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PAUL T. HARDIN
HENDRICKS COUNTY RECORDER
01/22/2008 11:27:14AM

**Cross Reference: Instrument No. 98-23153
Instrument No. 98-23420**

**AMENDED AND RESTATED DECLARATION OF
HORIZONTAL PROPERTY OWNERSHIP FOR
THE ENCLAVE OF AVON VILLAGE
HORIZONTAL PROPERTY REGIME**

THIS AMENDED AND RESTATED DECLARATION of The Enclave of Avon Village Horizontal Property Regime ("Declaration") is made as of the date set forth below.

WHEREAS, the Original Declarant was the sole owner of the fee simple title to certain real estate and improvements thereon, located Hendricks County, Indiana, more particularly described in Exhibit A hereto (hereinafter called the "Real Estate"); and

WHEREAS, the Original Declarant, by execution of the Original Declaration and Original Code of By-Laws, recorded in the Office of the Recorder of Hendricks County, Indiana, as Instrument Nos. 98-23153 and 98-23420, respectively, created a Horizontal Property Regime (the "Regime") upon the Real Estate, subject to the provisions of the Horizontal Property Law of the State of Indiana (the "Act") and the terms and conditions of the Original Declaration and Original By-Laws; and

WHEREAS, the Original Declaration and Original By-Laws and any recorded Supplemental Declarations thereto shall continue for historical purposes and remain in effect and are made a part hereof by reference only to the extent not amended and restated herein; and

WHEREAS, the Amended and Restated Declaration of The Enclave of Avon Village Horizontal Property Regime and the Amended and Restated Code of By-Laws of The Enclave of Avon Village Horizontal Property Regime and of Avon Village Co-Owners Association, Inc. were approved by two-thirds (2/3) or more of all Owners at a reconvened meeting called for such purposes on December 6, 2007, and all requirements for the above-referenced amendments and restatements have been complied with.

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WHEREAS, the Amended and Restated Code of By-Laws of The Enclave of Avon Village Horizontal Property Regime and of Avon Village Co-Owners Association, Inc. are attached hereto as Exhibit C and made a part hereof by reference.

NOW, THEREFORE, this Amended and Restated Declaration is hereby made in accordance with the following terms and conditions:

Section 1. Definitions. The following terms, as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

- (a) "Act" means the Horizontal Property Law of the State of Indiana, Acts 1963, Chapter 349, as amended. The Act is incorporated herein by reference, and identified in the Indiana Code as 32-25-1 et seq.
- (b) "Association" means Avon Village Co-Owners Association, Inc., an Indiana nonprofit corporation, being the Association of the Co-Owners of the Avon Village, more particularly described in Section 11 hereof.
- (c) "Board of Directors" means the governing body of the Association elected by the Co-Owners per the By-Laws.
- (d) "Building" means any structure on the Real Estate in which Common Areas, Limited Common Areas or one or more Condominium Units are located. The buildings are more particularly described and identified on the Plans and in section 2 of this Declaration.
- (e) "By-Laws" means the Code of By-Laws of the Association providing for the administration and management of the Association as required by and in conformity with the provisions of the Act. A true copy of the By-Laws is attached to this Declaration and incorporated herein by reference.
- (f) "Common Areas" means the common areas, limited common areas and facilities as defined in Section 5 of this Declaration.
- (g) "Common Expenses" means expenses of administration of the Association, expenses for the upkeep, maintenance, repair and replacement of the Common Areas and all other costs and expenses incurred by the Association for the benefit of Common Areas or for the common benefit of all Owners.
- (h) "Condominium Unit" means any one of the ninety-six (96) living units constituting Avon Village, each individual living unit being more particularly described and identified on the Plans and in Sections 3 and 4 of this Declaration. "Condominium Unit" includes the undivided interest in the Common Areas and Limited Areas pertaining to such unit.

- (i) "Co-Owners" means all of the Owners of all of the Condominium Units in the Regime.
- (j) "Mortgagee" means the holder, insurer or guarantor of a first mortgage loan on a Condominium Unit.
- (k) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof who or which owns the fee simple title to a Condominium Unit; provided, however, that persons or entities owning a single Condominium Unit as tenants-in-common, joint tenants, tenants by the entireties, or any form of joint or divided ownership, shall be deemed one Owner for purposes of this Declaration. Persons or entities owning more than one Condominium Unit shall have the status of an Owner for each Condominium Unit owned.
- (l) "Percentage Interest" means that percentage of the total undivided interest accruing to all the Condominium Units which is appurtenant to each Condominium Unit and accrues to the Owner thereof. The formula for determining "Percentage Interest" is set forth in Section 15 hereof. Per that formula, all Condominium Units have an equal Percentage Interest.
- (m) "Plans" means the floor and building plans of the Buildings and Condominium Units prepared and certified by Morris & Associates, Inc., a registered engineer, dated April, 1998, and the site plans, surveys, and elevation plans of the Real Estate and Buildings prepared by Benchmark Consulting, Inc., a registered engineer under date of April, 1998, all of which are incorporated herein by reference, and made a part of the Regime by such references. "Plans" also means those floor and building plans of Buildings and Condominium Units that were built subsequent to the initial construction within Avon Village, as referenced in Supplemental Declarations prepared by the Developer and filed with the Office of the Recorder of Hendricks County, Indiana.
- (n) "Property" means the Real Estate and appurtenant easements, the Condominium Units, the Buildings, improvements, and Property of every kind and nature whatsoever, real, personal or mixed, located upon the Real Estate and used in connection with the operation, use and enjoyment of Avon Village, but does not include the personal property of the Owners.
- (o) "Avon Village" means the name by which the Horizontal Property Regime shall be known.

Section 2. Description of Buildings. There are twelve (12) Buildings containing a total of ninety-six (96) Condominium Units on the Real Estate as shown on the Plans. A description of the Buildings and the Condominium Units contained or to be contained therein is set forth in Exhibit B attached hereto and made a part hereof by reference.

Section 3. Legal Description and Percentage Interest. Each Condominium Unit is identified on the Plans by a number. The Legal Description for each Condominium Unit shall consist of the identifying number for such Condominium Units as shown on the Plans, and shall be stated as "Condominium Unit" (with identifying number) in Avon Village Horizontal Property Regime. The Percentage Interest of each Owner in the Common Areas and Limited Areas as hereinafter defined shall be the same percentage of interest as each Condominium Unit as set forth on Exhibit "B" attached hereto and hereby made a part hereof.

Section 4. Description of Condominium Units.

- (a) "Appurtenants". Each Condominium Unit shall consist of all space within the boundaries thereof, as hereinafter defined, and all portions of the Building situated within such boundaries, including, but not limited to, all fixtures, facilities, utilities, equipment, appliances, and structural components designed and intended solely and exclusively for the enjoyment, use, and benefit of the Condominium Units wherein the same are located, or to which they are attached, but excluding therefrom that designed or intended for the use, benefit, support, safety or enjoyment of any other Condominium Unit or which may be necessary for the safety, support, maintenance, use, and operation of any of the Buildings, or which are normally designed for common use; provided, however, that all fixtures, equipment and appliances designed or intended for the exclusive enjoyment, use and benefit of a Condominium Unit shall constitute a part of such a Condominium Unit, whether or not the same are located within or partly within the boundaries of such Condominium Unit. Also, the interior sides and surfaces of all doors and interior and exterior and frames of all windows in the perimeter walls of the Condominium Unit, whether or not located within or partly within the boundaries of the Condominium Unit, and all interior walls and all floors and ceilings within the boundaries of the Condominium Unit, are considered part of the Condominium Unit.
- (b) "Boundaries". The boundaries of each Condominium Unit shall be as shown on the Plans and shall be measured between the interior unfinished surface of the floors, ceilings and perimeter walls of each Condominium Unit. In the event any horizontal or vertical or other boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor, or ceiling surface of the Condominium Unit because of inexactness of construction, settling after construction or for any other reasons, the boundary lines of each Condominium Unit shall be deemed to be and treated for purposes of ownership, occupancy, possession, maintenance, declaration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent appurtenance easements for exclusive use shall exist in favor of the Owner of each Condominium Unit in and to such space lying outside of the actual boundary lines of the Condominium Unit, but within the appropriate wall, floor or ceiling surfaces of the Condominium Unit.

Section 5. Common Areas and Facilities. "Common Areas" shall include the following, except to the extent otherwise specifically designated in this Declaration as being within a Condominium Unit or as a Limited Area:

- (a) The Real Estate, excluding the Condominium Units;
- (b) The foundations, columns, girders, beams, supports and exterior surfaces of roofs of the Buildings;
- (c) The yards, sidewalks, driveways, parking areas, entrances and exits;
- (d) Central electricity, gas, water, air conditioning and sanitary sewer mains serving the Buildings unless separately metered to a particular Condominium Unit;
- (e) Exterior lighting fixtures and electrical service lighting to the exterior of the Buildings unless separately metered to a particular Condominium Unit; and
- (f) Pipes, ducts, electrical wiring and conduits, roofs and exterior permanent walls of the Buildings, except to the extent the same are otherwise classified and defined herein as Limited Areas or as part of a Condominium Unit.

Section 6. Limited Areas and Facilities. Limited Areas and those Condominium Units to which use thereof is limited are as follows:

- (a) The front entrance ways, patios, porches, and all exterior sides and surfaces of doors and frames surrounding the same on each Condominium Unit shall be limited to the exclusive use of the Condominium Unit to which they appertain.
- (b) Any other areas designated and shown on the Plans as Limited Areas shall be limited to the Condominium Unit or Condominium Units to which they appertain as shown on the Plans.

Section 7. Ownership Of Common Areas and Percentage Interest. Each Owner shall have an undivided interest in the Common Areas and Limited Areas, as tenants-in-common with all the other Owners, equal to his or her Condominium Unit's Percentage Interest. The Percentage Interest in the Common Areas applicable to each Condominium Unit shall be determined in accordance with the formula set forth in Section 15 hereof. The Percentage Interest in the Common Areas and Limited Areas pertaining to each Condominium Unit is specified in Exhibit "B" hereto. In any computation of Percentage Interests, the figure obtained

shall be rounded to the nearest one-thousandth of a percent, and shall be so presented for all purposes of conveyance and for all purposes contemplated under this Declaration.

Section 8. Encroachments, Easements For Common Areas and Ingress and Egress Easements. If, by reason of the location, the construction, settling or shifting of a Building, any Common Area or Limited Area now encroaches or shall hereafter encroach upon any Condominium Unit, then in such event an easement shall be deemed to exist and run to the Co-Owners and the Association for the maintenance, use and enjoyment of such Common Area or Limited Area. Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in any of the other Condominium Units and serving his or her Condominium Unit. Each Owner shall have an easement over the Common Areas for the purpose of ingress and egress from his or her Condominium Unit, and to use all Common Areas wherever located, and such easement shall be perpetual and appurtenant to the Condominium Unit.

Section 9. Real Estate Taxes. Real Estate taxes are to be separately assessed and taxed to each Condominium Unit as provided in the Act. In the event that for any year Real Estate taxes are not separately assessed and taxed to each Condominium Unit, but are assessed and taxed on the property as a whole, then each Owner shall pay his or her proportionate share of such taxes to the extent attributable to the Property in accordance with his or her respective Percentage Interest.

