

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

**FOR**

**AVALON ESTATES, SECTIONS 1 AND 2**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, made this 17 day of December 2004 by DONALD E. LAMBERT, hereinafter referred to as the "Declarant";

WITNESSETH:

WHEREAS, the Declarant is the sole owner of certain real property located in Hendricks County, Indiana, and described as follows:

SEE ATTACHED EXHIBIT "A"

AND, WHEREAS, the Declarant desires that a dignified, high-quality residential community be developed and maintained on the said property, that all site planning, building and landscaping be attractive and harmonious with the surroundings and that the peaceful character of the property be protected; and, to these ends, desires to subject the property to the covenants, conditions, and restrictions hereinafter set forth, it being intended that such covenants, conditions, and restrictions shall run with the land and shall be binding upon all persons and entities having or acquiring any right, title, or interest in

14

7

any portion of the said property, and shall inure to the benefit of each owner thereof; the premises and the covenants contained herein, does hereby impose upon the said real property the following protective covenants, conditions, and restrictions:

I

DEFINITIONS

As used herein:

- A. "Committee" shall mean the Architectural and Environmental Control Committee composed of Donald E. Lambert, or his duly authorized representatives, all of whom shall serve without compensation for services performed as committee members. In the event of the death or resignation of any member of said committee, the remaining member or members shall have full authority to perform the duties of the committee, or to designate a representative with like authority. All Committee members shall be either the Developer or an Owner as herein defined.
- B. "Owner" shall mean the person or collection of persons who has acquired or is acquiring any right, title, or interest, legal or equitable, in and to a lot or other area in this subdivision, but excluding those persons having such interest merely as security for the performance of an obligation.
- C. "Developer" shall mean Donald E. Lambert, or their successors and/or assigns.
- D. "Plat", "Development", and "Subdivision" shall all mean the subdivision of Avalon Estates, Sections 1 and 2, both of which are to be recorded in the office of the Recorder of Hendricks County, Indiana.
- E. "Development Period" shall mean and refer to the period of time during which Developer owns any one (1) lot within the Development.
- F. "Easements" shall mean and refer to any and all easements, which are referenced on the Plat.
- G. "Lot" shall mean any numbered parcel of real estate shown and identified as a Lot on the Plat.
- H. "Common Area" shall mean that area on the plat marked as such. The Common Area is hereby created and reserved:
1. solely for the common visual and aesthetic enjoyment of the Owners;
  2. for use by the Developer during the Development Period for the installation of entryways and nature areas, if any;
  3. for the use as entryways and nature areas, if any; and
  4. for the use of the Association for the management and control of the entryways and nature areas and the installation, maintenance and repair of improvements thereto. The Association shall govern these areas.

I. "Association" shall mean the Avalon Estates Property Owners Association, which Association may be either incorporated or unincorporated.

J. "Pond" and "Pond Area" shall mean those areas reserved on Common Areas A, D, and E as depicted on the Plat as a "Drainage Easement", which areas are hereby created and reserved:

1. solely for the common use and recreation, visual and aesthetic enjoyment of the Owners;
2. for use by the Developer during the Development Period for the installation of drainage and nature areas;
3. for the use as nature areas and recreation areas by the Owners; and
4. for the use of the Association for the management and control of the drainage ways, nature area, and recreation area, and the installation, maintenance and repair of improvements thereto. The Association shall govern those areas.

II

LAND USE AND BUILDING TYPE

The Lots shall be used for residential purposes only. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached, single-family dwelling, and attached private 2-car garage. Such dwelling shall not exceed two stories in height exclusive of the basement, and shall be used for private dwelling purposes only, by one family only. Any one-story dwelling shall contain 2,000 square feet minimum of finished interior ground floor living area (exclusive of basements, porches, decks, patios, and garages). Any two-story dwelling shall contain at least 2,400 square feet minimum of finished interior ground floor living area (exclusive of basements, porches, decks, patios, and garages). Any ground floor living area of a two-family dwelling shall contain at least 1,600 square feet minimum of finished interior ground floor living area (exclusive of basements, porches, decks, patios, and garages). No vinyl or aluminum siding shall be used on the exterior of any ground floor level of any residence, and no more than twenty percent (20%) of the entire exterior of the dwelling shall contain vinyl siding. No dwelling shall be constructed without the prior written approval of the Committee.

III

PARTIAL CONSTRUCTION; COMPLETION OF CONSTRUCTION

No foundation or basement of a building shall be constructed on any Lot except as an integral part of a continuous process of constructing the main structure of such building, which construction must proceed uninterrupted until the structure is completed. The construction of a building, once begun, must be completed (including, without limitation, all landscaping and exterior painting) within 180 days after its commencement. No dwelling shall be occupied until it is completed.

4

IV

STANDARD OF QUALITY OF WORKMANSHIP AND MATERIALS

With respect to construction of improvements on any Lot, it is required that the standard of architectural design, materials, and workmanship be of superior quality and constructed by a qualified custom home builder approved by the Committee.

