owner shall be liable for any nuisance or damage caused by the pet. Upon the request of any Member, the Board shall determine, in its sole and absolute discretion, whether, for the purposes of this Section 7.5, a particular animal is a common household pet or whether a particular animal is a nuisance. Every dog must be on a leash and may not enter any Lot other than its owner's Lot. Pet owners are responsible for cleaning up after pets and pets may not be left unattended in AVS Townhouse PUD. The Association may compel a Member to remove a pet from AVS Townhouse PUD if a Member violates this provision two (2) or more times.

7.6 Nuisance. No noxious, harmful, offensive, or unlawful activities may be carried on within AVS Townhouse PUD, nor may a Member engage in any activity that unreasonably interferes with or jeopardizes the enjoyment of the other Members. Whether any particular

activity violates this provision is to be determined by the Association on a case by case basis. No Member will permit any use of his or her Lot or make any use of the Common Area that will increase the cost of insurance to the Association.

7.7 Parking. No vehicle of any kind may be parked on any Lot or in the Common Area of AVS Townhouse PUD except in accordance with the conditions below.

7.7.1 Motor Vehicles. Motor vehicles owned or in the custody of any Member (or a permitted tenant of a Member): (a) whose Townhouse has a garage may be parked only in that garage located upon such Member's Lot; or (b) whose Townhouse does not have a garage, may be parked only in the surface parking space assigned to that Townhouse or flat and marked with a sign indicating reserved for that Townhouse or flat. Any vehicle which is not parked as provided in the two preceding sentences may not be kept on the Lot or on any Common Area.

7.7.2 Street Parking. Street parking is restricted to approved deliveries, pickup, or short-term guests or invitees.

7.7.3 Recreation Vehicles. Recreational vehicles such as campers, RVs, camp trailers, boats, motor homes, off-road vehicles, and similar vehicles may not be parked in any surface parking space, or elsewhere on any Lot in AVS Townhouse PUD. A recreational vehicle may be parked in a garage provided the garage door can be fully closed.

7.7.4 Vehicles in Disrepair. Vehicles that are inoperable, or in disrepair may not be parked in any open parking space or any open area or on any Lot. A vehicle that is inoperable or in disrepair may be parked in a garage provided the garage door can be fully closed.

7.7.5 Violators Towed. Vehicles parked in violation of this provision shall be subject to towing at the vehicle owner's expense, in addition to any other remedies available to any Member or the Association.

7.7.6 Repairs. No vehicle shall be repaired or rebuilt on any Lot or upon the Common Areas or public streets.

7.8 Garage. No vehicle may be parked in a garage in such a way that the garage door cannot be fully closed. All garage doors shall be closed except when vehicles are entering or exiting.

7.9 Signs. No sign of any kind shall be displayed to public view on any Lot, improvement, or Common Area, except one sign professionally made and approved by the Architectural Control Committee of not more than four (4) square feet posted on a Lot and advertising for sale the Lot or the Townhouse located on it. This restriction shall not prohibit the temporary placement of political signs by a Member on the Member's own Lot, or placement of a professionally made sign by Declarant, which complies with local applicable sign ordinances. This restriction does not apply to signs used by Declarant during construction and sales of homes.

7.10 Utilities, Antennas, Clotheslines. No outdoor overhead wire or service drop or other facility for the distribution of electric energy or for telecommunications purposes, nor any pole, tower or other structure supporting outdoor overhead wires shall be erected, placed or

maintained within AVS Townhouse PUD. All Members shall use underground service wires to connect their premises and the structures built thereon to the underground electric, telephone, utility, fiber optics, or cable television facilities provided, except as mandated by local jurisdiction or public utility companies. No satellite dish to serve less than all of the Townhouses or flats within AVS Townhouse PUD may be allowed upon any Lot or structure. A single satellite dish to serve all of the residential Townhouses and flats within AVS Townhouse PUD may be installed in the Common area, if approved by Declarant. All other antennas of any kind are also prohibited. Exterior clotheslines are prohibited. No clothes shall be hung on an exterior surface of a Townhouse or in any Common Area.

7.11 Temporary Structures. No trailer, tent, shack, garage, barn, other outbuilding or any other structure of a temporary nature may be erected or placed in AVS Townhouse PUD.

7.12 Liability for Debris or Damage. Each Member is liable for debris on or damage to the Common Area caused by the Member, including without limitation, the Member's guests, tenants, contractors, employees, agents, and invitees. Each Member is liable for debris on or damage to any other Member's Townhouse, on-Lot landscaping, or permitted additional structures caused by the Member, including without limitation, the Member's guests, tenants, contractors, employees, agents, and invitees.

7.13 Additional Rules. Rules and regulations concerning other use of the Property may be made and amended from time to time by the Board of Directors. Copies of such rules and regulations will be furnished to all Members and residents of the Project, upon request.

ARTICLE 8

EXTERIOR MAINTENANCE

8.1 Intent. Given the close proximity of the Lots to each other and to the Common Area, the Members' use and enjoyment of their property rights, and the value of their Lot and Townhouse, will be adversely affected by the failure of any other Member to perform necessary and appropriate maintenance on his or her Lot and Townhouse. This Article 8 is intended to insure that all Lots and the exterior of all Townhouses are properly maintained for the benefit of all Members and permitted tenants.

8.2 Lot Appearance. Each Member is responsible for keeping the Member's Lot clean and free from debris, and the Member's Townhouse, including the roof, clean and in good repair so as not to present an unsightly appearance. A Member shall promptly clean any debris from and repair any damage done to the Member's Lot or Townhouse.

8.3 Landscaping and Outdoor Lighting. A Member may add shrubs, bushes, or flowers to the Member's Lot after the construction of the Townhouse, provided that such added landscaping is approved by the Architectural Control Committee. Each Member shall cause the landscaping on his or her Lot to be trimmed and maintained in accordance with good landscape maintenance practices. Each Member shall maintain any outdoor lighting on his or her Lot. The Association shall maintain any landscaping and outdoor lighting installed on the Common Area. Outdoor lighting on each improved Lot shall be wired into the individual Townhouse and electricity costs shall be included in the owner's electric bill, and each Lot owner shall replace all outdoor lighting light bulbs and maintain, repair and replace the hardware.

8.4 Maintenance and Repair of Improvements on Lots. Each Member shall maintain and repair the exterior of all improvements situated on the Member's Lot, in a manner

satisfactory to the Association Board and in compliance with all the other provisions of this Declaration.