Section 10. Utilities. Each Owner shall pay those utilities which are separately metered to his or her Condominium Unit. Utilities which are not separately metered shall be treated as and paid as a part of the Common Expenses unless otherwise agreed by the majority of the Percentage Interest.

Section 11. Association of Owners. Maintenance, repair, upkeep, replacement, administration, management and operation of the Property shall be by the Association. Each Owner of a Condominium Unit shall, automatically upon becoming an Owner of a Condominium Unit, be and become a member of the Association and shall remain a member

until such time as his or her ownership ceases. The membership shall terminate when such person ceases to be an Owner, and shall be transferred to the new Owner.

The Association shall elect a Board of Directors annually per the By-Laws. Each Owner shall be entitled to cast a vote commensurate with the number of Condominium Units owned by that Owner for the election of the Board of Directors.

The Board of Directors shall be the governing body of the Association, representing all the Owners in providing for the management, administration, operation, maintenance, repair, replacement and upkeep of the Property exclusive of the Condominium Units.

The Association and any aggrieved Condominium Unit Owner shall have a right of action against any Condominium Unit Owner for failure to comply with the provisions of the Declaration, By-Laws, Rules and Regulations adopted by the Board, or decisions of the Association which are made pursuant to authority granted the Association in such documents. Condominium Unit Owners shall have a similar right of action against the Association.

Section 12. Use of Common Areas. The Board of Directors shall adopt rules and regulations concerning maintenance, repairs, use and enjoyment of the Common Areas and Limited Areas as it deems appropriate, and may amend and modify the same from time to time as it deems advisable, necessary or appropriate.

The Board of Directors or therein designated agents shall have the right at reasonable times and upon reasonable prior notice (except in cases of emergency in which case no notice shall be required), to enter into each individual Condominium Unit for the purpose of inspection of the Common Areas and Limited Areas appurtenant thereto and replacement, repair and maintenance of such Common Areas and Limited Areas.

Section 13. Maintenance, Decoration, Repairs And Replacements.

- (a) **Common Areas.** The Association will be responsible for the maintenance, repair, decoration, restoration, and replacement of the Common Areas. Maintenance, decoration, repairs, and replacements of the Common Areas shall be furnished by the Association and the costs thereof shall be part of the Common Expenses. The Association, acting through the Board of Directors, may elect to delegate such duties to a Managing Agent and may enter into a management contract for such purpose. The Board of Directors has the right to adopt such rules and regulations concerning the maintenance, repairs, use and enjoyment of the Common Areas as it deems appropriate, including the

appointment of committees to oversee the same. The Board of Directors shall have the exclusive right to determine the outside decor of each Building, including without limitation the color and type of paint and other decor pertinent to the exterior of each Building.

- (b) **Condominium Units.** Each Owner shall control and have the right to determine the interior decor of his or her Condominium Unit, but this shall not include the right to make structural changes to the Unit, nor the right to use interior decor which in the discretion of the Board of Directors adversely affects the external appearance of the Condominium Unit, as more particularly set forth in the By-Laws of the Association. No act or omission which constitutes waste shall be committed or suffered in or upon any Condominium Unit, the Common Areas, or Limited Areas. Each Owner shall maintain and repair at his or her sole cost and expense all fixtures, appliances, equipment, and other improvements constituting a part of his or her Condominium Unit under Section 4 hereof, and each Owner shall promptly repair any condition or defect existing or occurring in his or her Condominium Unit which, if not repaired, might adversely affect any Condominium Unit, Common Area or Limited Area. The Board of Directors and the Managing Agent shall have the right at reasonable times and upon reasonable prior notice (except in cases of emergency in which case no notice shall be required) to enter in the Condominium Units and Common Areas adjacent to each Condominium Unit to replace, repair, and maintain such Common Areas. In the event that any Owner fails or is unable to maintain or repair any condition or defect for which he or she is responsible and the Board of Directors or the Managing Agent have a reasonable basis for believing that such condition or defect has caused or threatens to cause immediate and/or substantial harm to any person or to any property outside such Owner's Condominium Unit, the Board of Directors and the Managing Agent shall each have the right to enter such Owner's Condominium Unit to remedy or repair such condition or defect, and any costs or expenses incurred in connection therewith (including attorney's fees) shall be payable by such Owner upon demand by the Board of Directors or the Managing Agent. Nothing herein contained shall be construed to represent a contractual liability to any Owner on the part of the Association or the Board of Directors for maintenance, repair, or replacement of any Condominium Unit, Common Areas, or Limited Areas, and the liability of the Association, the Board of Directors and Managing Agent in this regard shall be limited to damages resulting from gross negligence, recklessness, or intentional misconduct, unless otherwise provided in the management contract in the case of the Managing Agent.

Section 14. Alterations, Additions and Improvements. No Owner shall make any alterations or additions to, or which would affect, the Common Areas or Limited Areas without the prior written approval of the Board of Directors, nor shall any Owner make any alteration in or to his respective Condominium Unit and within the boundaries thereof which would affect the safety or structural integrity of the Building in which Condominium Unit is located.

Section 15. Percentage Interest. The Owner of each Condominium Unit shall have a Percentage Interest appurtenant to his Condominium Unit Ownership based upon the number of Condominium Units owned by that Owner divided by the total number of all of the Condominium Units in the Regime (hereinafter called the "Formula"). As fully constructed, Avon Village has a total of ninety-six (96) Condominium Units. This method of calculating Percentage Interest shall result in an equal Percentage Interest to each Condominium Unit. The total Percentage Interests shall at all times equal one hundred percent (100%), or as close to one hundred percent (100%) as is mathematically possible.

Section 16. Insurance.

- (a) The Co-Owners, through the Association, shall purchase a master casualty insurance policy issued in the name of the Association for the use and benefit of the Owners affording fire and extended coverage insurance insuring the Property in an amount consonant with the full replacement value of the Property and improvements including the individual Condominium Units, the Common Areas and Limited Areas and facilities, and further including fixtures, building service equipment and common personal property and supplies belonging to the Association. For all Condominium Units which are subject to a first mortgage, the insurance must cover fixtures, equipment and other personal property inside individual Condominium Units if they are secured by a first mortgage. A Certificate of Insurance shall be issued to each Condominium Unit Owner and each Mortgagee upon request and no such policy shall be canceled or substantially modified without at least thirty (30) days prior written notice to the Association and to each Mortgagee listed as Mortgagee in the policies. The insurance policy must contain the standard mortgage clause and must name the Mortgagee or the servicer of the Mortgagee. If a servicer is named as Mortgagee, its name shall be followed by the phrase "Its successors and assigns." The Board of Directors shall also obtain "all risk" coverage if available. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Board of Directors, the Board may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall be for the benefit of each Owner, and if applicable, the Mortgagee of each Owner upon the following terms and conditions:
- (i) All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Association as hereinabove set forth shall be paid to it or to the Board of Directors, who shall act as the insurance trustees and hold such proceeds for the benefit of the insured parties. In the event that the Board of Directors has not posted surety bonds for the faithful performance of its duties as such Directors or if such bonds

do not exceed the funds which will come into its hands, and there is a damage to a part or all of the Property resulting in a loss, the Board of Directors shall obtain and post a bond for the faithful performance of its duties as insurance trustee in an amount to be determined by the majority of the Owners but not to exceed one hundred twenty-five percent (125%) of the loss, before the Board of Directors shall be entitled to receive the proceeds of the insurance payable as a result of such loss. The sole duty of the insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purpose elsewhere stated herein, and for the benefit of the Owners and their respective Mortgagees. The proceeds shall be used or disbursed by the Association or Board of Directors, as appropriate, only in accordance with the provisions of this Declaration.

- (ii) The interest of each damaged Owner in the trust fund of insurance proceeds shall be the ratio of the direct damage of each damaged Owner to the damages of all Owners directly damaged by any event insured under said master casualty insurance policy.
- (b) Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (i) waives its right to subrogation as to any claim against the Association, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (ii) waives any defense based on invalidity arising from the acts or omissions of the individual Condominium Unit Owners that are not under the control of the Association, and providing further, (iii) that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners as hereinafter permitted and (iv) that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore pursuant to Section 18 of this Declaration.
- (c) The Co-Owners, through the Association shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time; however, such coverage shall be for at least Two Million Dollars (\$2,000,000.00) for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Such compensation public liability insurance policy shall cover the Association, the Board of Directors, any committee or organ of the Association or Board of Directors, any Managing Agent appointed or employed by the Association, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to Avon Village, all Owners of Condominium Units and all other portions of Avon Village. Coverage under this policy shall include, without limitation, legal liability of the insureds, for the property damage, bodily injuries and deaths of the persons in connection with the operation, maintenance or the use of the Common Areas and Limited Areas, and if available, legal liability arising out of law suits related to employment contracts of the Association. No insurance coverage as described hereinabove shall be prejudiced by the act or neglect of an

individual Condominium Unit Owner who was not in control of the Owners collectively. Such policies shall also provide that it may not be canceled or substantially modified by any party without at least thirty (30) days prior written notice to the Association and to each holder of a first mortgage on any Condominium Unit in the Property which is listed as a scheduled holder of a first mortgage in the insurance policy.

- (d) The Co-Owners, through the Association, shall also obtain any other insurance required by law to be maintained, including but not limited to, workers compensation insurance, flood insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate, including but not limited to, comprehensive liability insurance on vehicles owned by the Association, directors and officers liability policies, contractual and all-written contract insurance, and employer's liability insurance. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, the Board of Directors and any Managing Agent acting on behalf of the Association.
- (e) Each Owner shall be deemed to have appointed the Board of Directors to represent each Owner in any proceedings, negotiations, settlements or agreements with the insurance companies to adjust all losses under policies purchased by the Board of Directors.
- (f) The premiums for all such insurance hereinabove described shall be paid by the Association as part of Common Expenses. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Association, written notice of the attainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Owner or Mortgagee whose interest may be affected thereby which notice shall be furnished by the officer of the Association who is required to send notices of meetings of the Association.
- (g) In no event shall any distribution of proceeds be made by the Board of Directors directly to an Owner where there is a mortgage endorsement on the Certificates of Insurance. In such event any remittance shall be to such Owner and Mortgagee jointly.
- (h) Each Owner shall be solely responsible for, and may obtain, such additional insurance as the Owner deems necessary or desirable at the Owner's own expense affording coverage upon his personal property, contents of the Owner's Condominium Unit (including, but not limited to, all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by the Owner) and the Owner's personal property stored elsewhere on the Property, the Owner's share of the Association's deductible per Section 17 below, and for the Owner's personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions owner may obtain casualty insurance at the Owner's own expense upon the Owner's Condominium Unit but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds which would otherwise

be payable in the insurance purchased by the Association pursuant to this paragraph, due to proration of insurance purchased by an Owner under this paragraph the Owner agrees to assign the proceeds of this latter insurance, to the extent of the amount of such reduction, to the Association to be distributed as herein provided. Notwithstanding any other foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured on behalf of the Association, an authorized representative, including any trustee with whom the Association may enter into an insurance trust agreement or any successor to such trustee who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish this purpose. Each Condominium Unit Owner hereby appoints the Association as attorney-in-fact for the purpose of purchasing and maintaining such insurance, and the following additional purposes: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability related thereto; the execution of all documents necessary in connection therewith; and the performance of all other acts necessary to accomplish such purposes.