V

APPROVAL OF PLANS AND SPECIFICATIONS BY COMMITTEE

No improvement, dwelling or otherwise shall be erected, placed, or externally altered on any Lot until the plans and specifications therefore (including elevations, materials, colors, textures, landscaping, and a site plan showing the location of the structure with grading modifications) shall have been filed with the Committee, and approved in writing by such Committee as to: quality of material, harmony of landscaping and no duplication of adjacent external design, colors, and finishes with existing structures and the surroundings; location with respect to topography and finish grade elevation; protection of existing trees; and conformity with the requirements and intent of this Declaration. The Committee shall be entitled to retain permanently the submitted copy of such plans and specifications, and all work shall be accomplished in conformity therewith. If, forty-five (45) days after submission of all such plans and specifications, the Committee shall have failed to issue a written approval or disapproval of the plans as submitted, then said plans shall be deemed denied by the Committee without further action.

VI

TEMPORARY STRUCTURES, BOATS, AND TRAILERS

Temporary Structures. No trailer, tent, shack, basement, garage, barn, above ground storage tank, or other outbuilding, or temporary structure shall be used for temporary residential purposes on the property.

Vehicle Regulations. No vehicle of more than one (1) ton hauling capacity or equivalent vehicle shall be parked in the subdivision except while making a delivery or pickup. No car, boat, truck, motor home or trailer that is not in operational condition and bearing the current year's license plate shall be permitted to remain on any homesite unless kept within a garage. No boat, trailer, recreational vehicle, truck larger than 3/4 ton pick-up, or camper of any kind (including, but not in limitation thereof, house trailers or mobile homes, camping trailers and boat trailers) shall be kept or parked upon said Lot except within a garage.

VII

NUISANCES

No noxious or offensive activity shall be carried on in any area of the subdivision, nor shall anything be done or permitted to remain on any Lot, which may be or become a nuisance to a neighboring owner or resident.

VIII

USE OF LOTS

No Lot or any part thereof shall be used for the conduct of any business, commerce, or profession.

5

IX

ANIMALS, LIVESTOCK AND POULTRY

No wild animals, livestock, or poultry of any kind shall be kept or maintained or bred on any Lot for commercial or any other purposes. Common household pets may be kept on any lot so long as they are not kept, bred or maintained for commercial purposes, and so long as they do not create a nuisance.

X

SIGNS

No sign, billboard, or advertising matter shall be erected or displayed on any Lot, except as follows:

A. During construction of a dwelling, one non-illuminated sign, not exceeding three feet by four feet in dimension, may be displayed on a Lot for the identification of the builder.

B. A temporary, non-illuminated sign, not more than four square feet in area, advertising the property for sale or rent, may be displayed on a Lot.

XI

SUBDIVISION OF LOTS PROHIBITED

No Lot shall be further divided or resubdivided to create an additional building lot. Alteration of boundary lines between Lots may be accomplished with the prior written consent of the Committee and in conformity with applicable ordinances and requirements of Plainfield, Indiana.

XII

REMOVAL OF MATERIAL FROM LOT;  
CHANGE OF NATURAL CONTOUR OF LOT;  
CONSTRUCTION BY OWNERS OF DRIVEWAY ENTRANCES AND APRONS

Except for necessary excavation and grading in connection with construction (in conformity with this Declaration) of improvements on a Lot, no fill, dirt, muck, or rock shall be removed from any Lot, nor shall the elevation of any portion thereof be changed in any manner, without the prior written approval of the Committee. No owner of a Lot shall cause, suffer, or permit the alteration by unnatural means, obstruction or diversion of the flow of surface water across his Lot, without the prior written consent of the Committee. Construction of driveway entrances and aprons shall be the responsibility of the Lot owner, and such construction shall not interfere with surface water drainage on or onto the road. Any damage to the street or curb caused during construction on a lot shall be the responsibility and expense of the Lot Owner to repair. No construction may commence until such time as a stone driveway is installed at the height of the curb. All construction equipment and deliveries are required to use the stone driveway until the permanent driveway is installed.

4

XIII

MAINTENANCE OF LOT AND PROTECTION OF ADJACENT  
PROPERTY DURING CONSTRUCTION

Each Lot owner shall protect the streets and street shoulders from damage related to construction activities with respect to his Lot, and agrees to keep the streets and driveways clear of equipment and building materials. In connection with any construction, the Lot owner shall take appropriate precautions in excavation and movement of earth, so as to prevent siltation and unnecessary erosion, and he shall also comply at his expense with all applicable governmental laws and regulations regarding siltation control. The streets within the subdivision shall be cleaned by the Lot owner whenever construction activity on his Lot results in a significant accumulation of dirt or debris; and if the Lot owner should fail to do so, after notification from the Declarant that such cleaning is required, then the Declarant may perform such cleaning and charge the reasonable cost thereof to the Lot owner. The foregoing shall in no way create an obligation on Declarant to clean the streets under any circumstances.

XIV

GARBAGE AND REFUSE DISPOSAL

Garbage and refuse containers shall not be permitted to remain in public view except on days of trash collection. No accumulation or storage of litter, construction debris, or trash of any other kind, shall be permitted on any Lot.