8.5 Maintenance and Repair of Common Area. The Association shall maintain, repair, and make necessary improvements to all of the Common Area, including but not limited to the exterior surface parking, the garden, the grill patio, and the privacy wall/fence. The cost of all such repairs and maintenance by the Association shall be a Common Area expense paid for by the Association from the assessments collected from Members.

8.6 Association May Perform and Assess. In the event a Member shall fail to maintain his or her Lot, its landscaping, or the exterior of all improvements situated thereon as provided in Sections 8.2, 8.3, or 8.4, then the Association, after approval by the Board, shall have the right, through its agents, employees, and contractors, to enter upon said Lot and to repair, maintain, and restore the Lot, landscaping, outdoor lighting, and the exterior of the any improvements erected thereon. The Association shall assess the violating Member the entire direct and indirect cost of the work done, which amounts shall immediately be payable to the Association. The Association may also impose such other sanctions as are permitted under Article 12.

ARTICLE 9

INSURANCE

The insurance which shall be carried upon the AVS Townhouse PUD shall be governed by the following provisions:

9.1 Authority to Purchase. All casualty and public liability insurance policies upon the AVS Townhouse PUD shall be purchased by the Association for the benefit of the Members and their respective mortgagees as their respective interests may appear and shall provide for the issuance of certificates of mortgage insurance endorsements to the holders of mortgages on the Townhouses or any of them, and shall provide that the insurer waives its rights of subrogation as to any claims against individual Members, the Association and their respective servants, agents, and guests. Such policies and endorsements shall be deposited with the Association and each Member shall receive an insurance certificate evidencing the blanket casualty and liability insurance.

9.2 Members. Each Member shall obtain insurance, at his own expense, affording additional coverage upon that area of his Townhouse not insured by the Association and upon his personal property and for his personal liability and as may be required by law. All such insurance shall be obtained through the same insurance carrier as that through which the Association's insurance is carried pursuant to this Declaration and all such insurance shall contain the same waiver of subrogation as required under Section 9.1. Members shall be required to file copies of any such individual Member policies with the Association within thirty (30) days following purchase of any such policy. Each Member's policy shall benefit the Member as well as any renter of the Townhouse or flat.

9.3 Coverage.

(a) Casualty. The buildings and all other insurable improvements within the AVS Townhouse PUD and upon the Property and all personal property as may be owned by the Association shall be insured in an amount equal to the maximum insurable replacement value thereof (exclusive of excavation and foundations) as determined annually through an appraisal by the insurance company affording such coverage. Such coverage shall afford

protection against: (i) loss or damage by fire and other hazards covered by the standard extended coverage endorsements which policy shall include all interior walls, floors, fixtures or equipment located therein; and (ii) such other risks as from time to time customarily shall be covered with respect to properties similar in construction, location and use as the AVS Townhouse PUD, including, but not limited to, debris removal, cost of demolition, vandalism, malicious mischief, windstorm and water damages.

(b) Public liability insurance covering all of the Common Areas in such form and in such amounts as shall be required by the Association, provided that there shall be a minimum of \$1 million in coverage for all claims for personal injury and/or property damage arising out of a single occurrence, including protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others and, if applicable, elevator collision, garage keeper's liability, host liquor liability and such other risks as are customarily covered in similar projects. All liability insurance shall contain cross-liability endorsements to cover liabilities of the Members as a group to another Member.

(c) Workers' Compensation and employers liability insurance sufficient to meet the requirements of law, providing coverage for all paid or unpaid employees of the Association which must also include subcontractors or other firms who provide personnel to work on or in the project, unless acceptable evidence of current coverage is provided by the subcontractor or firm.

(d) Casualty insurance coverage of Townhouses by the Association shall include coverage on all portions of the AVS Townhouse PUD originally installed or replaced, with Association approval, of like kind and quality, in accordance with the original plan specifications to the extent obtainable. The insuring responsibility of the Association shall exclude wall, floor, and ceiling coverings, electrical fixtures, appliances, water heaters, water filters, built in cabinets and countertops, window treatments including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing that are located within the boundaries of a Townhouse and serve only one Townhouse. Casualty insurance coverage of Townhouses by the Association shall include: (i) Endorsements insuring all air conditioning-heating equipment and other service machinery, covering the interest of the Association, the Board of Directors and all Members and their mortgagees, as their interest may appear, in an amount equal to full replacement value, without deduction for depreciation; each of such policies shall contain a Standard Mortgagee clause in favor of each mortgagee of a Townhouse which shall provide that the loss, if any, thereunder shall be payable to such mortgagee as its interest may appear, subject, however, to the loss payment provisions in favor of the Board of Directors, hereinafter set forth; (ii) Glass insurance; (iii) Water damage insurance; and (iv) Such other insurance as the Board of Directors may determine.

(e) Director's and Officer's Liability Insurance to protect volunteers in the operation of the Association should be obtained, if available.

(f) Flood insurance must be provided if flood insurance is available under the National Flood Insurance Program (NFIP) and if the property is in a designated special flood hazard area. The flood insurance shall be in the form of the standard policy issued by members of the National Flood Insurers Association or a policy which meets the criteria set forth in the Guidelines published by the Flood Insurance Administration in the Federal Register on July 17, 1974. The minimum amount of flood insurance is the lowest of: (1) the values of the insurable improvements, or (2) the maximum amount of flood insurance that

was available on the date the first mortgage was closed. The policy shall be a blanket policy of flood insurance in the name of the Association or the Insurance Trustee. If individual policies insuring an owner of a Townhouse are not available however, a Townhouse owner may obtain an individual policy covering the Townhouse's contents.

9.4 Premiums. Premiums on insurance policies purchased by the Association shall be paid by the Association and charged to the individual Members as a part of the Regular Assessments.

9.5 Limitations. Any insurance obtained pursuant to the requirements of this Article shall be subject to the following provisions:

(a) Exclusive authority to negotiate losses under said policies shall be vested in the Board of Directors of the Association, as a trustee for the owners of the Townhouses, or its authorized representative, including any trustee with which the Board of Directors of the Association may enter into any Insurance Trust Agreement, or any successor trustee, each of which shall be herein elsewhere referred to as the "Insurance Trustee."

(b) In no event shall the insurance coverage contained and maintained pursuant to the requirements of this Article be brought into contribution with insurance purchased by the owners of the Townhouses or their mortgagees, as herein permitted, and any "no other insurance" or similar clause in any policy obtained by the Board of Directors of the Association pursuant to the requirements of this Article shall exclude such policies from consideration.