- (i) All of the above described insurance shall be procured by generally acceptable insurance carriers.

Section 17. Liability For Association's Deductible.

- (a) All insurance claims covered by the Association's master casualty insurance policy carry a deductible in an amount determined by the Board, up to a maximum of Five Thousand Dollars (\$5,000) per occurrence. Notwithstanding anything else contained in this Declaration or the By-Laws, liability for the amount of damage within the limits of any applicable insurance deductible on a policy of insurance issued to the Association shall be in the following manner:
 - 1. Where the damage results from a negligent or intentional act or omission by the Owner, that Owner's tenant, family, servant, employee, agent, visitor or licensee of that Owner or tenant, or from the failure to maintain any portion of the Owner's property, including any appliance, equipment, or fixture in the Owner's Unit, that Unit Owner is responsible for said deductible.
 - 2. Except as provided in sub-paragraph 2 above, or where the damage is a result of the sole fault of the Association, if the damage involved is limited solely to one Owner's Condominium Unit or the Limited Areas assigned to that Owner's Condominium Unit, such Owner is responsible for said deductible.
 - 3. Except as provided in sub-paragraphs 1 and 2 above, or where the damage is a result of the sole fault of the Association, if the damage involves both the Common Areas and/or one or more Condominium Units or the Limited Areas assigned to a Condominium Unit or Units, the deductible shall be pro-rated between the Association and any involved Owners in proportion to the relative amounts of

damage to the Common Areas and to each of the affected Condominium Units, including the Limited Areas assigned to such Condominium Unit or Units.

- (b) All decisions and determinations to be made under sub-paragraphs 1, 2 and 3 above shall be by the Association's Board of Directors, and the same shall be final and binding as between the Association and the affected Owners.
- (c) Each Owner is responsible for verifying with his or her own insurance agent that the Owner's share of any such Association deductible is covered under his or her own Condominium Unit Owner's insurance policy (assuming the deductible is not assessed as part of the Common Expenses allocable to all Owners). The Owner should pay particular attention to the portion of his or her HO-6 policy which is typically called "Coverage A-- Building Property" to ensure that there is sufficient coverage for the Owner's possible share of the Association's deductible. Any portion of such a deductible which has been assessed to a particular Owner's account will be subject to the same collection procedures as provided in this Declaration and the By-Laws for Assessments.

Section 18. Casualty and Restoration; Condemnation; and Termination.

- (a) Except as hereinafter provided, damage to or destruction of any Building due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose; provided, however, that repair and reconstruction shall not be compulsory in the event of "complete destruction of all the Buildings" (hereinafter defined) it shall only be done in accordance with provisions hereinafter set forth. As used herein, the term "complete destruction of all the Buildings" means a determination, made by a vote of two-thirds of all Co-Owners at a special meeting of the Association called for the purpose of making such determination, that total destruction of all of the Buildings has occurred. A special meeting of the Association shall be called and held within ninety (90) days after any fire or any other casualty or disaster damaging or destroying any of the Buildings. If such a meeting is not called and held within such ninety (90) day period, or if the determination of whether or not there has been a complete destruction of all the Buildings has not been made within such ninety (90) day period, then it shall be conclusively presumed that the Co-Owners determined that there was not a complete destruction of all the Buildings, and the Association shall proceed with repair and reconstruction as herein provided.
- (b) If the insurance proceeds, if any, received by the Association as a result of any such fire or any other casualty disaster are not adequate to cover the costs of repair and reconstruction, or in the event there are no insurance proceeds, and if the Property is not to be removed from the Horizontal Property Regime, the costs for restoring the damage, repairing or reconstructing the Building or Buildings so damaged or destroyed (or the costs thereof in excess of the insurance proceeds received, if any) shall be paid by all of the Owners of Condominium Units in proportion to the ratio that the Percentage Interest of each Condominium Unit bears to the total Percentage Interest of all Condominium Units. Any such amounts payable by the Co-Owners shall be assessed as part of the

Common Expenses and shall constitute a lien from the time of assessment as provided herein the Act.

- (c) For purposes of Subsections (a) and (b) above, repair, reconstruction and restoration shall mean construction or rebuilding of the Condominium Units as near as possible to the same condition as they existed immediately prior to the damage or destruction and with the same type of architecture.
- (d) If, under Subsection (a) above, it is determined by the Co-Owners at the special meeting of the Association referred to therein that there has been a complete destruction of all the Buildings, the Co-Owners shall, at such same special meeting, vote to determine whether or not such complete destruction of all the Buildings shall be repaired and reconstructed. The Buildings shall not be reconstructed or repaired if it is the determination of the Co-Owners at said special meeting that there has been a complete destruction of all of the Buildings, unless by a vote of two-thirds of all the Co-Owners a decision is made to rebuild, reconstruct and repair the Buildings. If two-thirds of all of the Co-Owners vote and decide that the Buildings are to be rebuilt, reconstructed and repaired, insurance proceeds, if any, received by the Association shall be applied and any excess of construction costs over insurance proceeds, if any received by the Association shall be contributed and paid as hereinabove provided in Subsections (a) and (b).
- (e) If, in the case of the complete destruction of all of the Buildings, less than two-thirds of all of the Co-Owners vote in favor of the rebuilding, reconstruction and repair of the Buildings, the Buildings shall not be rebuilt, reconstructed and repaired, and, in such event, the Property shall be deemed and considered as to be removed from the provisions of the Act and in accordance with the Act:
 - (i) The property shall be deemed to be owned in common by the Condominium Unit Owners;
 - (ii) The undivided interest in the Property owned in common which shall appertain to each Condominium Unit Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Areas and facilities;
 - (iii) Any liens affecting the Condominium Units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the Condominium Unit Owner in the Property; and
 - (iv) The Property shall be subject to an action for partition at the suit of any Condominium Unit Owner, in which event the net proceeds of sale, together with the net proceeds of insurance on the Property, if any, shall be considered as one fund and shall be divided among all Condominium Unit Owners in a percentage equal to the percentage of undivided interest owned by each Owner of the Property after first paying out of the respective shares

of Condominium Unit Owners to the extent sufficient for the purpose, all liens on the undivided interest in the Property owned by each Condominium Unit Owner.

- (f) Immediately after a fire or other casualty or disaster causing damage to any Property for which the Board of Directors or Association has the responsibility of maintenance and repair, the Board of Directors shall obtain reliable and detailed estimates of the cost to place the damaged Property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires.
- (g) The proceeds of insurance collected on account of any such casualty, and the sums received by the Board of Directors from collections of assessments against Owners on account of such casualty, shall constitute a construction fund which shall be disbursed, if the Building to be reconstructed and repaired, in payment of the costs of reconstruction and repair in the following manner:
 - (i) If the amount of the estimated cost of reconstruction repair is less than One Hundred Thousand Dollars (\$100,000.00) then the construction fund shall be disbursed in payment of such costs upon order of the Board of Directors; provided, however, that upon request of the Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereinafter provided in the following Subsection (ii).
 - (ii) If the estimated costs of reconstruction and repair of the Building or other improvement is more than One Hundred Thousand Dollars (\$100,000.00), then the construction fund shall be disbursed in payment of such costs upon approval of an architect qualified to practice in Indiana and employed by the Board of Directors to supervise such work, payment to be made from time to time as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materialmen furnished by various contractors, subcontractors, material, the architect, or other persons who have rendered services or furnished materials in connection with the work, (1) that the sums requested by them in payment are justly due and owing and that said sums do not exceed the value of the services or materials furnished; (2) that there is no other outstanding indebtedness known to the architect for services and materials described; and (3) that the costs estimated by the architect for the work remaining to be done subsequent to the date of such certificate, do not exceed the amount of the construction fund remaining after payment of the sum requested.
- (h) Encroachments upon or in favor of Condominium Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or

action by the Owner upon which property such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Building was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Building stands.

- (i) In the event that there is any surplus of monies in the construction fund or the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Board of Directors as a reserve or may be used in the maintenance or operation of the Common Areas, or, in the discretion of the Board of Directors, it may be distributed to the Owners in the Buildings affected and their Mortgagees who are the beneficial Owners of the fund. The action of the Board of Directors in proceeding to repair or reconstruction damage shall not constitute a waiver of any rights against an Owner for committing willful or malicious damage.
- (j) In the event of the condemnation of all or any part of the Common Areas or all or any part of the Building(s) or Condominium Unit(s), the Board of Directors is hereby authorized to negotiate with the condemning authority and/or to contest an award made for the appropriation of such Common Areas, Buildings or Condominium Units. For the purpose of such negotiation and/or contest of such award to the Board of Directors as to Buildings and Condominium Units, the Board of Directors is hereby declared to be the agent and attorney-in-fact of any Owners affected by the condemnation. This appointment of the Board of Directors shall be deemed coupled with an interest and shall be irrevocable. Nothing contained herein, however, shall preclude any Owner from asserting any rights or claims to compensation which cannot be legally asserted by the Board of Directors.

Awards for the taking of all or part of a Building, Condominium Unit or lot shall be collected by the Board of Directors and distributed to the affected Owner(s). To the extent possible, negotiated awards or awards resulting from a contest shall specify the allocation of the award among the Owner(s) affected. In the event that an Owner does not agree with the distribution of an award, said Owner shall be entitled to have the dispute settled by arbitration. The protesting Owner shall appoint one arbitrator, the Board of Directors acting as agent for all other affected Owners shall appoint one arbitrator and the two appointed arbitrators shall appoint a third arbitrator. The majority decision of the arbitrators shall be binding on all Owners and shall be enforceable in a court of competent jurisdiction.

Section 19. Covenants and Restrictions. The covenants and restrictions applicable to the use and enjoyment of the Condominium Units and the Common Areas and Limited Areas are set forth in the By-Laws, including the limitation that each of the Condominium Units shall be limited to residential use. These covenants and restrictions are for the mutual benefit and

protection of the present and future Owner or Owners. Present or future Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of these provisions and shall be entitled to damages for any injuries resulting from any violation thereof, but there shall be no right of reversion or forfeiture of title resulting from such violation.