XV

CONTROL OF DOGS

All dogs shall be confined and kept quiet after 9:00 P. M. and before 8:00 A. M. Dogs shall be confined or securely restrained and leashed at all times.

XVI

USE OF SAWS, MOWERS, AND EQUIPMENT BY LOT OWNERS

The use of chain saws, lawn mowers, and other noisy equipment out of doors before 12:00 noon on Sundays shall be kept to a reasonable minimum.

XVII

USE OF OUTSIDE CLOTHESLINES

No clothing, laundry, or wash shall be aired or dried on any portion of any Lot visible from a road or from another Lot.

XVIII

SATELLITE DISHES

Satellite dishes of approximately 18" in diameter may be erected if not visible from front elevation. Large dishes will not be permitted.

7

XIX

FENCES

No fences of any kind may be erected or constructed in any front yard. Coated, chain-link fences not exceeding forty-eight (48) inches in height will be allowed in the rear yard on any Lot with the prior written permission of the Committee. Stockade or privacy fences may be allowed around pools with the prior written permission of the Committee.

XX

POOLS

No swimming pools where the water level is either partially or completely above ground level shall be permitted. Any in-ground swimming pool shall be properly fenced so as to protect the safety of others. Any such pool and fence shall be approved by the Committee prior to installation.

XXI

GARAGES

Each dwelling shall contain a minimum two-car attached garage of at least Five Hundred Seventy-Six (576) square feet. The exterior building materials of each garage shall be in conformity to the ground floor level of the adjoining dwelling. All garages shall require prior written approval of the Committee.

XXII

RULES

Rules Governing Building and Several Contiguous Lots Having One Owner. Whenever two or more contiguous Lots in the Development shall be owned by the same person, and such Owner shall desire to use two or more of the said Lots as a site for a single-dwelling residential structure, such Lot Owner shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single-dwelling house shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as the Lots remain improved with a one-single dwelling residential structure. Where an owner acquires adjoining lots for the purpose of building one dwelling across the common lot line, any side boundary line, set back restrictions or regulations shall not apply to said common lot line. No structure shall be built across lot lines coinciding with sanitary sewer easements, drainage easements, and utility easements.

XXIII

EASEMENTS

**Blanket Easement.** Each Lot shall henceforth be encumbered by a blanket temporary easement for the purpose of installation, maintenance and upkeep of the drainage ways and sub-surface drains of the drive, with this blanket temporary easement being supplementary to the easements depicted on the Plat. However, this does not obligate the Developer to maintain and upkeep such drainage ways and sub-surface drains.

**Dedicated Easements.** Each Owner of a lot in the Development will take his title subject to the rights of utility companies, the Developer, the Town of Plainfield, the Association, and the other lot Owners in those certain strips or areas of ground designated as an easement on the Plat. No permanent or other structures may

# FIDELITY NATIONAL TITLE

occupy said easements excepting fences (at the sole risk of the Owner) and the facilities for which the easements are reserved. Any structure erected within such an easement may be removed by the easement holder (at the lot Owners' expense) in necessary to the proper operation and maintenance of the facilities for which the easement is reserved. No facility shall occupy any easement in a position that will obstruct a property line or corner.

## XXIV

### DITCHES and SWALES

It shall be the duty of the Lot Owner to keep drainage ditches and swales on their Lot continuously unobstructed and in good repair. It is the obligation of the Owner to provide for the installation of such culverts upon said Lot as may be reasonably necessary to accomplish the purposes of this subsection.

## XXV

### DRIVEWAYS

All driveways shall be constructed by the Owner of cement and shall be completed prior to the Owner's occupancy.

## XXVI

### SIDEWALKS

Concrete sidewalks with a minimum of four feet (4') shall be constructed on each side of the street. Lot Owners shall be responsible for the cost of constructing and maintaining the sidewalks on their respective Lots. Sidewalks shall be installed prior to issuance of Certificate of Occupancy. Lot Owners shall keep sidewalks on their respective Lots free of snow and cleared of debris.

## XXVII

### SIGHT DISTANCE

Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two feet (2') and six feet (6') above the roadways shall be placed, or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five feet (25') from the intersection of the street line. The same sight line limitations shall apply on any Lot within ten feet (10') from the intersection of a street's property line with edge of driveway. No trees shall be permitted to remain within such distance of such intersection unless the foliage line is maintained at such height to prevent obstruction of such sight lines.

## XXVIII

### BULDINGS

No storage or utility building may be constructed on any Lot.



7  
XXIX

PARKING

No on-street parking shall be permitted in the subdivision.

XXX

MAILBOXES

Size, location, lighting, height, color, and composition of every mailbox shall be approved by the Committee prior to installation and shall conform to specifications set forth by the United States Postal Service and/or Postmaster General.