(c) Such policies shall contain no provision relieving the insurer from liability because of loss occurring while a hazard is increased in the AVS Townhouse PUD, whether or not in the control or knowledge of the Board of Directors and shall contain no provision relieving the insurer from liability by reason of any breach of warranty or condition caused by the Board of Directors or any owner of any Townhouse, or their respective agents, employees, tenants, mortgagees or invitees or by reason of any act of neglect or negligence on the part of any of them.

(d) All policies shall provide that such policies may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days prior written notice to any and all insureds named thereon, including any and all mortgagees of the Townhouses.

(e) All policies shall contain a waiver of by the insurer as to any and all claims against the Board of Directors, the owner of any Townhouse and their respective agents, employees or tenants, and of any defenses based upon co-insurance or invalidity arising from the acts of the insured.

(f) All policies of casualty insurance shall contain the standard mortgagee clause except that any loss or losses payable to the named mortgagee shall be payable to an insurance trustee designated for that purpose, or to the association, in the manner set forth elsewhere in this Article. Such mortgagee clause shall provide for notice in writing to the mortgagee of any loss paid as aforesaid. Except in the event of a decision not to rebuild the casualty damage in accordance with Article 10, the insurance proceeds shall be disbursed first for the complete repair or restoration of the damaged Common Area and Townhouses.

(g) In the event a Member's property or liability insurance upon his interest in the AVS Townhouse PUD, in case of loss, results in proration of insurance proceeds between the master policy carried by the Association and the individual Member's insurer, the proceeds available under the Member's policy shall be payable to the Association or any Insurance Trustee, who is irrevocably designated as Trustee of each insuring Member for the purpose of reconstruction. Any overplus remaining upon completion of reconstruction directly affecting any such Townhouse shall thereupon be paid by the Association or Insurance Trustee to such Member.

(h) All policies of property insurance must provide that, despite any provisions giving the carrier the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable without the prior written approval of the Association (or any Insurance Trustee) or when in conflict with the provisions of any Insurance Trust Agreement to which the Association may be a party, or any requirements of law.

9.6 Insurance Trustee. In the event the cost of reconstruction or repair (as estimated by the Board of Directors) shall exceed an amount equal to 5% of the full replacement value of the AVS Townhouse PUD, as estimated by the Board of Directors and the insurer and the holder or holders of any first mortgages shall so require, all proceeds of insurance shall be paid over to a trust company or bank (the "Insurance Trustee") having trust powers and authorized to engage in trust business in the jurisdiction wherein the AVS Townhouse PUD is located, and having a construction loan department, through which such trust funds shall be administered, selected by the Board of Directors with the approval of the said first mortgagees, and shall be paid out from time to time as the reconstruction or repair progresses in accordance with the provisions of an insurance trust agreement satisfactory in form and substance to the first mortgagees which shall contain, inter alia the following provisions:

(a) The reconstruction or repair shall be in the charge of an architect or engineer, who may be an employee of the Board of Directors, satisfactory to the first mortgagees;

(b) Prior to the commencement of the reconstruction or repair, other than such work as may be necessary to protect the AVS Townhouse PUD from further damage, the first mortgagees shall have approved the Plans and Specifications for such reconstruction or repair, which approval shall not be unreasonably withheld or delayed.

(c) Unless otherwise required by the first mortgagees, each request for an advance of the proceeds of insurance shall be made to the first mortgagees at least ten (10) days prior to delivery to the Insurance Trustee and shall be accompanied by a certificate from the architect to the effect that:

(i) all work completed has been performed in accordance with the Plans and Specifications and all building codes or other similar governmental requirements; and

(ii) the amount requested to be advanced is required to reimburse the Board of Directors or is due to the contractor responsible for the restoration or repair, or to subcontractors, materialmen, laborers, engineers, architects, or to other persons responsible for services or materials in connection with such restoration or repair, or for fees or the like necessarily incurred in connection with the same;

(iii) when added to amounts previously advanced by the Insurance Trustee, the amount requested to be advanced does not unreasonably exceed the value of the work done and materials delivered to the date of such request; and

(iv) funds remaining available to the Insurance Trustee for the purpose are sufficient to complete the reconstruction or repair.

(d) The fees and expenses of the Insurance Trustee, as agreed upon by the Board of Directors and the Insurance Trustee, shall be paid by the Association as a Special Assessment, and such fees and expenses may be deducted from any insurance proceeds in the hands of the Insurance Trustee, pro rata, as the reconstruction or repair progresses.

(e) Such other provisions not inconsistent with the provisions hereof as the Board of Directors, the Insurance Trustee, or the first mortgagees may reasonably require. Upon the completion of the reconstruction or repair and payment in full of all amounts due on account thereof, any proceeds of insurance then in the hands of the Insurance Trustee shall be paid to the Association and shall be considered as one fund and shall be divided among the Members in the same proportion as that established in the Declaration for ownership of appurtenant undivided interests in the Common Areas, after first paying out of the share of the owner of any Townhouse, to the extent such payment is required by any lienors and to the extent the same is sufficient for the purpose, all liens upon said Townhouse in accordance with the priority of interest in each.

ARTICLE 10

CASUALTY DAMAGE RECONSTRUCTION OR REPAIRS

10.1 Use of Insurance Proceeds. In the event of damage or destruction to the AVS Townhouse PUD by fire or other casualty, the same shall be promptly repaired or reconstructed in substantial conformity with the original plans and specifications for the AVS Townhouse PUD with the proceeds of insurance available for that purpose, if any.

10.2 Proceeds Insufficient. In the event the proceeds of insurance are not sufficient to repair damage or destruction by fire or other casualty, or in the event such damage or destruction is caused by any casualty not insured against, then the repair or reconstruction of the damage shall be accomplished promptly by the Association charging the same as a Special Assessment to the individual Members, pursuant and subject to such conditions and subject to such controls as any Insurance Trustee may require. In the event the proceeds of casualty insurance are paid to any Insurance Trustee, then all funds collected from the Members of the Townhouses pursuant to this 10.2 shall likewise be paid over to such Insurance Trustee, and shall be disbursed by such Insurance Trustee in accordance with the provisions of Section 10.6 hereof.