Section 20. Amendment of Declaration. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

- (a) **Resolution.** A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having in the aggregate at least a majority of the Percentage Interest.
- (b) **Notice.** Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered, including any annual meetings.
- (c) **Meeting.** The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the By-Laws.
- (d) **Adoption of Regular Amendment(s).** Any proposed amendment(s), excluding Material Amendments discussed below, must be approved by a vote of not less than two-thirds (2/3) of the Owners.
- (e) **Adoption of Material Amendment(s).** Any proposed Material Amendments (as hereinafter defined) to this Declaration must be approved by a vote of not less than two-thirds of the Owners. If any Condominium Unit is subject to a first mortgage, the Mortgagee (hereinafter referred to as "Eligible Mortgagee") shall be notified of the meeting and the proposed Material Amendment in the same manner as an Owner if and only if the Eligible Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the By-Laws, and any proposed Material Amendment must be approved by a vote of not less than a majority of the Eligible Mortgagees. An Eligible Mortgagee who receives a written request to approve amendments and does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

A change to any of the following shall be deemed to be a Material Amendment:

- (i) Voting rights;

- (ii) Assessments, assessment liens or subordination of assessment liens;
 - (iii) Reserves for maintenance, repair and replacement of Common Areas;
 - (iv) Responsibility for maintenance and repair;
 - (v) Reallocation of interests in Common Areas or Limited Areas, or rights to their use;
 - (vi) Boundaries of any Condominium Unit;
 - (vii) Convertibility of Condominium Units into Common Areas or vice versa;
 - (viii) Expansion or contraction of the Property, or the addition, annexation or withdrawal of property to or from the Property;
 - (ix) Insurance or fidelity bonds;
 - (x) Leasing of Condominium Units;
 - (xi) Imposition of any restrictions on a Condominium Unit Owner's right to sell or transfer his or her Condominium Unit;
 - (xii) A decision by the Association to establish self-management when a professional management agent had been required previously by an Eligible Mortgagee;
 - (xiii) Restoration or repair of the Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Declaration;
 - (xiv) Any action to terminate the legal status of the Property after substantial destruction or condemnation occurs; or
 - (xv) Any provision that expressly benefits mortgage holders, insurers or guarantors.
- (f) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Association, and shall be recorded in the Office of the Recorder of Hendricks County, Indiana, and such amendment shall not become effective until so recorded.
- (g) Additional Restrictions On Amendments.
- (1) The consent of Owners of Condominium Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the

approval of the Eligible Mortgagees on Condominium Units to which at least sixty-seven percent (67%) of the votes of the Condominium Units subject to a Eligible Mortgage appertain shall be required to terminate the Condominium Regime for reasons other than substantial destruction or condemnation of the Property.

- (2) As used in this Section, the term "Eligible Mortgagee" shall mean a holder, insurer or guarantor of a first mortgage on the Condominium Unit who has requested notice in accordance with the provisions of Article VIII of the By-Laws.

Section 21. Acceptance and Ratification. All present and future Owners, mortgagees, tenants and occupants of the Condominium Units shall be subject to and shall comply with the provisions of this Declaration, the Act, the By-Laws appended hereto, and the rules and regulations as adopted by the Board of Directors as each may be amended or supplemented from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Condominium Unit shall constitute an agreement that the provisions of this Declaration, the Act, the By-Laws and rules and regulations as each may be amended or supplemented from time to time are accepted and ratified by each such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Condominium Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Condominium Unit or Condominium Units or any part of the Property in any manner shall be subject to the Declaration, the Act, the By-Laws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

Section 22. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by the Owner's own negligence or by that of any member of the Owner's family, their guests, employees, agents or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by such Owner's use, misuse, occupancy or abandonment of the Owner's Condominium Unit or its appurtenants or of the Common Areas or Limited Areas.

Section 23. Granting of Easements. Without any vote by the Owners, the Board of Directors may hereafter grant such easements as may be required or requested by the various public and private utility companies to provide utility services necessary for the use and operation of the Avon Village property upon such terms and conditions and for such consideration as the Board of Directors deems appropriate. Such utilities may include, but not be limited to, electrical, gas, water, sewer, telephone, cable television and broadband service. For purposes of this section, cable television and broadband service are deemed to be utilities. The Board of Directors shall have the power to grant other easements for the benefit of the Owners only upon such terms and conditions which are approved by a majority of the percentage vote at a Special Meeting of the Association duly called for such purpose at which a quorum is present. Nothing herein shall permit substantial impairment of any Owner's use and enjoyment of his or her Unit, and the grantee of any easement rights shall be responsible for repair or restoration of damage to any Avon Village property caused by its activity pursuant to such easement rights. Each Owner hereby grants the Board of Directors an irrevocable power of attorney to execute, acknowledge, and record for and in the name of each Owner such instruments as may be necessary to effectuate the foregoing. The appointment of the Board of Directors as such Owner's attorney-in-fact shall not be affected by the incompetence of such Owner.

Section 24. Costs and Attorneys Fees. In any proceeding arising because of failure of an Owner to make any payments required by this Declaration, the By-Laws or the Act, or to comply with any provision of the Declaration, the Act, the By-Laws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Association shall be entitled to recover its costs and reasonable attorneys fees incurred in connection with the default or failure.

Section 25. Failure of Owner to Pay Assessments.

- (a) No Owner may become exempt from liability for contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or Limited Areas or by abandonment of the Owner's Condominium Unit. Each Owner shall be personally liable for the payment of all assessments by the Association.

(b) Upon failure by any Owner to make any payment of assessment on the date when due, the lien against the Owner's Condominium Unit may be foreclosed against as provided for in the By-Laws and applicable law. Any lien for assessments becoming payable after the recordation of a first mortgage on Owner's Condominium Unit shall be subordinate to the first mortgage on the Owner's Condominium Unit as more fully set forth in Section 5.05(b) of the By-Laws.

Section 26. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration or by the By-Laws filed herewith shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration or the attached By-Laws.

Section 27. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include the masculine, feminine and neuter genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.

(THIS SPACE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, we, the undersigned, do hereby execute this Amended and Restated Declaration of Horizontal Property Ownership for the Enclave of Avon Village Horizontal Property Regime and certify the truth of the facts herein stated, this 19 day of December, 2007.

AVON VILLAGE CO-OWNERS ASSOCIATION, INC.


Rodney W. Hoover, President


Attest:

Vicki Ann Bridges, Secretary

STATE OF INDIANA)
COUNTY OF Hamilton)

Before me a Notary Public in and for said County and State, personally appeared Rodney W. Hoover and Vicki Ann Bridges, the President and Secretary, respectively, of Avon Village Co-Owners Association, Inc., who acknowledged execution of the foregoing for and on behalf of said corporation and the Co-Owners, and who, having been duly sworn, stated that the representations contained herein are true. Witness my hand and Notarial Seal this 19 day of December, 2007.


Notary Public - Signature


Printed

My Commission Expires:

3/11/15

Residence County: Hamilton

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law."
P. Thomas Murray, Jr., Esq.

This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., EADS MURRAY & PUGH, P.C., Attorneys at Law, 9515 E. 59th St., Suite B, Indianapolis, IN 46216. (317) 536-2565.

Exhibit A

LEGAL DESCRIPTION

THE ENCLAVE OF AVON VILLAGE

A part of the South Half of Fractional Section 6, Township 15 North, Range 2, East of the Second Principal Meridian in Washington Township, Hendricks County, Indiana, being more particularly described as follows:

Commencing at a brass plug found representing the South Half-Mile corner of said Fractional Section 6; thence North 88 degrees 14 minutes 26 seconds East on and along the South line of the Southeast Quarter of said Fractional Section 6 a distance of 672.04 feet to a point that is South 88 degrees 14 minutes 36 seconds West 2000.06 feet from the Southeast corner of the South Half of the said Fractional Section 6; thence North 00 degrees 32 minutes 17 seconds West 1424.45 feet to the POINT OF BEGINNING of this description; thence South 87 degrees 47 minutes 17 seconds West 792.76 feet; thence North 43 degrees 40 minutes 08 seconds East 133.88 feet to the point of curvature of a curve concave Northwesterly having a central angle of 44 degrees 07 minutes 08 seconds and a radius of 95.00 feet; thence Northerly on and along said curve an arc distance of 73.15 feet (said arc being subtended by a chord having a bearing of North 21 degrees 36 minutes 34 seconds East and a length of 71.36 feet) to the point of tangency of said curve; thence North 00 degrees 27 minutes 00 seconds West 689.02 feet; thence South 60 degrees 13 minutes 29 seconds East 73.02 feet; thence South 76 degrees 25 minutes 33 seconds East 288.01 feet; thence South 71 degrees 58 minutes 22 seconds East 193.67 feet; thence South 26 degrees 09 minutes 22 seconds East 65.58 feet; thence South 36 degrees 41 minutes 08 seconds East 62.73 feet; thence South 69 degrees 12 minutes 49 seconds East 90.48 feet; thence South 41 degrees 42 minutes 35 seconds East 81.61 feet; thence South 00 degrees 32 minutes 17 seconds East 469.69 feet to the POINT OF BEGINNING and containing 10.95 acres, more or less. Subject to all restrictions, rights-of-way and easements of record.

legal960341.doc

Exhibit B

<u>BLDG.</u>	<u>UNIT</u>	<u>ADDRESS</u>
1	1	251 Stark Road #D
	2	251 Stark Road #C
	3	251 Stark Road #B
	4	251 Stark Road #A
	5	252 Stark Road #D
	6	252 Stark Road #C
	7	252 Stark Road #B
	8	252 Stark Road #A
2	9	253 Provincial Lane #D
	10	253 Provincial Lane #C
	11	253 Provincial Lane #B
	12	253 Provincial Lane #A
	13	254 Bastion Place #D
	14	254 Bastion Place #C
	15	254 Bastion Place #B
	16	254 Bastion Place #A
3	17	255 Bastion Place #D
	18	255 Bastion Place #C
	19	255 Bastion Place #B
	20	255 Bastion Place #A
	21	256 Strand Lane #D
	22	256 Strand Lane #C
	23	256 Strand Lane #B
	24	256 Strand Lane #A
4	25	257 Strand Lane #D
	26	257 Strand Lane #C
	27	257 Strand Lane #B
	28	257 Strand Lane #A
	29	258 Enclave Drive #D
	30	258 Enclave Drive #C
	31	258 Enclave Drive #B
	32	258 Enclave Drive #A

Exhibit B

<u>BLDG.</u>	<u>UNIT</u>	<u>ADDRESS</u>	
5	33	9404 Enclave Drive #A	
	34	9404 Enclave Drive #B	
	35	9404 Enclave Drive #C	
	36	9404 Enclave Drive #D	
	37	9405 Avon Strand #A	
	38	9405 Avon Strand #B	
	39	9405 Avon Strand #C	
	40	9405 Avon Strand #D	
	6	41	9440 Enclave Drive #A
		42	9440 Enclave Drive #B
43		9440 Enclave Drive #C	
44		9440 Enclave Drive #D	
45		9441 Avon Strand #A	
46		9441 Avon Strand #B	
47		9441 Avon Strand #C	
48		9441 Avon Strand #D	
7		49	9478 Enclave Drive #A
	50	9478 Enclave Drive #B	
	51	9478 Enclave Drive #C	
	52	9478 Enclave Drive #D	
	53	9479 Avon Strand #A	
	54	9479 Avon Strand #B	
	55	9479 Avon Strand #C	
	56	9479 Avon Strand #D	
8	57	9406 Avon Strand #A	
	58	9406 Avon Strand #B	
	59	9406 Avon Strand #C	
	60	9406 Avon Strand #D	
	61	9407 Avon Creek #A	
	62	9407 Avon Creek #B	
	63	9407 Avon Creek #C	
	64	9407 Avon Creek #D	

Exhibit B

<u>BLDG.</u>	<u>UNIT</u>	<u>ADDRESS</u>
9	65	9442 Avon Strand #A
	66	9442 Avon Strand #B
	67	9442 Avon Strand #C
	68	9442 Avon Strand #D
	69	9443 Avon Creek #A
	70	9443 Avon Creek #B
	71	9443 Avon Creek #C
	72	9443 Avon Creek #D
10	73	9480 Avon Strand #A
	74	9480 Avon Strand #B
	75	9480 Avon Strand #C
	76	9480 Avon Strand #D
	77	9481 Avon Creek #A
	78	9481 Avon Creek #B
	79	9481 Avon Creek #C
	80	9481 Avon Creek #D
11	81	9408 Avon Creek #A
	82	9408 Avon Creek #B
	83	9408 Avon Creek #C
	84	9408 Avon Creek #D
	85	9409 Creeks Edge #A
	86	9409 Creeks Edge #B
	87	9409 Creeks Edge #C
	88	9409 Creeks Edge #D
12	89	260 Riverbank Way #A
	90	260 Riverbank Way #B
	91	260 Riverbank Way #C
	92	260 Riverbank Way #D
	93	261 Provincial Lane #A
	94	261 Provincial Lane #B
	95	261 Provincial Lane #C
	96	261 Provincial Lane #D

Note: All units have a 1/96th percentage interest

Exhibit C

**AMENDED AND RESTATED CODE OF BY-LAWS OF
THE ENCLAVE OF AVON VILLAGE HORIZONTAL PROPERTY REGIME
AND OF AVON VILLAGE CO-OWNERS ASSOCIATION, INC.**

ARTICLE I

Identification and Applicability

Section 1.01. Identification and Adoption. These By-Laws are adopted simultaneously with the execution of a certain Declaration Creating The Enclave of Avon Village Horizontal Property Regime (hereinafter sometimes referred to as "Avon Village") to which these By-Laws are attached and made a part thereof. The Declaration is incorporated herein by reference, and all of the covenants, rights, restrictions and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Declaration shall have the same meaning in these By-Laws. The provisions of these By-Laws shall apply to the Property and the administration and conduct of the affairs of the Association. These By-Laws shall also constitute the By-Laws of the Association.

