

RESTRICTIVE COVENANTS

OF

AVALON BAY

A SUBDIVISION OF MCINTOSH COUNTY, OKLAHOMA

STATE OF OKLAHOMA

COUNTY OF MCINTOSH

This declaration, made as of the 22 day of July, 2002, by, B & H Development, LLC, P.O. Box 451, Eufaula, Ok. 74432.

KNOW ALL MEN BY THESE PRESENTS: That B&H Development, LLC, does hereby certify that it is the sole owner of subdivision known as Avalon Bay situated in McIntosh County, State of Oklahoma, to-wit: and they have caused the same to be surveyed, staked and platted into lots and streets and have executed and filed with the McIntosh County Clerks Office, a plat of the subdivision and do hereby dedicate and designate the same to be known as Avalon Bay; and

Whereas, such plat creates the subdivision of AVALON BAY, composed of certain lots and tracts including the following described lots, to-wit:

Lots 8 to 11, 13 to 30, and 42 to 62, inclusive, AVALON BAY, a subdivision in the County of McIntosh, State of Oklahoma.

Whereas, B & H DEVELOPMENT, LLC, is the present owner, other than lot 12 of AVALON BAY, and DEVELOPER of the above-described lots, desires to place certain restrictions on such lots for the purpose of providing for an orderly development of the entire tract of land and the creation of a planned community where residents and visitors will be ensured the full enjoyment of the natural beauty and advantages of the area through careful planning, and for the further purpose of providing adequate restrictive covenants for the mutual benefit of the undersigned and their successors in title to the above described tract, the undersigned do hereby impose the following restrictions and create the following easements, to which it shall be incumbent upon their successors and assigns to adhere. These covenants shall be perpetual in nature and shall run with the land, and shall be binding on all parties, firms or corporations and all persons claiming under them and may be changed or amended only by vote of a majority of the lot owners in said subdivision, each lot entitling its owner to one vote.

• see 2nd Amendment (last line)
• see 3rd Amendment (add language)

As part of this declaration the DEVELOPER, with the consent of owner of lot 12 AVALON BAY, does by these presents set aside the Restrictive Covenants of AVALON BAY dated March 29, 2001, recorded in Book 578 at Page 436 of the McIntosh County Clerks Office in order to impose the Restrictive Covenants hereinafter set forth for orderly development of the above described property.

If the parties hereto or any of their heirs, successors or assigns shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person, firm or corporation owning a lot in this subdivision to prosecute any action in law or in equity against the person, firm or corporation violating or attempting to violate such restriction, and either to prevent him from so doing or to secure damages or other dues or assessments for such violation.

see 5th Amendment (add language)

Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions, and those provisions not affected shall remain in full force and effect.

NOW, THEREFORE, in consideration of the premises, B & H Development, LLC, for itself and for its successors and assigns, and for its future grantees, hereby agrees and declares that all of the above-mentioned lots shall be, and they hereby are, restricted as to their use and otherwise in the manner hereinafter set forth.

1. No travel trailer, recreational vehicle, basement, garage, nor any other outbuilding erected or moved on to any lot shall be used as a residence either temporarily or permanently. No prefabricated structures, mobile homes, modular homes or underground homes shall be moved upon said premises at any time. Nothing herein shall prevent the Developer or others authorized by the Developer from erecting temporary buildings and using such temporary buildings or any residence for model, office, sales or storage purposes during the development of the District.

2. This subdivision shall limited exclusively to single family residential use, and all lots in this subdivision shall be known, described and used solely as residential lots. No businesses shall be established on any lot herein.