XXXI

MAINTENANCE

Maintenance of Lots and Improvements. The Owner of a Lot shall maintain the private yard, landscaping, residence, garage, and all other improvements on their Lot in the Development to prevent the same from becoming unsightly in manner that reasonably tends to detract from or diminish the aesthetic appearance of the subdivision, and by keeping the exterior of all improvements in a good state or repair. All Lots shall be mowed by the respective Owner at least twice per month during the months of April through September. No Lots shall be used or maintained as a dumping ground for rubbish, garbage or other waste, and same shall not be kept, except in sanitary containers out of view from the Street, except on days of collection. In the event the Owner fails to meet this provision, then the Developer or Association may make the necessary arrangements for compliance; the Developer or Association may file a lien upon the respective Lot for the expense of such compliance and for costs associated with the lien; any action to foreclose the lien shall include attorney fees and the costs thereof.

XXXII

PERMIT

Improvement Location Permit. In addition to the approval of the Committee prior to construction of a dwelling, lot Owners must obtain an Improvement Location Permit from the Town of Plainfield before any structure, improvement, or land use may be altered, changed, placed, erected, or located in the Development.

XXXIII

ASSOCIATION

Covenants for maintenance assessments through the Association.

A. Creation of the Lien and Personal Obligation of Assessments. The Developer hereby covenants, and each subsequent owner of all Lots, by acceptance of a deed of conveyance, shall be deemed to covenant and agree to pay to the Association: (1) Annual assessments or charges; (2) Special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided,

shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

B. Purposes of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners of all Lots and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and Pond Areas situated in the subdivision including, but not limited to, the payment of utilities and insurance thereof and repair, replacement, maintenance, and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

C. Basis and Amount of Annual Assessments. The original assessment shall be in the amount One Hundred Twenty-five and no/100 Dollars (\$125.00) per each Lot sold by the Developer, its representatives or assigns, by land contract or deed and assessment shall be distributed evenly against each Lot. All such assessments shall be paid to the Treasurer of the Association. From all such assessments, the Association shall pay for the cost of maintenance repair, upkeep, management and operation of the Common Areas and Pond Areas. In no event shall any assessment or charge or special assessment as provided below be levied against or be due from Developer for any Lots owned by them or otherwise.

D. Special Assessments for Capital Improvements. In addition to the annual assessments authorized by Section C hereof, the Association may levy in any assessment year on each Lot sold by the Developer, its representatives or assigns, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of capital improvements. Provided any such assessment shall have the affirmative vote of two-thirds (2/3) of the votes of all voting members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

E. Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section C hereof, and for the periods therein specified, the Association may change the maximum and basis of the assessments fixed by Section C hereof prospectively for any such period provided that any such change shall have the assent of two-thirds (2/3) of the voting members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

F. Quorum for Any Action Authorized under Sections D and E. The quorum required for any action authorized by Sections D and E hereof shall be as follows: At the first meeting called as provided in Sections D and E hereof, the presence at the meeting of Members or of proxies entitled to cast sixty percent (60%) of all votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement as set forth in Sections D and E, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

G. Date of Commencement of Annual Assessments. Due Dates. The initial annual assessments, provided for herein, shall commence on the first day of the month following conveyance of a Lot to an owner. The Assessment for each succeeding year shall become due and payable on the first day of April of each year. The Association shall make no adjustments or prorations of assessments. For the purposes of levying the assessment, assessments shall be considered as paid in advance and shall be levied against any Lot that is subject to these Restrictions. The due date of any special assessment under Section D hereof shall be fixed in the Resolution authorizing such assessment.

H. Duties of the Board of Directors. The management, affairs and policies of the Association shall be vested in the Board of Directors. The Board of Directors of the Association shall prepare a roster of the properties and assessments applicable thereto at least thirty (30) days in advance of such assessment due date.

Such assessment roster shall be kept in the office of the Association. Written notice of the assessment shall thereupon be sent to every owner subject thereto. The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Said certificates shall be conclusive evidence of payment or any assessment therein stated to have been paid.

I. Effect of Non-Payment of Assessment. The Personal Obligation of the Owner; the Lien; Remedies of Association. If the assessments are not paid on the date when due (being the dates specified in Section G hereof), then the assessments and costs of collection thereof as hereinafter provided, shall thereupon become a continuing lien of the property which shall bind such property in the hands of the Owner, his heirs, devisees, personal representatives and assigns. If the assessment is not paid thirty (30) days after the delinquency date, a penalty fee not to exceed ten dollars (\$10.00) shall be added thereto and from the date interest at the rate of eighteen percent (18%) per annum may be added to the delinquent balance and penalty and the Association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property. There shall be added to such assessment, delinquent fee and interest the cost of preparing and filing a Complaint in such action; and in the event of Judgment, such Judgment shall include interest on the total amount as above provided and reasonable attorney's fee to be fixed by the Court, together with the costs of the action.

J. Subordination of the Lien to Mortgages. The lien of the assessments provided for therein shall be subordinate to the lien of any mortgage or mortgages now or hereinafter placed upon the properties subject to assessments; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien or any such subsequent assessment.

K. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein; (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to the public use; (b) all properties exempted from taxation by the laws of the State of Indiana upon the terms and to the extent of such legal exemption; (c) all properties owned by the Developer, its successor and assigns, and held by them or any of them for sale or resale, including any Lots which may have been reacquired by the Developer. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges and liens.

L. Voting, and Board. Each owner of a Lot in the Development shall be a member of said Association and shall have one (1) vote for all matters coming before the Association including the selection of a Board of Directors, which Board shall consist of not less than three (3) or more than five (5) members and which shall assume their duties upon expiration of the term of the Initial Board of Directors.

M. Initial Board. The Initial Board of Directors shall consist of the Developer or his appointed member or members. The Initial Board shall serve until the Developer has sold fifty percent (50%) of the lots in the Development, at which time the Association shall be turned over to the homeowners, and a Board of Directors elected.

XXXIV

COMMITTEE

The Committee as defined herein, shall consist of the Declarant or a person or persons chosen by Declarant until such time as all Lots are sold by Declarant, at which time the Committee shall consist of three(3) persons from among the then existing Lots owner chosen by Declarant. In the event of a vacancy in membership on the Committee, the remaining members shall name a replacement from among the then existing Lot owners. After all Lots are sold by the Declarant, only Lot owners may be members of the Committee. Wherever consent, approval, or other action of the Committee is required under any provision of this Declaration,

17

such requirement shall be deemed satisfied if, sixty (60) days after proper and complete presentation of the matter to such Committee, it shall have failed to issue its decision in writing. Voting on Committee matters may be done in person or by proxy (provided the proxy is in writing and notarized.)

XXXV

ENFORCEMENT

Enforcement of the restrictions and covenants herein contained shall be by proceeding at law or in equity against any person or persons violating or attempting to violate the same, which proceedings may be either to restrain such violation or to recover damages or both; and such proceedings may be brought or prosecuted by the Declarant, its successors or assigns, by the Committee, by the Association, or by any person or persons owning any Lot or interest therein, or both. Without restricting the generality of the foregoing, the Declarant, any Owner, the Committee or the Association, in lieu of or in addition to any other legal or equitable remedy, may seek an order from a court of competent jurisdiction permitting it or them to enter upon the property where such violation exists and summarily to abate or remove the same, using such force as may be reasonably necessary, at the expense of the owner of such property. Neither the person or persons entering nor the person or persons directing the entry shall be deemed liable for any manner of trespass for such action. In any proceeding to enforce any of these covenants or restrictions, the party against whom enforcement is obtained shall pay the enforcing parties' costs and attorney's fees.

The Developer, Committee, Association, or any Owner of any Lot in this subdivision may initiate any proceeding at law or equity against any person or persons violating or attempting to violate any covenant herein. The successful party to any such action shall recover attorney fees and costs incurred in such action. A violation of any restriction herein will not result in reversion or forfeiture of title.

If any Owner of a Lot in this subdivision shall fail to perform his or her obligations required herein, the Developer, Association or Committee shall have the right, but not the obligation, by and through its agents and employees or contractors, to enter upon said Lot and perform such duties as may be reasonable or necessary to make said Lot, and/or any improvements situated thereon, conform to the requirements of these restrictions. The cost thereof to the Developer, Association, or Committee shall be collected in any reasonable manner from the Owner. Neither the Developer, Association, or Committee nor any of its agents, employees, or contractors shall be liable for any damage that may result from any maintenance or other work performed hereunder. Any fine so assessed against any Lot, together with interest and other charges or costs as hereinafter provided, shall become and remain a lien upon that Lot subordinate only to the lien of a first mortgage until paid in full, and shall also be a personal obligation of the Owner or Owners of that Lot. Such charge shall bear interest at the rate of eighteen percent (18%) per annum until paid in full. If, in the opinion of the Developer, Association, or Committee, such charge has remained due and payable for an unreasonable long period of time, the Developer, Association, or Committee may institute such procedures, either at law or in equity, by foreclosure or otherwise, to collect the amount owed, in any court of competent jurisdiction. The Owner of the Lot or Lots subject to the charge shall, in addition to the amount of the charge due at the time legal action is instituted, be obligated to pay any expenses or costs, including attorney's fees, incurred by the committee in collecting the same. Every Owner of a Lot in this subdivision, and any person who may acquire any interest in such Lot, whether as an Owner or otherwise, is hereby notified, and by acquisition of such interest agrees, that any such liens which may exist upon said Lot at the time of the acquisition of such interest are valid liens and shall be paid. Every person who shall become an Owner of a Lot in this subdivision is hereby

notified that by the act of acquiring, making such purchase, or acquiring such title, such person shall be conclusively held to have covenanted to pay all fines that shall be made pursuant to this paragraph.

XXXVI

SEVERABILITY

Invalidation of any of these covenants by a judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

XXXVII

EXCLUSIONS

Notwithstanding any other provision of this Declaration, nothing herein shall be construed to prevent the Declarant, or any other party constructing improvements in conformity with the provisions hereof, from permitting commercial vehicles and construction equipment to enter and remain on the street or on the Lot being improved, or from storing materials and supplies on such Lot, all to the extent reasonably necessary to facilitate such construction.