Section 1.02. Individual Application. All of the Owners, future owners, tenants, future tenants, or their guests and invitees, or any other person who might use or occupy a Condominium Unit or any part of the Property, shall be subject to the restrictions, terms and conditions set forth in the Declaration, these By-Laws, the Act, the Indiana Nonprofit Corporations Act of 1991 (hereafter, "Nonprofit Statute") and to any rules and regulations adopted by the Board of Directors as herein provided.

ARTICLE II

Meetings of the Association

Section 2.01. Purpose of Meetings. At least annually, and at such other times as may be necessary, a meeting of the Co-Owners shall be held for the purpose of electing the Board of Directors, approving the annual budget, providing for the collection of Common Expenses and for such other purposes as may be required by the Declaration, these By-Laws or the Act.

Section 2.02. Annual Meetings. The annual meeting of the members of the Association shall be held in the month of October each year, with the specific date, time and location to be determined by the Board of Directors. At the annual meeting the Owners shall elect the Board of Directors per these By-Laws and transact such other business as may properly come before the meeting.

Section 2.03. Special Meetings. A special meeting of the members of the Association may be called by the Association's President, by resolution of the Board of Directors or upon a written petition of Owners of not less than ten percent (10%) of the

total number of Condominium Units. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose or purposes for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04. Notice and Place of Meetings. All meetings of the members of the Association shall be held at any suitable place in Hendricks County, Indiana, as may be designated by the Board of Directors. Written notice stating the date, time and place of any meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each member entitled to vote thereat not less than ten (10) days prior to the date of such meeting. Any written notice delivered to the Co-Owners as part of a newsletter or other publication regularly sent to the Co-Owners constitutes a written notice. If an annual or special meeting of Co-Owners is adjourned to a different date, time or place, written notice is not required to be given of the new date, time or place so long as the new date, time and place is announced at the meeting pursuant to the Nonprofit Statute before adjournment. The notice shall be mailed or delivered to the Owners at their designated addresses. A copy of each such written notice shall also be delivered or mailed simultaneously by the Secretary of the Association to each Mortgagee (a) which requests in writing that such notices be delivered to it, and (b) which has furnished the Association with its name and address in accordance with Section 8.01 of these By-Laws.

Section 2.05. Waiver of Notice. A member, either before or after a meeting of the members of the Association, may waive notice of the meeting, and his waiver shall be deemed the equivalent of giving notice. Attendance at a meeting of the members, either in person or by proxy, of a person entitled to notice shall constitute a waiver of notice of the meeting unless he attends expressly for the purpose of objecting to the transaction of business on the ground that the meeting was not properly called in accordance with these By-Laws.

Section 2.06. Voting.

(a) Number of Votes. Since all Condominium Units have an equal percentage interest, each Owner shall have one vote per Unit owned by that Owner and shall be entitled to cast said number of votes on each matter coming before the meeting as to which he or she is entitled to vote. To the extent provided in the Nonprofit Statute, and except as otherwise provided in the Declaration, the Articles of Incorporation or these By-Laws, plurality voting shall be permitted such that at a meeting, if a quorum exists, action on a matter is approved if the votes cast in favor of the action exceed the votes opposing the action.

(b) Multiple Owner. When more than one (1) person or entity constitutes the Owner of a particular Condominium Unit, all such persons or entities shall be members of the Association, but all of such persons or entities shall have only one vote applicable to the Condominium Unit, which vote shall be exercised as they

among themselves determine, but in no event shall more than one vote be cast with respect to any such Unit.

(c) **Voting by Corporation or Trust.** Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustee may cast the vote on behalf of a trust and the agent or other representative of a corporation duly empowered by the board of directors of such corporation may cast the vote to which the corporation is entitled. The secretary of the corporation or trustee of the trust so entitled to vote shall deliver or cause to be delivered, prior to the commencement of the meeting, a certificate signed by such person to the Secretary of the Association stating who is authorized to vote on behalf of said corporation or trust.

(d) **Proxy.** An Owner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the owner shall duly designate his attorney-in-fact in writing, which writing shall be delivered to the Secretary of the Association prior to the commencement of any meeting at which such proxy shall be effective.

Section 2.07. Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws, the Act or the Nonprofit Statute, the Owners representing at least ten percent (10%) of the total number of Condominium Units shall constitute a quorum at all meetings. Unless otherwise required herein or by the Act, the Owners at a meeting at which a quorum is initially present may continue to do business until adjournment, notwithstanding the withdrawal of enough Owners to leave less than a quorum. As used elsewhere in these By-Laws, the term "Majority of Owners" shall mean the Owners of at least fifty percent (50%) of the total number of Condominium Units, and the term "Majority of the Vote" shall mean a majority of the votes of the Owners present or represented at such meeting at which a quorum is present in person or by proxy.

Section 2.08. Conduct of Annual Meeting. The President of the Association shall act as the Chair of all annual meetings of the Association if he or she is present. At all annual meetings, the Chair shall call the meeting to order at the duly designated time and business will be conducted in the following order:

(a) **Quorum.** The Secretary shall present the voting register and proxy certifications and thereafter determine if a quorum is established.

(b) **Reading of the Minutes.** The Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto, unless such reading is waived by a Majority of the Vote as defined in Section 2.07 above.

(c) **Reports.** Officers and any special committees shall give their reports.

(d) **Treasurer's Report.** The Treasurer shall report to the Owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common Expenses and financial report for the year to date and the proposed budget for the next year.

(e) **Budget.** The proposed budget for the next fiscal year shall be presented to the Owners for approval or amendment.

(f) **Election of Board of Directors.** Nominations for the Board of Directors may be made by any Owner from those persons eligible to serve. Voting for the Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast the total number of votes to which he or she is entitled for as many nominees as are to be elected; however, Owners shall not be entitled to cumulate their votes. Those persons receiving the highest number of votes shall be elected.

(g) **Other Business.** Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least seven (7) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a Majority of the Vote as defined in Section 2.07 above.

(h) **Adjournment.** Any meeting of the Association may be adjourned to a later date. Notice of the adjourned meeting, or the business to be transacted there, other than by announcement at the meeting, at which the adjournment is taken, shall not be necessary. At any adjourned meeting at which a quorum is present or represented, any business may be transacted which could have been transacted at the meeting originally called.

Section 2.09. Conduct of Special Meetings. The President of the Association shall act as Chair of any special meetings of the Association if he or she is present. The Chair shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

Section 2.10. Written ("Mail-In") Ballots. In lieu of any annual or special meeting of the Co-Owners, written (or "mail-in") ballots may be utilized in the manner prescribed in the Nonprofit Statute.

ARTICLE III The Board of Directors

Section 3.01. Management. The affairs of the Association shall be governed and managed by a Board of Directors (herein collectively called "Board" or "Directors" and individually called "Director"). The Board of Directors shall be composed of five (5) Owners. No person shall be eligible to serve as a Director unless he or she is an Owner

and resides in Avon Village and is current on the payment of assessments to the Association.

Section 3.02. Additional Qualification. Where an Owner consists of more than one person, or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner, officer or trustee (as applicable) shall be eligible to serve on the Board of Directors, except that no single Condominium Unit may be represented on the Board of Directors by more than one person at a time.

Section 3.03. Term of Office and Vacancy. Members of the Board of Directors shall be elected at each annual meeting of the Association. Each member of the Board of Directors shall be elected for a term of three (3) years. Approximately one-third (1/3) of the persons on the Board of Directors shall be elected at each annual meeting of the Corporation. In the event the number of persons on the Board is not divisible by three, the number of Directors' positions available for election at the annual meetings shall be such number as to as closely approximate as possible the one-third requirement. For example, with the Board consisting of five (5) persons, two positions shall be elected at the annual meeting, two for the following annual meeting and one for the next annual meeting. Each Director shall hold office throughout the term of his or her election and until his or her successor is elected and qualified. Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors, or by vote of the Owners if a Director is removed in accordance with Section 3.04 below. The Director so filling a vacancy shall serve until the next annual meeting of the members and until his or her successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

Section 3.04. Removal of Directors. A Director or Directors may be removed by the Owners with or without cause if the number of votes cast to remove would be sufficient to elect the Director(s) at a meeting to elect Directors. A Director or Directors may be so removed by the Owners only at a meeting of the Owners duly called and constituted for the purpose of removing the Director(s). The meeting notice must state that the purpose of the meeting is for voting upon the removal of the Director(s). In such case, his or their successor(s) shall be elected at the same meeting from eligible Owners nominated at the meeting to serve for the remainder of the term(s) of the removed Director(s).