3. ~~No building shall be erected or materially altered on any lot in this addition until the building plans, specifications and plot plans showing the location of such building have been approved in writing as to conformity and harmony of external design with existing structures in the subdivision as to the location of the building with respect to topography, ground elevation and neighboring structures by an architectural committee composed of three persons to be elected annually by a majority of the lot owners in said subdivision, each lot entitling its owner to one vote. Said ARCHITECTURAL COMMITTEE shall initially consist of undersigned DEVELOPERS, and they shall serve on said committee until such time as they have resigned or all lots in the subdivision have been sold.~~

See 2nd Amendment

4. Unless the following time periods are expressly extended by the developer in writing, construction shall begin within twelve months of delivery of Deed, and be completed within twelve months. Within three months following completion of construction of the residence, the OWNER thereof shall landscape the lot to the same standards as generally prevail throughout the subdivision and in accordance with the plans approved by the developer. All lawns shall remain fully sodded at all times. No lot shall be used for storage of materials for a period of more than thirty days prior to construction. A structure totally or partially destroyed by fire or other disaster must be rebuilt within six months, or the lot shall be cleared of all debris by its owner.

see 1st Amendment (added language)

5. No dwelling shall be erected on any lot which is less than 1500 square feet in area, exclusive of open porches and garages.

6. Recreational vehicles, trailers, trucks (other than pick-ups), boats and boat trailers, tractors, garden and maintenance equipment, etc., shall at all times be kept in an enclosed structure or screened from view of the public and other property owners and retained within the established building lines. No repairs nor maintenance work shall be done on any of the above, including automobiles, except minor emergency repairs, unless the same is done in an enclosed or screened area.

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7. No trailer, bus, camper, boat or similar apparatus shall be parked, left or stored in any driveway or street for more than a 24 hour period. In the case of a visiting family using a motor home, driveway parking may be permitted for a period of no longer than ten days. *See Amendment #4* This period may be extended with approval of the approving party or Home Owners Association. Motorized vehicles shall not be operated on any lot or common area. All Terrain Vehicles, go carts, dirt bikes or mini bikes shall not be operated within the subdivision.

8. No garbage cans, trash burners, butane or propane storage tanks shall be placed on any lot in such a manner as to be seen from the adjoining lots or by the general public. They may be the sunken type or may be above ground if hidden by decorative screening. No antenna or clothesline shall be erected unless screened from the view of all streets, the general public and adjoining homes. All recreational or play structures, trampolines, dog houses or runs, storm cellars and vegetable gardens shall be located behind the back building line of the residence. No swimming pools of any kind may be constructed or installed without approval in writing by the DEVELOPER or the ARCHITECTURAL COMMITTEE. All approved pools shall be fenced or otherwise adequately screened. All approved pools shall be kept clean and maintained in operable condition.

9. No sign of any kind shall be displayed on any lot or street right-of-way to the public view except one sign of not more than four square feet advertising the property for sale or rent, or signs used on the building to advertise the property during construction. All signs must be professional in appearance. No homemade signs will be allowed.

10. No noxious or offensive trade or enterprise shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.

11. Each lot owner and or occupant shall responsible for keeping his lot clean and clear of all tall grass, weeds, and unused or discarded building materials. Should a property owner or occupant fail to do so, the subdivision owners may enter upon such property and clean same, and such owner or occupant shall be liable for the cost of such services.

12. NO FENCE, wall or hedge greater than three feet in height shall be constructed or grown on the lake side of any lot in this subdivision so as to block or impair the view of any neighbor. Only those fences approved by the ARCHITECTURAL COMMITTEE shall be permitted in this subdivision. Any owner must submit his plans for such fence, in writing, to the ARCHITECTURAL COMMITTEE showing the type of material to be used as well as the height and location of proposed fence. NO CHAIN LINK fences will be permitted.

13. No kennel or other facility for raising or boarding dogs or other animals for commercial purposes shall be kept on any lot. No animals of any kind shall be raised, bred or kept on any lot except dogs, cats or other ordinary household pets. But in any event, there shall be no more than three household pets on any lot. No poultry may be kept on any lot, and all animals must be on a leash when at large.

14. No structure or improvement hereinafter constructed on any lot shall be allowed to fall into disrepair, and shall be kept in good condition, adequately painted or otherwise finished. No building or improvement which is not newly constructed shall be moved upon any lot.