10.3 Restoration Not Required. In the event the AVS Townhouse PUD is damaged or destroyed by fire or other casualty to the extent of 75% of the full replacement value of the AVS Townhouse PUD, as estimated by the Board of Directors and the insurer, and the Members resolve not to proceed with repair or reconstruction, then in that event the AVS Townhouse PUD shall be deemed to be owned in undivided interests by the Members in the same proportion as that established in this Declaration for ownership of appurtenant undivided interest in the Common Areas and the AVS Townhouse PUD shall be subject to an action for a partition at the suit of the Member, in which event the net proceeds of the sale, together with the net proceeds of any insurance paid to the Association or the Members in common, shall be considered as one fund and shall be divided among the Members in the same proportion as that established in the Declaration for

ownership of appurtenant undivided shares in the Common Areas, after first paying out of the share of the Member, to the extent such payment is required by any lienors and to the extent such share is sufficient for such purpose, all liens upon said Townhouse and in accordance with the priority of interest in each Townhouse.

10.4 Responsibility. If the casualty damage is only to those parts of one (1) Townhouse for which the responsibility of maintenance and repair is that of the Member, then such Member shall be responsible for reconstruction and repair after casualty. In all other instances, the responsibility of reconstruction and repair after casualty shall be that of the Association subject to payment through assessments.

10.5 Estimate of Costs. Immediately after a casualty causing damage to the AVS Townhouse PUD for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged improvements in the same condition as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors in its discretion requires.

ARTICLE 11

ASSESSMENTS

11.1 Covenant to Pay Assessments. Each Member, upon recording of a deed or contract of purchase of a Lot, regardless of whether reference is made to this Declaration or to AVS Townhouse PUD assessments in the deed or other instrument of conveyance, is deemed to covenant and agree to pay to the Association: (a) regular assessments; (b) special assessments for capital improvements; and (c) additional assessments for special services provided to his or her Lot. Such assessments shall be fixed, established and collected as hereinafter provided.

11.2 Uniform Rate of Assessment. All regular assessments and assessments for capital improvements must be fixed at a uniform and equal rate per Lot provided that, from and after completion of construction of a Townhouse containing two stacked flats on Lot 6, Lot 6 shall be assessed at twice the rate of each of the other Lots. If special services are rendered to specific Lots at the request of the Members owning the Lots, as a result of a Member's default of any obligation set forth in this Declaration or in the Bylaws, or pursuant to any other provisions of this Declaration or the Bylaws, additional assessments shall be charged to such Lots for the special services rendered.

11.3 Purpose of Assessments. A regular assessment is a Member's obligation to pay a fixed amount of money to the Association each year for each Lot in AVS Townhouse PUD owned by the Member. Regular assessments shall be levied by the Association against all Lots. Funds collected from regular assessments shall be used for: (a) administrative expenses of the Association, including without limitation, utilities, equipment, supplies, office space, insurance, professional services, and other services; (b) maintenance and repair of Common Area, including without limitation, landscaping, sidewalks, and utilities; (c) maintenance and repair of landscaping and outdoor lighting on all Common Area; and (d) funding the reserve account. An additional assessment is a Member's obligation to pay for services rendered that benefit the Member or Member's Lot made at the request of the Member, or due to the Member's default in fulfilling any of the Member's obligations under this Declaration or under the Bylaws. A special assessment for capital improvements is a Member's obligation to pay for their share of capital improvements related to the Common Area.

11.4 Reserve Account. Declarant shall establish a reserve account for replacement of all items of Common Area property that will require replacement. The reserve account established under this Section 11.4 shall be funded out of a portion of the regular assessments against the Lots. The amounts assessed shall take into account the estimated remaining life of the items for which the reserve is created and the projected replacement costs of those items. The reserve account shall be established in the name of the Association, which shall be responsible for administering the account and making periodic payments into it. The Association shall study annually whether any adjustment should be made to the portion of the regular assessment funded to the reserve and shall make any necessary adjustments. The account may be used only for replacement of Common Area property and is to be kept separate from other assessments. However, after the Association has assumed responsibility for administration of AVS Townhouse PUD, the Board of Directors and the Association may borrow funds from the reserve account to meet other temporary expenses. Funds borrowed to meet temporary expenses shall be repaid from special assessments or regular assessments over a reasonable period not to exceed one year. Assessments paid into the reserve account are the property of the Association and are not refundable to Members upon sale of Lots.

11.5 Regular Assessments. The regular assessment amount for each Lot shall be in an amount determined initially by the Declarant and, after the Turnover Meeting, reviewed annually by the Board of Directors of the Association. Regular assessments shall be paid in periodic installments, not more frequently than monthly nor less frequently than annually, as determined by the Declarant prior to the Turnover Meeting and by the Board of Directors of the Association thereafter. Regular assessments are due and payable as to each Lot, regardless of whether the Lot is improved. The amount of the regular assessment may be increased or decreased at either a regular or special Member meeting, provided that notice of the meeting clearly specifies that the subject of an increase or decrease in the amount of the regular assessment will be voted on at the meeting. An increase or decrease in the amount of the regular assessment shall require the vote of a majority of the Members attending a Member meeting, either in person or by proxy, at which a quorum is present. Notwithstanding the foregoing, the Board of Directors may, without a vote of the membership, from and after January 1 of the year immediately following the conveyance of the first Lot to a Member, increase the maximum annual regular assessment each year by not more than the greater of (a) 5% or (b) the percentage increase in the Consumer Price Index for All Urban Consumers maintained by the Bureau of Labor Statistics, United States Department of Labor during the previous year, above the maximum assessment for the previous year without a vote of the membership. In the event the Consumer Price Index ceases to be published, then the index to be used for computing the increase in the maximum Common Expense Assessment permitted under this Subsection shall be the substitute recommended by the United States government for the Consumer Price Index or, in the event no such successor index is recommended by the United States government, the index selected by the Board.

11.6 Commencement of Regular Association/Payments of Association Expenses. Regular assessments for AVS Townhouse PUD shall commence as to each Lot on the date it is conveyed to an owner other than the Declarant and other than a Declarant Affiliate, or on the date a contract of sale is recorded to an owner other than the Declarant and other than a Declarant Affiliate, and shall continue thereafter. Prior to the Turnover Meeting the Declarant shall pay all common expenses of AVS Townhouse PUD not covered by regular assessments against Lots that have been conveyed to owners other than the Declarant or a Declarant Affiliate. Immediately after the Turnover Meeting, regular assessments shall commence as to all Lots still owned by the Declarant or a Declarant Affiliate and the Declarant shall have no further responsibility for common expenses of AVS Townhouse PUD, other than payment of assessments made under this Article 11 as to Lots owned by the Declarant.