XXXVIII

DURATION

These covenants will run with the land and shall be binding on all parties, and all persons claiming under them, for a period of twenty-five (25) years from the date these covenants are recorded, after which twenty-five (25) years they shall be automatically extended for successive ten (10) year periods, unless at any time after the Development Period has expired an instrument signed by a majority of the Lot Owners has been Recorded agreeing to change said covenants in whole or in part. Developer hereby reserves the right, from time to time and at any time during the Development Period, to modify, supplement or amend this Declaration, without the consent of any Owner or Party in Interest; provided that Developer records the modification in the Office of the Recorder of Hendricks County, Indiana, and the modification is for any one or more of the following purposes: (i) to clarify one (1) or more covenants, conditions, terms or provisions in this Declaration, without materially changing the substance thereof; or (ii) to change the substance of one (1) or more covenants, conditions, terms or provisions of this Declaration; provided that such change shall not materially increase the obligation(s) of any Owner (other than Developer) under any covenant, condition, term or provision without such Owner's consent, unless such change is necessary to comply with a bona fide governmental requirement, including applicable laws, ordinances, regulations or orders of any Municipality or court having jurisdiction.

"DECLARANT"

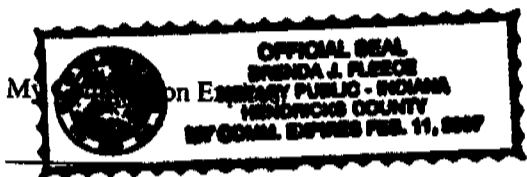
By Donald E. Lambert  
Donald E. Lambert

14

STATE OF INDIANA )  
 ) SS:  
COUNTY OF HENDRICKS )

Before me, a Notary Public in and for said County and State, personally appeared Donald E. Lambert, who acknowledged the execution of the foregoing Declaration of Covenants, Conditions and Restrictions.

Witness my hand and Notarial Seal this 16 day of December, 2004.



Brenda J. Fleese  
Notary Public  
County of Residence: \_\_\_\_\_

This instrument was prepared by Ben Comer, Attorney at Law, 71 W. Marion Street, Danville, Indiana 46122.

125

EXHIBIT A  
page 1 of 2

METES AND BOUNDS LEGAL DESCRIPTION  
AVALON ESTATES, SECITON 1

That portion of the East Half of the Northwest Quarter and the West Half of the Northeast Quarter of Section 28, Township 15 North, Range 1 East of the Second Principal Meridian, Town of Plainfield, Hendricks County, Indiana, described as follows:

Commencing at the southeast corner of the East Half of said Northwest Quarter; thence North 89 degrees 54 minutes 22 seconds West along the south line of said East Half Quarter Section 794.64 feet to the southwest corner of Blanton Meadows, Section 1 as per plat thereof recorded in Plat Book 8, Page 3 in the Office of the Recorder of said county; thence North 00 degrees 49 minutes 00 seconds East along the west line of said plat 255.19 feet to the northwest corner thereof and the POINT OF BEGINNING; thence North 00 degrees 44 minutes 31 seconds East 698.48 feet; thence South 89 degrees 15 minutes 29 seconds East 167.00 feet; thence North 00 degrees 44 minutes 31 seconds East 24.23 feet; thence South 89 degrees 15 minutes 29 seconds East 217.00 feet; thence South 00 degrees 44 minutes 31 seconds West 1.92 feet; thence South 89 degrees 15 minutes 29 seconds East 425.00 feet; thence South 02 degrees 06 minutes 26 seconds East 6.96 feet; thence North 84 degrees 28 minutes 08 seconds East 152.57 feet to the beginning of a non-tangent curve to the left having a radius of 475.00 feet, a central angle of 22 degrees 32 minutes 55 seconds, and a radial line passing through said point which bears North 84 degrees 28 minutes 08 seconds East; thence northerly along the arc of said curve 186.94 feet; thence North 62 degrees 32 minutes 03 seconds East 50.00 feet to the beginning of a non-tangent curve to the left having a radius of 525.00 feet, a central angle of 02 degrees 37 minutes 33 seconds, and a radial line passing through said point which bears North 61 degrees 58 minutes 43 seconds East; thence northwesterly along the arc of said curve 24.06 feet; thence North 55 degrees 43 minutes 58 seconds East 275.73 feet to a point being 371.76 feet easterly of the west line of said Northeast Quarter as measured along the south line thereof; thence South 00 degrees 36 minutes 34 seconds West parallel with said west line 1095.16 feet to the north line of said plat of Blanton Meadows, Section 1; thence South 90 degrees 00 minutes 00 seconds West along said north line 1165.49 feet to the POINT OF BEGINNING, containing 20.598 acres, more or less.