15. There shall be no interference with the established drainage patterns in this subdivision unless adequate provision is made for proper draining, and approved by the ARCHITECTURAL COMMITTEE.

16. All driveways in this subdivision shall be of asphalt or concrete construction only and be installed and completed before occupancy however should occupancy occur before street is paved, owner will have a period of 180 days after street is paved in which to complete their driveway.

17. No activities shall be conducted on any lot which might be unsafe or hazardous to any person or property, and no firearms or fireworks shall be discharged within the addition or the immediate area thereof.

18. Any well, water system, septic system or other system or devise to be constructed in this subdivision for the purpose of furnishing utility service must first be approved in writing by the ARCHITECTURAL COMMITTEE and approved by the appropriate governmental agency or authority having jurisdiction thereof. Each owner shall be responsible for the maintenance and repair of his own system.

19. Because of the duties and responsibilities of the DEVELOPER in providing for the orderly development of this subdivision, none of the DEVELOPERS' activities in such development shall in any way be subject to the control of or under the jurisdiction of the ARCHITECTURAL COMMITTEE or HOME OWNERS ASSOCIATION. Without in any way limiting the generality of the preceding sentence, these declarations shall not prevent or limit the right of the grantor to excavate and grade, to construct any and all other types of improvements and to post signs incidental to construction, sales and development of this subdivision: And such exemption may be assigned in whole or in part by the DEVELOPER. The DEVELOPER or any subsequent ARCHITECTURAL COMMITTEE may grant variances if they or it deems proper when the circumstances, such as topography, natural obstructions, hardship, or aesthetic or environmental consideration may warrant. Such variances must be evidenced in writing and signed by at least a majority of the members of the HOME OWNERS ASSOCIATION or the DEVELOPERS. If such variance is granted, no violation of the covenants, conditions or restrictions contained in this DECLARATION shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to wave any of the terms or provisions of this DECLARATION for any purpose except as to the particular property and particular provision and the particular instance covered by the variance.

20. All garages, tool sheds, hobby rooms, etc. shall be of the same design and materials of the residence.

21. The DEVELOPERS hereby reserve to themselves, their heirs, successors and assigns, a permanent UTILITY EASEMENT on and along each side lot line in this subdivision, and said EASEMENT being twenty feet wide with the side lot line being the center line of said EASEMENT. The DEVELOPERS hereby further create and reserve to themselves, their heirs, successors and assigns, an EASEMENT on all tracts shown on the platt annexed for the purpose shown thereof. No permanent structures shall be placed on the EASEMENT. The roadways shown on the platt are EASEMENTS for streets, utility lines, electric lines and any other services needed to serve lots in AVALON BAY. All residential service utilities on either EASEMENTS or private property shall be underground.

22. No fence, wall, hedge or shrub planting, in the opinion of the DEVELOPER or ARCHITECTURAL COMMITTEE, which obstructs the vision of motorist shall be placed or permitted to remain on any lot in this subdivision.

23. No individual docks, marinas or other form of landing or swimming docks may be placed in the water adjoining any single LOT. This restriction is designed to serve the

interest of all lot owners in the subdivision and to retain the natural and unique beauty of the area and to avoid overcrowding and obstruction of the view of the lake in this particular area of the subdivision. DEVELOPER shall have, and expressly reserves, the right to build a community dock making slips available to individual lot owners.

24. The dedication and restrictions imposed herein are hereby specifically limited to that area shown on the annexed platt deemed AVALON BAY.

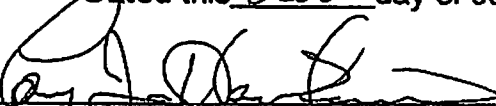
25. Purchasers of lots in this subdivision are advised that all lots are subject to a flowage easement in favor of the U.S. Army Corps of Engineers and they should determine the location of said flowage easement prior to commencing any construction on any lakefront lots in this subdivision and ensure that any permanent construction is above said flowage easement. Access to and from all lots shall be limited to the platted roadways shown on the subdivision platt.