11.7 Additional Assessments for Special Benefit. In addition to the regular assessments, if a Member or Lot receives special services benefitting less than all of the Lots or Members, or if a Member defaults on any obligations under this Declaration or under the Bylaws, the Board of Directors shall make an additional assessment against the Lot(s) and Member(s) specially benefitted in an amount determined by the Board of Directors. An additional assessment under this Section 11.7 may be approved by a Majority of the Directors present at a meeting where a quorum is present; provided, however, that the Member(s) as to whom the additional assessment is proposed shall have received written notice of such Meeting not less than five (5) days prior to the date of the meeting.

11.8 Special Assessments for Capital Improvements. In addition to the regular assessments, the Association may levy special non-recurring assessments from time to time for the purpose of paying, in whole or in part, the cost of any construction or reconstruction or unexpected repair or replacement of any capital improvement in the Common Area. A special assessment may be passed at either a regular or special Member meeting, provided that notice of the meeting clearly specifies that the subject of a special assessment will be voted on at the meeting. A special assessment shall require the vote of at least a majority of the Members attending a Member meeting, either in person or by proxy, at which a quorum is present. This Section 11.8 shall not prohibit the Directors from authorizing capital expenditures for such replacement, repairs or improvements from funds generated by regular assessments. Notwithstanding ORS § 94.704(11)(a), prior to the Turnover Meeting, the approval of the Declarant shall be required for any special assessment for capital improvements.

11.9 Delinquency; Assessment Lien and Enforcement. Any assessment which is not paid within ten (10) days of the due date is delinquent. A late charge of ten percent (10%) of the amount unpaid shall be added to a delinquent payment, and the assessment plus the late charge shall bear interest from the date of delinquency at the rate of twelve percent (12%) per year compounded annually until paid. A delinquent payment is a lien on the Lot against which it is levied. An authorized officer of the Association shall file a lien notice against the Lot in the office of the County Recorder of Lincoln County, Oregon, within one hundred twenty (120) days after delinquency, stating the amount of the assessment and the late charge together with interest. The aggregate amount of the assessment, late charge, interest, costs and reasonable attorneys' fees for filing and enforcement thereof, shall constitute a recorded lien on the Lot, including any improvement thereon, from the date the notice of delinquency is filed until the same has been paid or released. Such lien may be enforced by the Association in the manner provided by law. The owner of the Lot or Townhouse at the time the assessment becomes due shall be personally liable for the resulting expenses, costs, disbursements, expert witness fees and attorneys fees which shall also be secured by said lien, including additional attorneys fees incurred upon appeal or in any bankruptcy proceeding. The owner of the Lot or Townhouse at the time such assessment is incurred shall also be personally liable for any deficiency remaining unpaid after any foreclosure sale. No Member may avoid liability for the assessments provided for herein by non-use of the Lot or Common Area or by abandonment of the Lot. A Member selling a Lot or a Townhouse located on a Lot that is subject to a Qualified Ground Lease shall be personally liable for all assessments levied against the Lot prior to and including the date of recording of the instrument of conveyance. Upon payment in full of all amounts owing, the Association shall execute and file a release of the lien.

11.10 Priority of Assessment Liens. An assessment lien is not extinguished by sale or transfer of the Lot on which it is fixed. However an assessment lien is subordinate to any previously recorded mortgage or trust deed on the Lot, and a sale pursuant to foreclosure of such a mortgage or trust deed shall extinguish the assessment lien. In the event of the

foreclosure of a mortgage or trust deed on a Lot against which the Association holds an assessment lien, the Association shall have all rights of a junior encumbrancer under the law.

11.11 Assessment Certificate. The Association shall, upon demand at any reasonable time, furnish a written assessment certificate, signed by an officer of the Association, setting forth whether the assessments on a specific Lot have been paid. The Association may charge a reasonable fee for the issuance of assessment certificates. An assessment certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

11.12 Transfer Fee. Each purchaser of a Lot, other than a purchaser purchasing a Lot from the Declarant, shall pay to the Association immediately upon becoming the owner of the Lot a transfer fee in such amount as is established from time to time by the Board to cover costs incurred by the Association incident to such transfer.

11.13 Surplus or Common Profits. Any surplus or common profits of the Association shall either be added to the reserve account or applied to reduce the next regular assessment, as the Board of Directors may determine.

ARTICLE 12

ENFORCEMENT

12.1 Association Sanctions. In the event of a violation of any provision of this Declaration, the Bylaws of the Association, or other rules adopted by the Association, the Association may impose one or more of the following sanctions: (a) suspend the violating Member's voting rights; (b) suspend the violating Member's rights to use the Common Area; (c) impose fines upon the violating Member as provided for in the Bylaws and rules and regulations of the Association; (d) enter the offending Lot and remove the cause of such violation, or alter, repair, or change the items which are in violation in such a manner as to correct them, in which case the Association may assess the violating Member 120% of the entire direct and indirect cost of the work done, which amounts shall immediately be payable to the Association; and (e) bring suit or action against the Member on behalf of the Association and other Members to enforce the violated provisions. Any monetary sanctions shall constitute a lien on the Member's Lot as provided in Section 11.9.

12.2 Emergency Procedure. If the Association determines that an emergency exists, any reasonable remedies may be taken to avert the emergency without giving prior notice to the violating Member, provided that notice shall be given as soon as reasonably possible thereafter. In all other cases, the Association shall give written notice to the violating Member stating: (a) the exact nature of the violation; (b) the remedies that will be taken; and (c) that the violating Member has the right to request a hearing before the Association to contest its determination, provided that the Member makes the request within seven (7) days of receipt of the notice. If a hearing is requested in a timely manner, the Association shall set a place and time for the hearing and give the violating Member written notice of such place and time. Remedies shall not be imposed pending the hearing. After the hearing, the Association may decide to impose the original remedies, impose lesser remedies, or impose no remedies. The Association shall notify the Member of its decision. All assessed fines shall be paid immediately to the Association and deposited into the Association's general account.

12.3 Interest, Expenses, and Attorney Fees. Any amount other than assessments not paid to the Association when due in accordance with this Declaration or the Bylaws of the Association shall incur: (a) a late fee equal to five percent (5%) of the amount due; and (b)

interest at the rate of twelve percent (12%) per year on the unpaid amount (including the late fee) compounded annually from the due date until paid. In the event the Association shall bring a suit or action to enforce this Declaration, to collect any money due to it, or to foreclose a lien, the Association shall be entitled to recover all costs and expenses incurred in connection with the suit or action, including the cost of a foreclosure title report, expert witness fees and such amount as the court may determine to be reasonable as costs and attorneys fees at trial and on appeal. Such costs and expenses shall be the personal obligation of the Member against whom they are assessed and shall constitute a lien on the Lot(s) owned by the Member against whom they are assessed.