Section 3.05. Duties of the Board of Directors. The Board of Directors shall provide for the administration of The Enclave of Avon Village Horizontal Property Regime, the maintenance, upkeep and replacement of the Common Areas and Limited Areas (unless the same are otherwise the responsibility or duty of Owners of Condominium Units), and the collection and disbursement of the Common Expenses. The Board shall, on behalf of the Association, be entitled to employ a reputable and recognized professional property management agent (herein called the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and

customary. The Managing Agent, if employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

(a) protection, surveillance and replacement of the Common Areas and Limited Areas, unless the same are otherwise the responsibility or duty of Owners of Condominium Units; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Association, the Board or any Managing Agent provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

(b) procuring of utilities used in connection with Avon Village, removal of garbage and waste, and snow removal from the streets only, all to the extent as directed by the Board of Directors;

(c) landscaping, painting, decorating, furnishing, maintenance and upkeep of the Common Areas and, where applicable, the Limited Areas;

(d) surfacing, paving and maintaining private streets, parking areas and sidewalks to the extent the same are not included in a Condominium Unit or constitute Limited Areas;

(e) assessment and collection from each Owner of the Owner's share of the Common Expenses;

(f) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;

(g) annually preparing a summary of all receipts and expenses incurred in the prior year, which summary shall be available to any Owner upon request;

(h) keeping a current, accurate and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours; payment vouchers for all expenditures shall, prior to payment, be approved by a member of the Board or such other person (which may include the Managing Agent) as the Board may delegate;

(i) procuring and maintaining for the benefit of the Owners, the Association and the Board all insurance coverage required under the Declaration and such other insurance coverage as the Board, in its sole discretion, may deem necessary or advisable; and

(j) making available to Owners and Mortgagees current copies of the Declaration, By-Laws and other rules governing the Regime and any other books,

records and financial statements of the Association. The Association shall also make available to prospective purchasers current copies of the Declaration, By-Laws, other rules governing the Regime, and the most recent annual audited financial statement, if such statement has been prepared. "Available" shall mean available for inspection upon request, during normal business hours or under other reasonable circumstances. Upon written request by the United States Department of Housing and Urban Development, the Veterans Administration or Federal National Mortgage Association, the Association shall also prepare and furnish within a reasonable time an audited financial statement of the Association for the immediately preceding fiscal year.

Section 3.06. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) to employ a Managing Agent to assist the Board in performing its duties; provided, that any such agreement shall be subject to termination by either party with or without cause and without payment of a termination fee or penalty, upon thirty (30) days prior written notice to the other party;

(b) to purchase for the benefit of the Owners such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;

(c) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of Avon Village;

(d) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas and, where applicable, the Limited Areas;

(e) to include the cost of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;

(f) to open and maintain a bank account or accounts in the name of the Association; and

(g) to adopt, revise, amend and alter from time to time rules and regulations with respect to use, occupancy, operation and enjoyment of the Property.

Section 3.07. Limitation on Board Action. The authority of the Board of Directors to enter into a contract shall be limited to contracts involving a total expenditure of up to no more than ten percent (10%) of the total annual budget in effect for the current fiscal year without obtaining the prior approval of a Majority of the Vote

as defined in Section 2.07 above, except that in the following cases such approval shall not be necessary:

(a) contracts for replacing or restoring portions of the Common Areas or Limited Areas damaged or destroyed by fire or other casualty where cost thereof is payable out of insurance proceeds actually received;

(b) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting. However, the Board may reallocate funds to items in the budget so long as the total budgeted funds are not exceeded and by doing so, the total budget will not be increased; and; and

(c) expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

Section 3.08. Compensation. No Director shall receive any compensation for his or her services as a Director, except to such extent as may be expressly authorized by a Majority of the Owners as defined in Section 2.07 above. The Managing Agent, if one is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 3.09. Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. No written or verbal notice need be given to Directors for regularly scheduled Board meetings of which the Directors are already aware. For all other Board meetings, the Secretary shall give notice of such meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meeting. Special meetings of the Board may be called by the President or any two members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary who shall either personally or by mail, and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose or purposes for which the meeting is called. Such meeting shall be held at such place and at such time within or without Hendricks County, Indiana, as shall be designated in the notice. To the extent provided in the Nonprofit Statute, a Director may conduct or participate in a regular or special meeting of the Board of Directors through the use of conference telephone or any means of communication by which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means is considered to be present in person at the meeting.

Section 3.10. Waiver of Notice. Before any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting or his subsequent consent to the actions taken thereat, shall, as to such Director, constitute a

waiver of notice of the time, place and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 3.11. Quorum. At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 3.12. Bond. The Board of Directors may require the Managing Agent, Treasurer and such other officers as the Board deems necessary to provide surety bonds, indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bond shall be a Common Expense.

Section 3.13. Informal Action by Directors. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if prior to such action a written consent to such action is signed by all members of the Board and such written consent is filed with the minutes of proceedings of the Board or committee.

Section 3.14. Standards of Conduct and Liability of Directors and Officers. The standard and duty of conduct for and the standard or requirements for liability of the Directors and Officers of the Association shall be as set forth in the Nonprofit Statute, as the same may be amended from time to time.

ARTICLE IV Officers

Section 4.01. Officers of the Association. The principal officers of the Association shall be the President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same persons, except that the duties of the President and Secretary shall not be performed by the same person.

Section 4.02. Election of Officers. The officers of the Association shall be elected annually by the Board at the initial meeting of each new Board. Upon an affirmative vote of a majority of all members of the Board, any officer may be removed either with or without cause, and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 4.03. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board, and shall have and discharge all the general powers and duties usually vested in the office of the President or Chief Executive Officer of an association or a stock corporation organized under the laws of Indiana, including but not limited to the power to appoint committees from among the Owners as he or she may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 4.04. The Vice President. The Vice President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him or her by the Board or by the President.

Section 4.05. The Secretary. The Secretary shall be elected from among the Directors or Owners. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of the proceedings of such meetings, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 4.06. The Treasurer. The Board shall elect from among the Directors or Owners a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and who shall perform such other duties incident to the office of the Treasurer. The Treasurer shall be the legal custodian of all monies, notes, securities and other valuables which may from time to time come into possession of the Association, and shall immediately deposit all funds of the Association coming into his or her hands in a reliable bank or other depository to be designated by the Board and shall keep such bank account or accounts in the name of the Association. The Treasurer may permit the Managing Agent to handle and account for monies and other assets of the Association to the extent appropriate as part of its duties.

Section 4.07. Assistant Officers. The Board of Directors may, from time to time, designate and elect from among the Directors an Assistant Secretary and an Assistant Treasurer who shall have such powers and duties as the officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Directors may prescribe.

ARTICLE V Assessments and Maintenance and Repairs

Section 5.01. Annual Accounting. Annually, after the close of each fiscal year, the Board shall cause to be prepared and furnished to any Owner upon request an audited

or unaudited financial statement, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year. Any Mortgagee or guarantor of a mortgage shall be entitled to have an audited financial statement prepared at its own expense.

Section 5.02. Proposed Annual Budget. Annually, before the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the next fiscal year, estimating the total amount of the Common Expenses for the next fiscal year, and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners for adoption at the annual meeting of the Association and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the next fiscal year. At the annual meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a vote of a majority of the Owners; provided, however, that in no event shall the annual meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments and all sums assessed by the Association shall be established by using generally accepted accounting principles, applied on a consistent basis.

The annual budget and the Regular Assessments shall, in addition, include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Areas and Limited Areas, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses of the Common Areas and Limited Areas. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Areas and Limited Areas shall be:

- (a) maintained in a separate, federally insured, interest bearing account with a bank or savings association authorized to conduct business in Hendricks County; or
- (b) invested in the same manner, and in the same types of investments, in which the funds of a political subdivision may be invested under Indiana Code 5-13-9, as amended, or as otherwise provided by law.

The annual budget and the Regular Assessments shall also be established to include an allowance or reserve to meet unforeseen contingencies or expenditures. The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Association, there is no annual budget approved by the Owners as herein provided for such current fiscal year, the Owners shall continue to pay Regular Assessments based on the last approved budget.

Section 5.03. Regular Assessments. The annual budget as adopted by the Owners shall, based on the estimated cash requirement for Common Expenses in the current fiscal year as set forth in said budget, contain a proposed assessment against each Condominium Unit based on the Percentage Interest of each Condominium Unit. Since all Condominium Units in Avon Village have the same Percentage Interest, the Regular Assessment shall be the same for all Units. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Condominium Unit (herein called the "Regular Assessment"). The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as hereinabove provided. The Regular Assessment against each Condominium Unit shall be paid in advance in equal monthly installments, commencing on the first day of the first month of each fiscal year and monthly thereafter through and including the first day of the last month of each fiscal year. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, Owners may elect to pay monthly assessments semi-annually or annually, in advance.

The Regular Assessment for the current fiscal year of the Association shall become a lien on each separate Condominium Unit as of the first day of each fiscal year of the Association, even though the final determination of the amount of such Regular Assessment may not have been made by that date. Monthly installments of the Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Board or the Association, and neither the Board nor the Association shall be responsible for providing any notice or statements to Owners for the same.

Section 5.04. Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in these By-Laws, the Declaration or the Act, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Condominium Unit, prorated in accordance with the Percentage Interest of each Condominium Unit (herein called "Special Assessment"). Without limiting the generality of the Board of Directors from time to time to pay for capital expenditures, to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in the Declaration.

Section 5.05. Failure of Owner to Pay Assessments.

(a) No Owner may become exempt from paying Regular Assessments and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and, in the proper case, of the Limited Areas, of the Buildings, and toward any other expenses lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of his or her Condominium Unit. Each Owner

shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If requested, the Board shall cause to be notified in writing any mortgage holder, insurer or guarantor of a Condominium Unit which has a delinquency of sixty (60) days or more of the assessments or charges. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessments or Special Assessments when due, the lien for such Assessments on the Owner's Condominium Unit may be filed and foreclosed by the Board for and on behalf of the Association as provided by law. Upon the failure of an Owner to make timely payment of any Regular Assessments or Special Assessments, when due, the Board may, in its discretion:

- (1) impose a uniform monthly late charge, which will be considered an addition to the assessment, in an amount to be determined by the Board;
- (2) accelerate the entire balance of the unpaid Assessments for the remainder of the fiscal year and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary; and
- (3) suspend such Owner's right to vote as provided in the Nonprofit Statute.

In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Condominium Unit shall be jointly and severally liable for the payment to the Association of reasonable rental for such Condominium Unit, and the Board shall be entitled to the appointment of a receiver for the purpose or preserving the Condominium Unit and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular Assessments or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular Assessment or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to collection costs incurred by the Association to the Managing Agent for processing delinquent Owners' accounts and reasonable attorneys fees, from the Owner of the respective Condominium Unit, regardless of whether litigation is initiated.

(b) Notwithstanding anything contained in this Section or elsewhere in the Declaration and these By-Laws, any lien for Common Expenses and Assessments becoming payable after the recordation of a first mortgage on a Condominium Unit shall be subordinate to the first mortgage on the Condominium Unit, and any sale or transfer of a Condominium Unit to a Mortgagee pursuant to a foreclosure

on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment as to such installments which become due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Condominium Unit or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular Assessments or Special Assessment thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments, the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject Condominium Unit from which it arose), as provided in the Act.

Section 5.06. Maintenance and Repairs. Every Owner shall promptly perform all maintenance and repair within his or her own Condominium Unit, which if neglected, would affect the value of the Property. In addition, each Owner shall furnish, and shall be responsible at his or her own expense for, the maintenance, repairs and replacements of his or her Condominium Unit and certain portions of the Limited Areas as may be established by rules. Such maintenance, repairs and replacements which each Owner is responsible to make personally and at his or her own expense include, but are not necessarily limited to, water lines, gas lines, plumbing and electric lines which service the Owner's Condominium Unit only, regardless of where such lines are located; all partitions and interior walls, ceiling and floors; appliances, to include garbage disposal, dishwashers, stove, ranges and refrigerators, telephones, air conditioning and heating equipment (whether located wholly or partially inside or outside the Condominium Unit), doors, screens and windows (including window frames, casings, and the exterior and interior of all glass and screen surfaces), lamps and interior and exterior grouting and/or caulking, and all other accessories appurtenant to the Condominium Unit or belonging to the Owner thereof.