26. There shall be an annual MAINTENANCE FEE of \$250.00 per lot payable to the DEVELOPER or HOMEOWNERS ASSOCIATION annually. This fee is to be paid in advance at time of purchase and prorated to January 1st and then paid annually thereafter. Such fees will be used for utility payments, mowing of common areas or easements and other purposes deemed necessary by the DEVELOPER or HOMEOWNERS ASSOCIATION. MAINTENANCE FEES shall not apply to the DEVELOPERS or heirs. *See Amendments 1 & 2*

27. Neither DEVELOPER, nor the HOMEOWNERS ASSOCIATION, nor any member of the ARCHITECTURAL COMMITTEE or the BOARD shall be personally liable to any person for any discretionary approval, for the adoption of any rules, regulations or guidelines or for the enforcement of or failure to enforce any of the restrictions contained in this Declaration.

IN WITNESS WHEREOF, Developer has caused this Declaration to be duly executed the day and year first above written.

Dated this 22 day of July, 2002.


Larry J. Hawkins, Manager


Leland Brown, Manager

STATE OF OKLAHOMA)
COUNTY OF MCINTOSH)

ACKNOWLEDGMENT

Before me the undersigned, A Notary Public, in and for said County and State, on this 22 day of July, 2002, personally appeared Larry J. Hawkins, and Leland Brown, to me know to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the used and purposes therein set forth.


Notary Public

My commission expires: April 7, 2003
Commission No. 99005999

First Amendment to Restrictive Covenants of Avalon Bay

I-2006-165273 Book 073 g: 35
10/10/2006 9:33 am F 35-0035
Fee: \$ 13.00 Doc: \$ 0.00
Diana Curtis - McIntosh County Clerk
State of Oklahoma

Pursuant to the provisions of the declaration of Avalon Bay recorded in book 630 at page 132 et. seq. of the McIntosh County Clerk's records, the majority of lot owners in said subdivision, representing one vote per lot, did at the annual meeting held on May 9, 2006 amend the last paragraph on page one of the original declaration recorded as set out above, by adding the following language to said paragraph: *Lots 8-11, 13 to 30 and 42 to 62 inclusive, Avalon Bay, a subdivision of land in McIntosh County.*

"The prevailing party in an action to enforce these covenants shall be entitled to recover reasonable attorney fees and related costs incurred."

In addition to the proceeding amendment the following addition was approved:

To restriction four;

"During construction on any lot, all of the other covenants shall apply and in addition thereto the following additional requirements are imposed during the construction phase:

1. A trash container to hold all construction and other related refuse will be maintained on site during all phases of construction.
2. Cleanup will be performed on each construction site and surrounding property as frequently as necessary to prevent blowing trash.
3. A portable toilet facility will be maintained on all construction sites.
4. Dumping of raw concrete and cleaning of concrete delivery trucks must be done only on active building site, not any other property.

In addition to the proceeding amendment the following addition was approved:

To restriction 26, the first two sentences will now read;

"There shall be an annul MAINTENANCE FEE of 1 cent per square foot payable to the HOMEOWNERS ASSOCIATION annually. This fee is to be paid in advance at time of purchase and prorated to May 1st and then paid annually thereafter."

Dated this 9th day of May, 2006

Elizabeth Hlavaty
Chair

Iris E. Harp
Secretary

STATE OF OKLAHOMA)

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SS ACKNOWLEDGEMENT

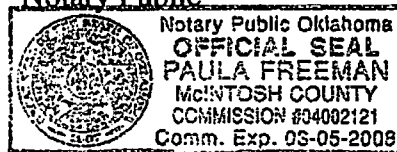
COUNTY OF MCINTOSH)

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Before me, the undersigned, a Notary Public, in and for said County and State on this ^{10th} ~~9th~~ day of ~~May~~ ^{October}, 2006, personally appeared Lizz Hlavaty, as Chair and Iris Harp, as Secretary, to me known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth. Given under my hand and seal the day and year last above written.