12.4 Non-exclusiveness and Accumulation of Remedies. An election by the Association to pursue any remedy provided for violation of this Declaration shall not prevent concurrent or subsequent exercise of any other remedy permitted under this Declaration. The remedies provided in this Declaration are not exclusive but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance, available under this Declaration, Association Bylaws and rules and regulations, or applicable laws.

12.5 Effect of Breach. The breach of any of the covenants, conditions, or restrictions contained in this Declaration shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any Lot, but these covenants, conditions and restrictions shall be binding upon and effective against any such mortgagee or trustee or owner thereof, whose title thereto is or was acquired by foreclosure, trustee's sale or otherwise.

12.6 Effect of Nonenforcement. No delay or omission by Declarant, the Association or any Member in exercising any right, power or remedy provided in the event of a breach of this Declaration shall be construed as a waiver thereof or acquiescence therein.

12.7 Nonliability. Neither the Declarant nor any officer or director of Declarant shall be held liable to the Association or to any of its Members or to any third party beneficiary under this Declaration for monetary damages for conduct as Declarant or as a director or officer unless such conduct is a breach of its duty of loyalty to the Corporation or its Members; is not in good faith or involves intentional misconduct or knowing violation of law; constitutes an unlawful distribution; any transaction from which the Declarant or director or officer derived an improper personal benefit; and any act or omission in violation of Oregon Revised Statutes 65.361 to 65.367. Notwithstanding the foregoing, no qualified director shall be liable to the Corporation unless his or her conduct constitutes gross negligence or intentional misconduct.

ARTICLE 13

GENERAL PROVISIONS

13.1 Severability. Invalidation of any one or more of the provisions of this Declaration by judgment or court order shall in no way affect any other provision that shall remain in full force and effect.

13.2 Duration. The provisions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by Declarant, the Association, or any Member subject to this Declaration, their respective legal representatives, heirs, successors and assigns.

13.3 Amendment. Any provision of this Declaration, except the easements herein granted and except rights reserved to the Declarant, may be amended by a vote of Members

entitled to cast not less than seventy-five percent (75%) of the votes at a meeting of the Members. Easements herein granted or received shall not be amended except by instrument signed and acknowledged by all of the owners of the affected Property, and by the Association. Amendments affecting the rights of the Declarant and any amendment adopted prior to the Turnover Meeting cannot be adopted without the written consent of the Declarant. The president and secretary of the Association shall execute and certify any amendment so approved as being adopted in accordance with this Section 13.3 and ORS § 94.590, acknowledge their signatures before a notary public and cause the amendment to be recorded in the applicable records of Lincoln County, Oregon and the same is effective only upon recording.

13.4 No Right of Reversion. Nothing in this Declaration, or in any form of deed which may be used by Declarant in selling AVS Townhouse PUD, or any part thereof, shall be deemed to vest or reserve in Declarant or the Association any right of reversion or reentry for breach or violation of any one or more of the provision hereof.

13.5 Rights of Mortgagees Relating to Maintenance. At any time that any part of the Common Area, or any other part of AVS Townhouse PUD, or any home, Lot, or other building or improvement located thereon is not in accordance with this Declaration, the Association's Bylaws, or the rules and regulations, or is not properly maintained and kept in good order and repair to the extent reasonably necessary to protect and preserve the appearance and value thereof and the appearance and value of the remainder of AVS Townhouse PUD, the record owner of any mortgage or trust deed upon any part of said real property or residence or building thereon, after giving written notice as hereinafter provided, shall be entitled to exercise the rights of the Member-mortgagor of such property as a Member of the Association, including the right to vote at all regular and special meetings of the Members of the Association for the lesser of: (a) a period of one (1) year following the date of such notice; or (b) the sale of the Lot to another owner. During said period, the mortgagee shall be given notice of all regular and special meetings of the Association, and the Member-mortgagor shall receive notice also and may attend the meeting as an observer. The notice shall quote this Section 13.5 and shall be sent by Certified United States Mail, return receipt requested, to the Member-mortgagor, with a copy by regular mail to the Member's last known address. The mortgagee shall provide the Association with a copy of the notice along with evidence of mailing in compliance with this provision.

13.6 Option to Purchase. In the event a Townhouse on a Lot is partially or totally destroyed and, at any time more than six (6) months after such destruction, the Member has not commenced or ceases to prosecute, the repair or reconstruction of the home, then upon written notice from the Association to the Member, the Association shall have the option to purchase the Lot and all improvements thereon for cash at its then fair market value. Fair market value shall be determined by appraisal by a reputable residential appraiser with at least five (5) years experience in the Central Oregon Coast area ("Qualified Appraiser") selected by the Association. If the Member is dissatisfied with the appraisal provided by the Association, the Member may within a period of thirty (30) days after receiving the Association's Appraisal, secure a second appraisal from a Qualified Appraiser and provide it to the Association within the time specified, the option price shall be the average of the two appraisals. If the Member fails to provide a second appraisal within the time allowed, the option price shall be the fair market value as determined by the appraiser selected by the Association. In determining fair market value, both Qualified Appraisers shall consider the extent of destruction and all anticipated costs of demolition, reconstruction, and repair. The option may be exercised by written notice given at any time within thirty (30) days after: (a) the Association's receipt of the second appraisal; or (b) expiration of the time within which the second appraisal was to have

been provided. If the option is exercised, the closing shall occur on the date selected by the Association, but not later than sixty (60) days after exercise of the option.

13.7 Notices. Unless otherwise provided herein, any notice required to be sent to any Member under the provisions of this Declaration shall be deemed to have been properly sent when mailed by regular first class mail, when sent via facsimile transmission or when sent by email to the last mailing address, facsimile number, or email address provided to the Association in writing by the Member.

13.8 Assignment. Any or all rights, powers and reservations of Declarant herein contained may be assigned to the Association or to any person or corporation or association which is now organized or which may hereafter be organized and which will assume the duties of Declarant hereunder pertaining to the particular rights, powers and reservations assigned; and upon such person, corporation or association evidencing its intent in writing to accept such assignment, have the same rights and shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein.