If due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his or her family or of a guest, tenant or other occupant or visitor of such Owner, damage shall be caused to the Common Areas or to a Condominium Unit or Limited Area owned by or reserved for the use of others, or if maintenance, repairs or replacements shall be required thereby which would otherwise be at the Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Association, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. Maintenance, repairs and replacements to the Common Areas or the Condominium Units or Limited Areas shall be subject to the rules and regulations adopted from time to time by the Board.

To the extent that equipment, facilities and fixtures within any Condominium Unit shall be connected to similar equipment, facilities or fixtures affecting or serving

other Condominium Units or any Common Areas or Limited Areas, then the use thereof by the Owner of such Condominium Unit shall be subject to the rules and regulations adopted from time to time by the Board. The authorized representatives of the Association or Board of Directors or the Managing Agent for the Association, shall be entitled to reasonable access to any Condominium Unit as may be required in connection with maintenance, repairs or replacements of or to the Common Areas or Limited Areas or any parts thereof, or any equipment facilities or fixtures affecting or serving other Condominium Units or any Common Areas or Limited Areas.

ARTICLE VI
Restrictions, Entry and Rules and Regulations

Section 6.01. Restriction on Use. The following restrictions on the use and enjoyment of the Condominium Units, Common Areas, Limited Areas and the Property shall be applicable to Avon Village in addition to those set forth in the Declaration. These are as follows:

(a) All Condominium Units shall be used exclusively for residential purposes and no Condominium Unit may be partitioned or subdivided.

(b) No additional buildings shall be erected or located on the Tract other than the Buildings designated in the Declaration without the consent of the Board of Directors.

(c) Nothing shall be done or kept in any Condominium Unit or in the Common Areas or Limited Areas which will cause or increase in the rate of insurance on any Building or the contents thereof. No Owner shall permit anything to be done or kept in his Condominium Unit or the Common Areas or Limited Areas which will result in a cancellation of insurance on any Building or any part of the Common Areas or contents thereof, or which would be in violation of any law or ordinance or other requirements of any insurance underwriting or rating bureau.

(d) No nuisance shall be permitted and no waste shall be committed in any Condominium Unit, Common Areas, or Limited Areas.

(e) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows or placed on the outside walls of any Building, and no sign, awning, canopy, shutter or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any Building without the prior written consent of the Board. This restriction shall not apply to any seasonal or holiday display or decoration so placed at the appropriate time of the year and so located on temporary and/or limited basis.

(f) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Condominium Unit or in the Common Areas or Limited Areas or on the Avon Village Property, except that dogs, cats or customary household pets may be kept in a Condominium Unit subject to these restrictions and to rules and regulations adopted,

amended or repealed by the Board of Directors; provided that such pet is not kept, bred or, maintained for any commercial purpose, and does not create a nuisance. No more than two dogs shall be permitted per Condominium Unit, so long as such dogs are of gentle disposition. No more than two cats shall be permitted per Condominium Unit. Other customary household pets such as goldfish, tropical fish, canaries and parakeets may be kept in a Condominium Unit so long as they are reasonable in number. All pets (including cats) shall be taken outdoors only if carried by its owner or under leash or other restraint and while attended by its owner, and an Owner shall be fully liable for any injury or damage to persons or property, including the Common Areas or Limited Areas, caused by his or her pet. The Owner shall be responsible for the cleaning of any Common Area or Limited Areas made dirty by his or her pet's excrement, and shall be fully liable for the expenses of any cleaning not performed by the Owner. The tethering of pets in any area outside the Owner's home does not constitute "attended." The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time including, but not limited to, a requirement that any Owner desiring to bring a pet on the Property shall deposit with the Association a security deposit in an amount to be determined by the Board of Directors to cover any damage that may be caused by such pet to the Common Areas or the Limited Areas. Any such security deposit shall be returned to the Owner when the pet is permanently removed from the Property, except to the extent said deposit has been used to repair damage caused by such pet. Any requirement for such security deposit shall not be deemed to release or in any way limit an Owner's responsibility and liability for injury or damage caused by his pets. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Property upon ten (10) days' written notice from the Board to the respective Owner. The appropriate governmental authorities shall have an easement across the Property to enforce local animal control laws and ordinances.

In addition to the above, in no event will any dog whose breed is known for its viciousness or ill temper be permitted anywhere within Avon Village, including but not limited to the American Staffordshire Terrier (commonly known as a "Pit Bull Terrier"), the Doberman Pinscher, the Rottweiler, and the Chow. Also, no animal of any kind that has venom or poisonous or capture mechanisms, or if let loose would constitute vermin, will be allowed on the Property.

The above restrictions shall be effective on the date of filing with the Hendricks County Recorder. Any animals kept within the Avon Village Property prior to the effective date of the above restrictions which satisfied the then-existing restrictions for pets shall be permitted to remain on the Property. However, any animals brought into Avon Village hereafter must comply with the above conditions.

(g) Nothing shall be done or permitted in any Condominium Unit which will impair the structural integrity of any Building or which would structurally change any Building or which would affect the exterior appearance of any Condominium Unit, except as otherwise provided in the Declaration or these By-Laws. No Condominium Unit shall be used in any unlawful manner or in any manner which might cause injury to

the reputation of Avon Village or which might be a nuisance, annoyance, inconvenience or damage to other Owners and occupants of Condominium Units or neighboring property, including without limitation the generality of the foregoing, noise by the use of any musical instruments, radio, television, loud speakers, electrical equipment, amplifiers or other equipment or machines or loud persons.

(h) No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on, or so as to be visible from any part of the Common Areas. The Common Areas shall be kept free and clear of rubbish, debris and other unsightly materials.

(i) No industry, business, manufacturing, mercantile, storing, trade, or any commercial activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Property; provided, however, that an Owner may maintain an office or home business in the Condominium Unit if: (1) such office or business generates no significant number of visits or unreasonable parking usage (both as determined by the Board of Directors) by clients, customers or other persons related to the business; (2) no equipment or other items related to the business are stored, parked or otherwise kept outside such Owner's Condominium Unit; (3) there are no employees or independent contractors within the Condominium Unit other than the Owner or other resident; (4) such Owner has obtained approvals for such use as may be required by the appropriate local and state governmental agencies; (5) the Owner complies with all provisions of applicable laws and ordinances, including the "home occupations ordinance"; and (6) all other provisions of these By-Laws, the Declaration and the rules and regulations are complied with. The Board may require the Owner to pay any increase in the rate of insurance or other costs for the Association which may result from such use. No Condominium Unit shall be used or rented for transient, motel or hotel purposes.

(j) No "for sale", "for rent" or "for lease" signs, or other signs, or other window or advertising display shall be maintained or permitted on any part of the Property or any Condominium Unit without the prior consent of the Board.

(k) All Owners and members of their families, their guests, or invitees, and all occupants of any Condominium Unit or other persons entitled to use the same and to use and enjoy the Common Areas and the Limited Areas or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Condominium Units, the Common Areas, and Limited Areas.

(l) No boats, campers, trailers of any kind, buses, mobile homes, trucks with a maximum load capacity of more than one ton, or any other vehicles of any description other than normal passenger vehicles, shall be permitted, parked or stored anywhere within the Property. The above prohibition shall not apply to delivery or moving trucks so long as they are on a short term basis and are parked so as to not impede traffic within Avon Village and are of a weight that does not pose a risk of damaging the Owner's driveway or any parking area within the Common Area. No repair work shall be done on

the Property on any vehicles, including passenger automobiles. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept on the Property. Any vehicle in violation of the above shall be subject to being towed at the expense and risk of the owner thereof.

(m) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas or Limited Areas, except with express permission from the Board.

(n) All garbage, trash, and refuse shall be stored in appropriate containers inside the Condominium Unit and shall be kept therein until not earlier than sundown of the evening before scheduled trash collection. Garbage, trash and refuse shall be placed in sealed disposable plastic bags or other containers approved by the Board for scheduled trash collection and shall be placed at such locations for trash collection as are designated by the Board.

(o) Common Areas and Limited Areas shall be used only for the purposes for which they are designed and intended, and shall be used subject to the rules and regulations from time to time adopted by the Board.

Section 6.02. Right of Entry. All Owners and occupants of a Condominium Unit shall be deemed to have granted the right of entry thereto to the Managing Agent or any other person authorized by the Board in case of any emergency originating in or threatening his or her Condominium Unit or the Building in which it is located, whether the Owner is present at the time or not. Any Owner shall permit other persons, or their representatives when so required, to enter his or her Condominium Unit for the purpose of performing installations, alterations or repairs to the mechanical or electrical services, or to make structural repairs, provided that request for entry are made in advance and that such entry is at a time reasonably convenient to the Owner. In case of emergencies, such right of entry shall be immediate.

Section 6.03. Right of Board to Adopt Rules and Regulations. The Board may promulgate such additional rules and regulations regarding the operation of the Property, including but not limited to the Condominium Units and the use of the Common Areas and Limited Areas, as it may deem necessary from time to time and such rules as are adopted may be amended by a vote of a majority of the Board, and the Board shall cause copies of such rules and regulations and all amendments thereto to be delivered or mailed promptly to all Owners.

ARTICLE VII Amendment to By-Laws

Section 7.01. Subject to any contrary, overriding or superseding provisions set forth herein or in the Declaration, these By-Laws may be amended in the same manner, and subject to the same limitations and requirements, as amendments to the Declaration, as set forth in Section 20 of the Declaration. Amendment to these By-Laws shall be

considered as amendments of the Declaration and shall be recorded in the office of the Recorder of Hendricks County, Indiana, as required by the Declaration and the Act.

ARTICLE VIII Mortgages

Section 8.01. Notice to Association. Any Owner who places a first mortgage lien upon his Condominium Unit may notify the Secretary of the Association thereof and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Declaration, these By-Laws or the Act shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record within the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to the Mortgagee as may otherwise be required by the Declaration, these By-Laws or the Act shall be required, and no Mortgagee shall be entitled to vote on any matter to which he or she otherwise may be entitled by virtue of the Declaration, these By-Laws, the Act, or any proxy granted to such Mortgagee in connection with the mortgage.

Section 8.02. Notice of Unpaid Assessments. The Association shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Condominium Unit, and upon payment of a reasonable fee to the Association or Managing Agent not to exceed \$100, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments against the Condominium Unit, which statement shall be binding upon the Association and the Owners, and any Mortgagee or grantee of the Condominium Unit shall not be liable for nor shall the Condominium Unit conveyed be subject to a lien for any unpaid assessments in excess of the amount set forth in such statement.

Section 8.03. Mortgagee's Rights.

(a) An eligible holder of a first mortgage, upon written request to the Association, (such request to state the name and address of the eligible holder and the Condominium Unit number), shall be entitled to timely written notice of:

(1) any proposed amendment of the Declaration or By-Laws effecting a change in (i) the boundaries of any Condominium Unit or the exclusive easement rights appertaining thereto, (ii) the interests in the Common Areas or Limited Areas appertaining to any Condominium Unit or the liability for Common Expenses appertaining thereto, (iii) the number of votes in the Association appertaining to any Condominium Unit or (iv) the purposes to which any Condominium Unit or the Common Areas are restricted;

(2) any proposed termination of the Regime;

(3) any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Condominium Unit on which there is a first mortgage;

(4) any delinquency in the payment of assessments or charges owed by an Owner of a Condominium Unit subject to the mortgage, where such delinquency has continued for a period of sixty (60) days;

(5) any lapse, cancellation or material modification of any insurance policy maintained by the Association pursuant to the Declaration; and

(6) any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

(b) Other Provisions for Mortgages.