Paula Freeman
Notary Public

My Commission Expires: *03-05-2008*
Commission Number: *04002121*



2nd Amendment to Avalon Bay Homeowners Association Restrictive Covenants

Pursuant to the provisions of the declaration of Avalon Bay recorded in book 630 at page 132 et. seq. of the McIntosh County Clerk's records, the majority of lot owners in said subdivision, representing one vote per residence, did at the annual meeting held on May 8, 2007 amend Restrictive Covenants paragraph 5. It shall read:

Whereas, B&H DEVELOPMENT, LLC, is the present owner, other than lot 12 of AVALON BAY, and DEVELOPER of the above-described lots, desires to place certain restrictions on such lots for the purpose of providing for an orderly development of the entire tract of land and the creation of a planned community where residents and visitors will be ensured the full enjoyment of the natural beauty and advantages of the area through careful planning, and for the further purpose of providing adequate restrictive covenants for the mutual benefit of the undersigned and their successors in title to the above described tract, the undersigned do hereby impose the following restrictions and create the following easements, to which it shall be incumbent upon their successors and assigns to adhere. These covenants shall be perpetual in nature and shall run with the land, and shall be binding on all parties, firms or corporations and all persons claiming under them and may be changed or amended only by vote of a majority of the owners. Jointly owned lots entitle one of the joint owners to vote. Multiple lot owners are entitled to one vote. The DEVELOPER shall retain one vote per unsold lot.

5/13/08
See 3rd Amend
(Added)
Language
at the May
annual or any general
membership meeting
To validate changes all
RC revisions require filing at the
McIntosh Co. Clerk
office of records.

In addition to the proceeding amendment, the following change was approved.

Restrictive Covenants Section 3 shall read:

No building shall be erected or materially altered on any lot in this addition until the building plans, specifications, and plot plans showing the location of such building have been approved in writing as to conformity and harmony of external design with existing structures in the subdivision as to the location of the building with respect to topography, ground elevation and neighboring structures by an architectural committee composed of three or more persons to be elected annually by a majority of the owners. Said Architectural Committee shall initially consist of undersigned developers, and they shall serve on said committee until such time as they have resigned or all lots in the subdivision have been sold.

In addition to the proceeding amendment, the following change was approved.

In Restrictive Covenants Section 26 the first sentence will now read:

There shall be an annual MAINTENANCE FEE of \$250 for the 1st lot owned and \$25 for each additional adjoining lot.

Dated this 8th day of May, 2006.

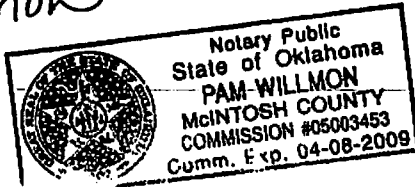
Carolyn Grayson
Vice Chair

Iris E. Harp
Secretary

STATE OF OKLAHOMA)
) SS ACKNOWLEDGEMENT
COUNTY OF MCINTOSH)

Before me, the undersigned, a Notary Public, in and for said County and State on this 11th of September, 2007, personally appeared Carolyn Grayson, as Vice Chair and Iris Harp, as Secretary, to me known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth. Given under my hand and seal the day and year last above written.