13.9 Indemnification. From the Association's assets on hand or obtainable by assessment, the Association shall indemnify, hold harmless and defend its officers, directors and members of the Architectural Control Committee (each an "Indemnified Party"), who by reason of being such, or as a result of the exercise of their duties as such, are a party or are threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil or criminal, administrative or investigative; provided that such Indemnified Party reasonably believed his or her conduct was in the best interest of the Association, or not opposed to its best interests, and in the case of criminal proceeding, where the Indemnified Party had no reasonable cause to believe his or her conduct was unlawful. No indemnification shall be allowed in connection with: (a) a proceeding by or in the right of the Association in which the Indemnified Party was adjudged liable to the Association; or (b) any other proceeding charging improper personal benefit to the Indemnified Party or in which the Indemnified Party was adjudged liable on the basis that personal benefit was improperly received by the Indemnified Party. Indemnification, if warranted in accordance with the foregoing, may be had for costs and expenses (including attorneys fees), judgments, and settlement payments.

13.10 Jurisdiction and Venue. Any action brought to interpret or enforce this Declaration, or in any way relating to the subject matter of this Declaration, or in any way involving or relating to Declarant, the Association or AVS Townhouse PUD, shall be brought in the Circuit Court of the State of Oregon for the County of Lincoln. Any such action brought in any other jurisdiction or venue shall be removed to said court upon the motion of any party or upon the court's own motion.

13.11 Interpretation. If any provision of this Declaration is subject to more than one reasonable interpretation, the reasonable interpretation expressly or implicitly adopted by the Association shall become, for all purposes, the controlling interpretation.

IN WITNESS WHEREOF, the undersigned Declarant hereby sets its hand to this Declaration, and the Covenant Holder hereby sets its hand as to the Affordability Covenant contained in Article 2 only, both on this 27th day of January in the year 2012

[Signatures appear on the following page.]

DECLARANT:

JHWF, L.L.C. d/b/a AQUA VISTA SQUARE,
L.L.C., an Oregon limited liability company

By: *K. Layne Morrill*
K. Layne Morrill, Manager

COVENANT HOLDER:

OUR COASTAL VILLAGE, INC., an Oregon
public benefit corporation

By: *K. Layne Morrill*
K. Layne Morrill, President

STATE OF OREGON)
) ss.
County of Lincoln)

Personally appeared before me on Jan 27, 2013 K. Layne Morrill who being
duly sworn did say that he is the sole Manager of JHWF L.L.C. d/b/a Aqua Vista Square,
L.L.C., and that he signed this instrument on behalf of JHWF L.L.C. d/b/a Aqua Vista Square,
L.L.C., and acknowledged this instrument to be its voluntary act and deed.

Laurie Garbarino
Notary Public for Oregon

My Commission Expires: 3/14/2012



STATE OF OREGON)
) ss.
County of Lincoln)

Personally appeared before me on Jan 27, 2013 K. Layne Morrill who being
duly sworn did say that he is the President of Our Coastal Village, Inc. and that he signed this
instrument on behalf of Our Coastal Village, Inc., and acknowledged this instrument to be its
voluntary act and deed.

Laurie Garbarino
Notary Public for Oregon

My Commission Expires: 3/14/2012



EXHIBIT "A"

(Legal Description of Property)

Lots 9 and 10, Block 2, Aqua Vista, in the City of Yachats, County of Lincoln, State of Oregon.

EXHIBIT "B"

(Final Plat of AVS Townhouse PUD)

AVS TOWNHOUSE PUD

BEING A REPLAT OF LOTS 9 AND 10, BLOCK 2, AQUA VISTA
NE 1/4 NE 1/4 OF SECTION 27, T14S, R12W, W.M.
CITY OF YACHTS, LINCOLN COUNTY, OREGON
DECEMBER 22, 2011

SURVEYORS CERTIFICATE

1. DAVID H. WELLMAN, REGISTERED LAND SURVEYOR, BEING DULY SWORN ON OATH, DO HEREBY CERTIFY THAT I HAVE RECORDED ON THIS PLAT, AND FURTHER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING AT THE NORTHEAST CORNER OF LOT 10, BLOCK 2, OF THE AQUA VISTA SUBDIVISION AS RECORDED IN LINCOLN COUNTY, OREGON SUBDIVISION PLAT RECORDS BOOK 8, PAGE 21, BEING MARKED BY A SET 2 1/8 INCH IRON ROD AS REESTABLISHED AND NOTED IN LINCOLN COUNTY SURVEY NO. 18113, DATED AUGUST 28, 2008 AND FURTHER BEING THE INITIAL POINT OF THIS SUBDIVISION:

THENCE ALONG THE WESTERLY MARGIN OF THE OREGON COAST HIGHWAY 101 SOUTH 18°41'00" WEST, A DISTANCE OF 100.13 FEET TO THE SOUTHEAST CORNER OF SAID LOT 10, BEING MARKED BY A 1/2 INCH IRON ROD TAKEN AS BEING AN ORIGINAL MONUMENT;

THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 10 AND CONTINUING ALONG THE SOUTHERLY LINE OF LOT 9 NORTH 74°15'24" WEST, A DISTANCE OF 82.50 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9, BEING MARKED BY A SET 1/2 INCH IRON ROD TAKEN AS BEING AN ORIGINAL MONUMENT AND NOTED IN LINCOLN COUNTY SURVEY NO. 12388, DATED MAY 24, 1989;

THENCE ALONG THE WEST LINE OF SAID LOT 9 NORTH 15°30'36" EAST, A DISTANCE OF 89.68 FEET TO THE SOUTHERLY MARGIN OF AQUA VISTA DRIVE, AS PLATTED AND BEING MARKED BY A 1/2 INCH IRON ROD TAKEN AS BEING AN ORIGINAL MONUMENT;

THENCE ALONG SAID PLATTED AND BEING MARKED BY A SET 1/2 INCH IRON ROD TO THE POINT OF BEGINNING;

THE POINT OF BEGINNING BEING THE INITIAL POINT OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 14 SOUTH, RANGE 12 WEST, OF THE WILLAMETTE MERIDIAN, CITY OF YACHTS, LINCOLN COUNTY, OREGON.

DAVID H. WELLMAN _____ DATE _____

ZABRATZKE

THIS SURVEY WAS MADE IN DECEMBER, 2011 BY DAVID WELLMAN OF D. WELLMAN SURVEYING, 8088 NORTHROP DRIVE, EUGENE, OR 97402. THE PURPOSE OF THIS SURVEY IS TO REPLAT SAID LINCOLN COUNTY OREGON SUBDIVISION PLAT RECORDS INTO SIX LOTS AND THREE COMMON AREAS SHOWN AS TRACTS "A", "B" AND "C". ALL AS SHOWN HEREON. THIS SURVEY WAS DONE AT THE REQUEST OF THE NAMED LANDOWNER, A WILD TROOP WITH D. 1980 WAS USED TO PERFORM THE SURVEY. BLISS OF BEHARD IS THE LICENSED LAND SURVEYOR AND THE REGISTERED MARGIN OF OREGON COAST HIGHWAY 101.