16

EXHIBIT A  
page 2 of 2

METES AND BOUNDS LEGAL DESCRIPTION  
AVALON ESTATES, SECTION 2

That portion of the East Half of the Northwest Quarter and the West Half of the Northeast Quarter of Section 28, Township 15 North, Range 1 East of the Second Principal Meridian, Town of Plainfield, Hendricks County, Indiana, described as follows:

Commencing at the southeast corner of the East Half of said Northwest Quarter; thence North 89 degrees 54 minutes 22 seconds West along the south line of said East Half Quarter Section 794.64 feet to the southwest corner of Blanton Meadows, Section 1 as per plat thereof recorded in Plat Book 8, Page 3 in the Office of the Recorder of said county; thence North 00 degrees 49 minutes 00 seconds East along the west line of said plat 255.19 feet to the northwest corner thereof; thence North 00 degrees 44 minutes 31 seconds East 698.48 feet to the POINT OF BEGINNING; thence continue North 00 degrees 44 minutes 31 seconds East 951.10 feet to a 4 inch wood corner post found; thence North 72 degrees 15 minutes 49 seconds East 439.95 feet to the centerline of Gibbs Road (the following four (4) courses are along said centerline); 1) thence South 32 degrees 07 minutes 23 seconds East 142.77 feet; 2) thence South 47 degrees 25 minutes 02 seconds East 91.07 feet; 3) thence South 69 degrees 30 minutes 06 seconds East 80.18 feet; 4) thence South 81 degrees 11 minutes 25 seconds East 189.57 feet; thence South 03 degrees 02 minutes 14 seconds West 203.35 feet; thence North 85 degrees 43 minutes 05 seconds East 345.96 feet to a point being 371.76 feet easterly of the west line of said Northeast Quarter as measured along the south line thereof; thence South 00 degrees 36 minutes 34 seconds West parallel with said west line 271.51 feet; thence South 55 degrees 43 minutes 58 seconds West 275.73 feet to the beginning of a non-tangent curve to the right having a radius of 525.00 feet, a central angle of 02 degrees 37 minutes 33 seconds, and a radial line passing through said point which bears North 59 degrees 21 minutes 10 seconds East; thence southeasterly along the arc of said curve 24.06 feet; thence South 62 degrees 32 minutes 03 seconds West 50.00 feet to the beginning of a non-tangent curve to the right having a radius of 475.00 feet, a central angle of 22 degrees 32 minutes 55 seconds, and a radial line passing through said point which bears North 61 degrees 55 minutes 13 seconds East; thence southerly along the arc of said curve 186.94 feet; thence South 84 degrees 28 minutes 08 seconds West 152.57 feet; thence North 02 degrees 06 minutes 26 seconds West 6.96 feet; thence North 89 degrees 15 minutes 29 seconds West 425.00 feet; thence North 00 degrees 44 minutes 31 seconds East 1.92 feet; thence North 89 degrees 15 minutes 29 seconds West 217.00 feet; thence South 00 degrees 44 minutes 31 seconds West 24.23 feet; thence North 89 degrees 15 minutes 29 seconds West 167.00 feet to the POINT OF BEGINNING, containing 21.407 acres, more or less.



200600023313  
Filed for Record in  
HENDRICKS COUNTY IN  
THERESA D LYNCH  
08-17-2006 At 12:28 pm.  
AMEND COVEN 14.00

**AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
AVALON ESTATES, SECTIONS 1 AND 2**

WHEREAS, the Developer of Avalon Estates, Sections 1 and 2 caused to be recorded an original Declaration of Covenants, Conditions and Restrictions on December 17, 2004, in Public Record Volume 552, Pages 2929-2944, in the Office of the Recorder of Hendricks County, Indiana; and

WHEREAS, pursuant to Section XXXVIII the Developer hereby invokes its right to modify and amend the Covenants, Conditions and Restrictions without the consent of any owner.

NOW THEREFORE, the Covenants, Conditions and Restrictions for the Subdivision are altered, changed and amended as follows:

1. Item I D is revised to read as follows:

D. "Plat", "Development", and "Subdivision" shall all mean the subdivisions of Avalon Estates, Section One (1), an addition to the Town of Plainfield, Hendricks County, Indiana, as per plat thereof recorded February 8, 2005 in Plat Cabinet 6, Slide 33, pages 2A, 2B and 2C, in the office of the Recorder of Hendricks County, Indiana; and Avalon Estates, Section Two (2), an addition to the Town of Plainfield, Hendricks County, Indiana, as per plat thereof recorded February 8, 2005 in Plat Cabinet 6, Slide 34, pages 1A, 1B, and 1C, in the office of the Recorder of Hendricks County, Indiana.

2. Item II is revised to read as follows:

**LAND USE AND BUILDING TYPE**

The Lots shall be used for residential purposes only. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached, single-family dwelling, and attached private 2-car garage. Such dwelling shall not exceed two stories in height exclusive of the basement, and shall be used for private dwelling purposes only, by one family only. Any one-story dwelling shall contain 2,000 square feet minimum of finished interior ground floor living area (exclusive of basements, porches, decks, patios, and garages). Any two-story dwelling shall contain at least 2,400 square feet minimum of finished interior ground floor living area (exclusive of basements, porches, decks, patios, and garages). Any ground floor living area of a two-family dwelling shall contain at least 1,600 square feet minimum of finished interior ground floor living area (exclusive of basements, porches, decks, patios, and garages). No vinyl or aluminum siding shall be used on the exterior of any dwelling. No dwelling shall be constructed without the prior written approval of the Committee.