(1) Any restoration or repair of the Property after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original Plans and specifications, unless the approval of the eligible holders of first mortgages on Condominium Units to which at least fifty-one percent (51%) of the votes of Condominium Units subject to mortgages held by such eligible holders are allocated is obtained.

(2) Any election to terminate the Condominium Regime after substantial destruction or a substantial taking in condemnation of the Property must require the approval of the eligible holders of first mortgages on Condominium Units to which at least fifty-one percent (51%) of the votes of Condominium Units subject to mortgages held by such eligible holders are allocated.

(3) No reallocation of interests in the Common Areas resulting from a partial condemnation or partial destruction of the Property may be affected without the approval of the eligible holders of first mortgages on Condominium Units to which at least fifty-one percent (51%) of the votes of the Condominium Units subject to mortgages held by such eligible holders are allocated.

(4) As used in this Section, the term "eligible holder" shall mean a holder, insurer or guarantor of a first mortgage on a Condominium Unit who has requested notice in accordance with the provisions of Section 8.03(a) above.

ARTICLE IX
Miscellaneous

Section 9.01. Fiscal Year. The fiscal year of the Association shall begin on the first day of January in each year and end on the last day of December next following.

Section 9.02. Seal. The Association shall have no corporate seal.

Section 9.03. Personal Interest. No member of the Association shall have or receive any earnings from the Association for being an officer or director of the Association.

Section 9.04. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of these By-Laws or the intent of any provision hereof.

Section 9.05. Waiver. No restriction, condition, obligation or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

Section 9.06. Election Under Internal Revenue Code. The Board shall make and file all elections and documents required pursuant to the Internal Revenue Code, and any other applicable statute or regulation, in order to exempt from taxation, insofar as possible, the income of the Association consisting of assessments paid by Unit Owners.

Section 9.07. Invalidity. The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

ARTICLE X Indemnification

Section 10.01. Indemnification of Directors and Officers. To the extent not inconsistent with the laws of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was a director or officer of the Association shall be indemnified by the Association to the same and fullest extent that directors of nonprofit corporations are indemnified under the Nonprofit Statute.

Article XI Leasing of Condominium Units and Maximum Number of Condominium Units Owned

Section 11.01. Limits on the Number of Leased Condominium Units ("Rental Cap"). In order to insure that the residents within Avon Village share the same proprietary interest in and respect of the Condominium Units and the Common Areas and to assist in Avon Village purchasers being able to obtain federally insured or backed mortgages, no more than twenty percent (20%) of the Condominium Units may be leased or rented to non-owner occupants at any given time, except as may be otherwise provided in this Article XI. The Condominium Units described in the next paragraph of this Section 11.01 shall count towards the twenty percent (20%) "cap". If at any time such percentage of Condominium Units are leased or rented, an Owner who wants to rent or

lease his or her Condominium Unit which is not already rented shall be placed upon a waiting list by the Board of Directors. When an existing tenant moves out, the Owner of that Condominium Unit shall immediately notify the Board of Directors or Managing Agent of such fact and that Condominium Unit cannot be re-rented until all prior Owners on the waiting list, if any, have had a chance to rent their Condominium Units. Prior to the execution of any lease, and in addition to the requirements set forth below, the Owner must notify the Board of Directors or the Managing Agent as to that Owner's intent to lease his or her Condominium Unit. After receiving such notice, the Board of Directors or the Managing Agent shall advise the Owner if Condominium Units may be leased or whether the maximum number of Condominium Units within Avon Village is currently being leased. If the maximum number of Condominium Units is being leased, the Board of Directors or the Managing Agent shall also notify the Owner of that Owner's position on the waiting list.

Notwithstanding the foregoing, the "rental cap" described above shall not apply to any Condominium Unit of an Owner in Avon Village who, as of the date of recording of this provision, is renting or leasing said Condominium Unit and provides written proof thereof to the Association's Managing Agent by that date. Such proof shall include a copy of each executed lease by such Owner which identifies the tenant (but which may have the rental amount deleted). The Owners of record of such currently-rented Condominium Units shall not be subject to the provisions of this Section 11.01, but shall be subject to the remaining provisions of this Article XI. However, when the legal owners of record of any of the above-described Condominium Units sell, transfer or convey such Condominium Unit(s) to another Owner after the date of recording, such Condominium Unit(s) shall immediately become subject to this Section 11.01.

Section 11.02. Hardship Exceptions and Waiver. Notwithstanding Section 11.01 above, if an Owner wishes to rent or lease his or her Condominium Unit, but the maximum number of Condominium Units is currently being leased, the Owner may request the Board of Directors to waive the "rental cap" and approve a proposed lease if the Owner establishes to the Board's satisfaction that the "rental cap" will cause undue hardship. If a majority of the entire Board of Directors approves in writing of the Owner's request, the Board of Directors shall permit the Owner to rent or lease said Condominium Unit, subject to any further conditions or limitations imposed by the Board in the Board's discretion, but only if the Owner satisfies all other requirements of this Article XI. Such decision shall be at the sole discretion of the Board. Examples of an undue hardship include:

- (1) death, dissolution or liquidation of an Owner;
- (2) divorce or marriage of an Owner;
- (3) necessary relocation of the residence of an Owner to a point outside of a fifty (50) mile radius of the perimeter of Avon Village due to a change of employment or retirement of at least one (1) of such Owners;

(4) necessary relocation of the residence of an Owner due to mental or physical infirmity or disability of at least one (1) of such Owners;

(5) other similar circumstances.

Section 11.03. General Lease Conditions. All leases, including renewals, shall be in writing, and no lease shall be entered into for a term of less than one (1) year without the prior written approval of the Board of Directors. No portion of any Condominium Unit other than the entire Condominium Unit shall be leased for any period. No subleasing shall be permitted. All leases shall be made expressly subject and subordinate in all respects to the terms of the Declaration, By-Laws, Articles of Incorporation, and any rules and regulations promulgated by the Board of Directors, as amended, to the same extent as if the tenant were an Owner and a member of the Association; and shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such Condominium Unit. If such provision is not in the lease, it will be deemed to be in such lease. The Owner shall supply copies of such legal documents to the tenants prior to the effective date of the lease. In addition, the Board of Directors shall have the power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing. All Owners who do not reside in the home shall provide the Board of Directors with the name of the tenant(s) and any other residents living in the home.

Section 11.04. One Year Waiting Period. In addition to all other provisions of this Article XI, for a period of at least one (1) year after an Owner's acquisition of a Condominium Unit, said Owner cannot lease such Condominium Unit. After such time, said Condominium Unit will be eligible to be leased if all other conditions of this Article XI are satisfied and provided further that the Owner is not delinquent in the payment of any assessments or other charges to the Association. Notwithstanding this Section 11.04, if an Owner wishes to lease a Condominium Unit prior to the end of the one year waiting period, the Owner may apply to the Board of Directors for a waiver. The Board may, in writing, approve an earlier lease if the Owner establishes to the Board's satisfaction that the waiting period will cause undue hardship in the manner as defined in Section 11.02 above.

Section 11.05. Owner is Still Liable. No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his or her responsibility to the Association and the other Owners for compliance with the provisions of the Declaration, the Articles of Incorporation, these By-Laws, and any rules and regulations promulgated by the Board of Directors, or from the Owner's liability to the Association for payments of assessments or any other charges.

Section 11.06. Association's Copy of Lease. A copy of each executed lease by an Owner which identifies the tenant (but which may have the rental amount deleted) shall be provided to the Managing Agent by the Owner within thirty (30) days after execution.

Section 11.07. Violations. Any lease or attempted lease of a Condominium Unit in violation of the provisions of this Article XI shall be voidable at the election of the Association's Board of Directors or any other Avon Village Owner, except that neither party to such lease may assert this provision of this Article XI to avoid its obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Association, or any Avon Village Owner, shall have the right to exercise any and all available remedies at law or equity.

Section 11.08. Maximum Number of Condominium Units Owned by a Single Owner. In order to encourage Avon Village being and remaining a community where the Owners reside on the property:

(a) No Owner may own more than two (2) Condominium Units within Avon Village at any time. This restriction shall not apply to any Owner who owns more than two (2) Condominium Units which were purchased or with respect to which there was a binding purchase agreement prior to the recording of this restriction.

(b) If any Owner is the Owner of more than one (1) Condominium Unit, such Owner or the majority of the principals of such Owner shall and must reside in Avon Village in at least one (1) of such Condominium Units, unless otherwise approved in writing by the Board of Directors upon a showing by such Owner, satisfactory to the Board of Directors, of an undue hardship as defined in Section 11.02 above.

As defined in Section 1(l) of the Declaration, "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof who or which owns the fee simple title to a Condominium Unit. As used in this Section 11.08 above, "Owner" also means those persons or entities who comprise less than all persons or entities who own in any form or manner the fee simple title or any part thereof to any Condominium Unit and those persons or entities who have any interest in any form or manner in the fee simple title or any part thereof to any Condominium Unit. As an example, if any person or entity owns or has any interest in the ownership of two (2) Condominium Units, whether in his, her or its name only, as joint tenants, as life tenant or by or through any corporation, partnership, trust, limited liability company, or any other entity, that person cannot own a third Condominium Unit, whether in his, her or its name only, as joint tenants, as life tenant or by or through a corporation, partnership, trust, limited liability company, or any other entity.

Any purchase agreement, conveyance or lease or rental agreement executed subsequent to the recording of this restriction which violates any provision of this Section 11.08 shall be voidable at the election of the Association's Board of Directors or any Avon Village Owner, except that neither party to such agreement, conveyance or lease may assert this provision of this Article XI to avoid its obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Association, or any Avon

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Village Owner, shall have the right to exercise any and all available remedies at law or equity.

Section 11.09. Institutional Mortgagees. The provisions set forth in this Article XI shall not apply to any institutional mortgagee of any Condominium Unit which comes into possession of the Condominium Unit by reason of any remedies provided by law or in equity or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, or deed in lieu of foreclosure. However, when a Condominium Unit is sold or conveyed by such an institutional mortgagee to a subsequent purchaser, that subsequent purchaser shall be bound by the provisions of this Article XI.

Section 11.10. Definition of "Rent" or "Lease". As used in the Sections within this Article XI, any references to "rent" or "lease" shall include any circumstance or arrangement whereby a Condominium Unit is solely occupied by non-Owner residents. Thus, the obligation of a resident to pay rental to the Owner of such Condominium Unit is irrelevant. Also, as for the last paragraph of Section 11.01, for an Owner of a Condominium Unit that is solely occupied by one or more non-Owners as of the date of recording of this provision, such Owner shall provide a written statement to the Association's Managing Agent within thirty (30) days of recording of this provision as to the circumstances of the occupancy and the names of all residents.

This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., EADS MURRAY & PUGH, P.C., Attorneys at Law, 9515 E. 59th Street, Suite B, Indianapolis, IN 46216. (317) 536-2565.