THE NORTHEAST CORNER OF LOT 10 WAS RECOVERED AS HAVING BEEN SET IN O.S. 18113. THE SOUTHWEST CORNER OF LOT 9 WAS RECOVERED AS HAVING BEEN ESTABLISHED AND SET IN THE SUBDIVISION PLAT OF AQUA VISTA. THE SOUTHWEST CORNER OF LOT 9 WAS RECOVERED AS HAVING BEEN SET IN O.S. 12388. ALL MONUMENTS WERE TAKEN AS BEING UNDISTURBED AND IN THE ORIGINAL LOCATIONS.

YACHTS PLANNING:

YACHTS PLANNING NO. #1-RHUB-P0-11

APPROVALS

CITY OF YACHTS PLANNER / PLANNING CHAIR	DATE
LINCOLN COUNTY SURVEYOR	DATE
LINCOLN COUNTY ASSESSOR	DATE
LINCOLN COUNTY TAX COLLECTOR	DATE
LINCOLN COUNTY BOARD OF COMMISSIONERS	DATE
	DATE
	DATE
	DATE

EXACT COPY STATEMENT:
I, DAVID H. WELLMAN, P.L.S. HEREBY CERTIFY THAT THIS IS A TRUE AND EXACT COPY OF THE ORIGINAL PLAT.

DAVID H. WELLMAN, P.L.S. 2183

SURVEYED BY:
D. WELLMAN SURVEYING
9088 NORTHROP DRIVE
EUGENE, OR 97402
DECEMBER 22, 2011

REGISTERED
PROFESSIONAL
LAND SURVEYOR

DAVID H. WELLMAN
2183
RENEWAL 6/30/12

MAP NO. 14-19-27-A
TAX LOT NOS. 1388 & 1389

STATE OF OREGON) S.S.
COUNTY OF LINCOLN)
I HEREBY CERTIFY THAT THIS SUBDIVISION PLAT WAS RECEIVED FOR RECORD ON THIS _____ DAY OF _____ 2011, AT _____ OZCLOK _____ M., AND RECORDED BY ME AS BOOK _____ PAGE _____ IN THE LINCOLN COUNTY RECORDS.

LINCOLN COUNTY CLERK/DEPUTY

DECLARATION

I, K. LAYNE MORRILL, AS THE MANAGER OF JHWF, L.L.C., AN OREGON LIMITED LIABILITY COMPANY, DOES HEREBY CERTIFY THAT I AM THE OWNER OF SAID PLAT AND THAT I AM THE MANAGER OF SAID COMPANY. I AM THE OWNER OF SAID COMPANY'S CERTIFICATE, AND DOES HEREBY SUBDIVIDE AND PLAT INTO LOTS AND TRACTS THE SAME AS HEREBY SHOWN IN ACCORDANCE WITH O.R.S. CHAPTER 92, TRACTS "A", "B", AND "C" ARE PRIVATELY OWNED COMMON AREA AND TO BE MAINTAINED BY AHS TOWNHOUSE ASSOCIATION, INC.

EASEMENTS AS SHOWN ON THIS PLAT ARE GRANTED AS PUBLIC UTILITY EASEMENTS TO THE CITY OF LINCOLN COUNTY FOR THE CONSTRUCTION, MAINTENANCE, OR REPLACEMENT OF UTILITIES AND SERVICE EQUIPMENT.

CONDITIONS, COVENANTS, AND RESTRICTIONS ARE TO BECOME A PART OF AND A BINDING PORTION OF THIS PLAT AND AS SUCH ARE RECORDED WITH THE LINCOLN COUNTY, OREGON CLERKS OFFICE AS NOTED HEREON.

K. LAYNE MORRILL - MANAGER: JHWF L.L.C.

ACKNOWLEDGEMENT

STATE OF _____) S.S.)
COUNTY OF _____)

I, _____, DO HEREBY PERSONALLY APPEAR BEFORE ME THE ABOVE NAMED K. LAYNE MORRILL, WHO DOES TRUST AND SAYS HE IS THE MANAGER OF JHWF, L.L.C. AND IS DULY AUTHORIZED TO ACT IN ALL MATTERS FOR JHWF, L.L.C. AND HEREBY EXECUTES THE FOREGOING INSTRUMENT AND ACKNOWLEDGES SAID INSTRUMENT TO BE HIS VOLUNTARY ACT AND DEED.

ACKNOWLEDGED BEFORE ME ON THIS _____ DAY OF _____, 2011.

NOTARY PUBLIC FOR THE STATE OF _____
NOTARY PRINTED NAME: _____
COMMISSION NUMBER: _____
BY COMMISSION EXPIRES: _____

RECORDED DOCUMENTS AFFECTING THIS PLAT

ALL PORTIONS OF THE PLAT ARE SUBJECT TO THE COVENANTS, EASEMENTS AND RESTRICTIONS AS SHOWN ON THIS PLAT. THE PLAT WAS RECORDED ON APRIL 17, 2008 IN BOOK 181 PAGE 284, LINCOLN COUNTY DEED RECORDS.

ALL PORTIONS OF THIS PLAT ARE SUBJECT TO THE TERMS AND PROVISIONS OF THE CITY OF LINCOLN COUNTY ORDINANCE NO. 2008-13113, WHICH WAS RECORDED AUGUST 20, 2008 AS LINCOLN COUNTY DOCUMENT NO. 2008-13113 AND AS AMENDED BY RESOLUTION NO. LR-2008-12-01, RECORDED DECEMBER 21, 2008 AS LINCOLN COUNTY RECORDS DOCUMENT 2008-19287.

AS PART OF THE AVS TOWNHOUSE ASSOCIATION, INC. BEING RECORDED ON _____ AS DOCUMENT NO. _____ LINCOLN COUNTY DEED RECORDS, ARE HEREBY MADE A PART OF THIS PLAT.

DECLARATIONS OF THE COVENANTS, CONDITIONS AND RESTRICTIONS, AND ANY EASEMENTS CREATED HEREIN BEING RECORDED ON _____ AS DOCUMENT NO. _____ LINCOLN COUNTY DEED RECORDS, ARE HEREBY MADE A PART OF THIS PLAT.

EXHIBIT "C"

(AVS Townhouse PUD Common Area Improvements)

Pavement, sidewalks, landscaping, irrigation and drainage systems, electric lines, and other improvements constructed by Declarant on or under the Common Area Tracts identified on the final plat of AVS Townhouse PUD.