All other terms and conditions of the original covenants remain unaltered and in full force and effect.

So amended this 14<sup>th</sup> day of August, 2006.

  
Donald E. Lambert, Developer

Subscribed and sworn to before me, a Notary Public, in and for said County and State, this 14<sup>th</sup> day of August, 2006.

My commission expires:  
1-27-08  
# 424405

Dorothy L. Lambert  
Notary Public - Signature  
Dorothy L. Lambert  
Notary Public - Printed name  
Resident of: Heard County



I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law, Ben Comer.

This instrument was prepared by Ben Comer, Attorney-at-Law, P. O. Box 207, Danville, IN 46122, (317) 745-4300.



201025254  
PAUL T HARDIN  
HENDRICKS COUNTY RECORDER  
11/05/2010 02:05:57PM

**SECOND AMENDMENT**  
**TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR AVALON ESTATES, SECTIONS 1 AND 2**

WHEREAS, the Developer of Avalon Estates, Sections 1 and 2 caused to be recorded an original Declaration of Covenants, Conditions and Restrictions on December 17, 2004, in Public Record Volume 552, Pages 2929-2944, as Instrument No. 200400038385 in the Office of the Recorder of Hendricks County, Indiana (the "Covenants"); and

WHEREAS, the Covenants were amended by that certain Amendment recorded August 17, 2006 as Instrument No. 200600023313 in the Office of the Recorder of Hendricks County, Indian; and

WHEREAS, the undersigned, as Developer, Declarant and majority lot owner in Avalon Estates, Sections 1 and 2, owns the lots listed and described in attached Exhibit "A"; and

WHEREAS, pursuant to Section XXXVIII the Developer hereby invokes its right to modify and amend the Covenants, Conditions and Restrictions.

NOW THEREFORE, the Covenants, Conditions and Restrictions for the Subdivision are hereby altered, changed and amended as follows:

- 1. Item II is revised to read as follows:

**LAND USE AND BUILDING TYPE**

The Lots shall be used for residential purposes only. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached, single-family dwelling with an attached private garage (2-car minimum). Such dwelling shall not exceed two stories in height exclusive of the basement, and shall be used for private dwelling purposes only, by one family only. Any one-story dwelling shall contain 2,000 square feet minimum of finished interior ground floor living area (exclusive of basements, porches, decks, patios, and garages). Any two-story dwelling shall contain at least 2,400 square feet minimum of finished interior ground floor living area (exclusive of basements, porches, decks, patios, and garages. Any ground floor living area of a two-family dwelling shall contain at least 1,600 square feet minimum of finished interior ground floor living area (exclusive of basements, porches, decks, patios, and garages). The ground floor exterior facade of all dwellings shall utilize 100% brick, stone or masonry building materials. No vinyl or aluminum siding shall be used on the exterior of any dwelling. No dwelling shall be constructed without the prior written approval of the Committee.

All other terms and conditions of the original covenants remain unaltered and in full force and effect.

So amended this 4<sup>th</sup> day of November 2010.

*Donald E Lambert*  
Donald E. Lambert,  
Developer, Declarant, Majority lot owner

3+2

STATE OF INDIANA )  
 ) SS:  
COUNTY OF HENDRICKS )

Before me, a Notary Public, in and for said County and State, personally appeared Donald E. Lambert, who acknowledged the execution of the foregoing to be their voluntary act and deed for the uses and purposes contained therein.

WITNESS my hand and seal this 4<sup>th</sup> day of November 2010.

My Commission Expires:

*Bernadette Stevens*  
Notary Public - Signature

Resident of \_\_\_\_\_



OFFICIAL SEAL  
Bernadette L. Stevens Public - Printed Name  
Morgan County  
My Commission Expires  
June 28, 2013

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law, Ben Comer.

This instrument was prepared by Ben Comer, Attorney-at-Law, P. O. Box 207, Danville, IN 46122, (317) 745-4300.

**EXHIBIT A**  
**Legal Description of the Developer-Owned Lots**

**Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 19, 20, 22, 24, 25, 26, 27, 28, 29, and 30 Avalon Estates, Section One (1) - Final Plat, an addition to the Town of Plainfield, Hendricks County, Indiana, as per plat thereof recorded February 8, 2005 in Plat Cabinet 6, Slide 33, pages 2A, 2B, and 2C in the Office of the Recorder of Hendricks County, Indiana; and**

**ALSO:**

**Lots 31, 32, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65 Avalon Estates, Section Two (2), an addition to the Town of Plainfield, Hendricks County, Indiana, as per plat thereof recorded February 2, 2005 in Plat Cabinet 6, Slide 34, pages 1A, B, and C in the Office of the Recorder of Hendricks County, Indiana.**