Pam Willmon
My Commission Expires:
Commission Number:



1-2008-180837 Book 0812 Pg: 51
07/03/2008 11:10 am Pg 0051-0052
Fee: \$ 15.00 Doc: \$ 0.00
Diana Curtis - McIntosh County Clerk
State of Oklahoma

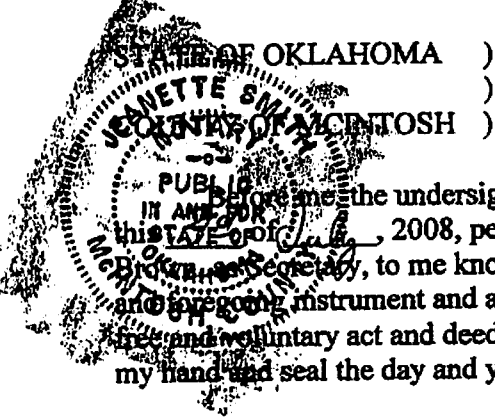
3rd Amendment to Avalon Bay Homeowners Association Restrictive Covenants

Pursuant to the provisions of the declaration of Avalon Bay, lots 8-11, 13-30 and 42-62 inclusive, a subdivision of and in McIntosh County, recorded in book 630 at page 132 et seq. of the McIntosh County Clerk's records, the majority of lot owners in said subdivision, representing one vote per residence, did at the annual meeting held on May 13, 2008 amend Restrictive Covenants paragraph 5. It shall read:

Whereas, B&H DEVELOPMENT, LLC, is the present owner, other than lot 12 of AVALON BAY, and DEVELOPER of the above-described lots, desires to place certain restrictions on such lots for the purpose of providing for an orderly development of the entire tract of land and the creation of a planned community where residents and visitors will be ensured the full enjoyment of the natural beauty and advantages of the area through careful planning, and for the further purpose of providing adequate restrictive covenants for the mutual benefit of the undersigned and their successors in title to the above described tract, the undersigned do hereby impose the following restrictions and create the following easements, to which it shall be incumbent upon their successors and assigns to adhere. These covenants shall be perpetual in nature and shall run with the land, and shall be binding on all parties, firms or corporations and all persons claiming under them and may be changed or amended only by a vote of the majority of homeowners at the May annual meeting or any special general meeting. Notice for a special meeting must be two or more weeks in advance. This notice must be delivered by 1st class mail. To validate changes, all Restrictive Covenant revisions require filing at the McIntosh County Clerk office of records. Jointly owned lots entitle one of the joint owners to vote. Multiple lot owners are entitled to one vote. The DEVELOPER shall retain one vote per unsold lot.

Dated this 3 day of July 2008
Carolyn Grayson
Chair

Toni Brown
Secretary



SS ACKNOWLEDGEMENT

I, the undersigned, a Notary Public, in and for said County and State on this 3 day of July, 2008, personally appeared Carolyn Grayson, as Chair and Toni Brown, as Secretary, to me known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth. Given under my hand and seal the day and year last above written.

RS

4th Amendment to Avalon Bay Homeowners Association Restrictive Covenants

Pursuant to the provisions of the declaration of Avalon Bay, lots 8-11, 13-30 and 42-62 inclusive, a subdivision of and in McIntosh County, recorded in book 630 at page 132 et. seq. of the McIntosh County Clerk's records, the majority of lot owners in said subdivision, representing one vote per residence, did at the annual meeting held on May 12, 2009 amend Restrictive Covenants Page 3, Item number 7. It shall read:

7. No trailer, bus, camper, boat or similar apparatus shall be parked, left or stored in any driveway or street for more than a 48 hour period. In the case of a visiting family using a motor home, driveway parking may be permitted for a period of no longer than ten days. The period may be extended with approval of the approving party or Home Owners Association. Motorized vehicles shall not be operated on any lot or common area. All Terrain Vehicles, go carts, dirt bikes or mini bikes shall not be operated within the subdivision.

Dated this 29 day of June, 2009

Carolyn Grayson
 Chair

 Secretary

STATE OF OKLAHOMA)
)
 COUNTY OF MCINTOSH) SS ACKNOWLEDGEMENT

Before me, the undersigned, a Notary Public, in and for said County and State on this 29 of June 2009, personally appeared Carolyn Grayson, as Chair and Toni Brown, as Secretary, to me known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth. Given under my hand and seal the day and year last above written.

Peggy Trotter

My Commission Expires:
 Commission Number:

