

AVERY PARK
Community Association

**ARCHITECTURAL
DESIGN STANDARDS**

January 1, 2006

Third revision
Effective Date – March 05, 2007

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CHANGE PAGE

RECORD OF CHANGES

AVERY PARK COMMUNITY ASSOCIATION
ARCHITECTURAL DESIGN STANDARDS

CHANGE #	EFFECTIVE DATE	SUMMARY
#1	January 2007	Page 15, Article 6, Section 6.12 Enforcement/Fines – Corrected to comply with NC Planned Community Act Chapter 47F
#2	March 2007	Page 9, Article 6, Section 6.1 Review, Impact Fees and Deposits – Combined Construction Impact Fee with Road Impact Fee
#3	March 2007	Page 3, Article 5, Section 5.1, Subsection (b) Rear setback changed to 20' in accordance with original filing with Buncombe County

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ARTICLE 1
INTRODUCTION

The Architectural Review Board (hereinafter referred to as the “ARB”) has been established to enhance consistency, compliance and equity in the implementation of policies, plans, Conditions, Covenants and Restrictions, and other documents pertaining to the physical development of Avery Park. The preservation of Avery Park as an attractive, private residential community in which to live depends upon continuous design excellence and sensitivity to the environment. The ARB will serve as an arm of the Board of Directors of the Avery Park Property/Unit Owners Association (hereinafter referred to as the “APCA” or the “Association”) to ensure compliance with protective restrictions, and the compatibility of construction, design, and maintenance of each Property/Unit. For further detail regarding maintenance responsibilities refer to ARTICLE 9 of these Standards.

In accordance with Declaration of Covenants, Conditions, & Restrictions (CCR’s) for Avery Park the Board of Directors is empowered to adopt, add to or amend any or all of these Architectural Design Standards, as they deem necessary. Adoption of the Architectural Design Standards by the APCA Board of Directors has allowed the Association to implement review, control and enforcement procedures, and to support those recorded legal documents which serve to bind specified Property/Unit Owners (hereinafter referred to as “Owners”) to the Conditions, Covenants and Restrictions of Avery Park.

Set forth in these Architectural Design Standards are those policies and procedures to assist the ARB, Owners, their Architects and Contractors through the Architectural Review Process. The APCA Board of Directors strongly believes that the only way the natural beauty of Avery Park can be protected and preserved while developing an attractive and desirable community to live in is by the consistent administration and strict adherence to these Architectural Design Standards and the Architectural Review Process. When adhered to, these Standards will help to ensure a pleasant and equitable relationship with all involved through the review and construction process. It is imperative, therefore, that the following Standards are thoroughly read and understood prior to the commencement of any design work.

ARTICLE 2 **PHILOSOPHY**

In order for nature and development to successfully coexist, a balance must be established, preserving the integrity of natural systems within the context of land use changes. The prudent use of natural resources without depleting their overall value is known as *environmental conservation*. In the case of Avery Park, a conservation ethic requires thoughtful attention to the details of site planning, architectural design, and landscaping. Together, these components will define the overall quality of the development.

As an example, a positive and desirable development plan would include minimal site disturbance, architectural design that blends, rather than contrasts, with the surrounding environment, and landscaping that incorporates indigenous plant selection rather than transplanted exotics. Generally, design should be subordinate to setting.

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ARTICLE 3 **GENERAL**

In accordance with ARTICLE 9, Section 9.1, of the CCR's, no exterior structure or improvement shall be placed, erected, installed, or made upon any Property/Unit, or adjacent to any Property/Unit, without first obtaining written approval from the ARB. Examples include, but are not limited to, the following:

- (a) New home construction, decks, patios, driveways, retaining walls, fences, gates, columns, statuary, fountains, swimming pools, basketball backboards, mailboxes, paint/stain color proposals or changes, landscape, hardscape, etc.
- (b) All mechanical/electrical equipment such as HVAC equipment, swimming pool and/or spa equipment, waterfall pumps, exterior lighting, etc.
- (c) Removal of trees (greater than 6 inches in diameter), evergreen shrubs or other distinctive vegetation.
- (d) Well, septic and drainage systems.
- (e) Changes to topography including cut, fill and other grade changes.

Failure to obtain the necessary approvals as stated above:

- (a) May constitute a violation of your Deed Restrictions.
- (b) May result in a Specific Assessment being levied against your Property/Unit in accordance with ARTICLE 8, Section 8.5, of the CCR's.
- (c) May require modification or removal of unauthorized work at the Owner's expense.

In addition, owner is responsible for any applicable local, state and federal permits as required.

ARTICLE 4 DESIGN AND COMPATIBILITY

Owners and their Architect should develop a home design that compliments the natural characteristics of the Property/Unit and its indigenous vegetation. The basic appearance of a home can be made more aesthetically pleasing by utilizing design details such as recessed entries, changes in planes, offsets and extended walls beyond the basic facade, roof geometry, garage placement, landscape screening and working with the natural contours of the Property/Unit. Proposing natural materials on exterior finishes, such as, rough-sawn wood, exposed heavy timbers, textured siding, wooden shingles, native stone and color schemes that blend and compliment the natural, mountainous topography, is highly recommended.

Attention to details and finishes is vitally important in a congruent and harmonious blending of structure and nature. An example would be foundations of poured concrete or concrete block being finished with stone or stucco for a completed appearance. The perimeter foundation of all structures must be transitionally screened with natural landscape plantings.

2 **ARTICLE 5 ARCHITECTURAL CRITERIA**

Owners, their Architects and Contractors in the design and development of each Property/Unit *must* adhere to the following specific building design standards:

5.1 Setbacks

Unless specified differently in your Restrictive Covenants, the following are the minimum setback requirements for all Property/Units:

- (a) 30 feet from the Property/Unit line along the road.
- (b) 20 feet from the rear Property/Unit line.
- (c) 10 feet from the side Property/Unit line.

5.2 Size Restrictions

Minimum and maximum square footage parameters for new home construction are impacted by location, visibility, the size of homes on neighboring Property/Units and other considerations. The following restrictions take these factors into account:

- (a) The minimum home size on any Property/Unit shall not be less than 1,800 square feet of fully enclosed living space.
- (b) In general, the maximum square footage of any proposed home shall not exceed 10,000 square feet provided the footprint of the home does not exceed 40% of the Property/Unit size. A Property/Unit with larger acreage may be considered acceptable to allow a home design that exceeds the maximum square footage stated above depending on its location, visibility, and impact on the community.
- (c) The maximum height of any home, including cupolas or other structures, shall not exceed a height of 2½ stories or a maximum of 38 feet measured from the front entry level foundation cap to the highest point on the roof.

5.3 Roofs

Roof materials with texture and depth, such, as cedar shakes, natural slate or other architectural grade, composite materials, are highly desirable. Metal roofs will be reviewed on a case- by- case basis but in no instance will a metal roof be allowed that is bright colored or that has a permanent reflective surface. The following criteria addresses roof design:

- (a) The minimum roof pitch or slope allowable for predominant roof slope is 6:12, though higher pitches are preferred.
- (b) The maximum roof pitch or slope allowable for predominant roof slope is 12:12.
(slopes greater or less than the required slope will be reviewed on a case by case basis)
- (c) Multiple roof forms are highly recommended.
- (d) Flat roof designs are not allowed.
- (e) All roof accessories such as vent stacks, vents, vent fans, etc., must match the roof color and should be, as much as is possible, located at the least visible side of the roof.

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5.4 Garages

The garage, whether attached or detached, must match the design, materials, and color scheme of the home. If the garage is detached, it must be no larger than 30 feet x 36 feet and no taller than the main house. In either case, due to the restriction not allowing storage sheds and other similar storage structures, sufficient storage area should be considered and provided in the design of the garage. The following requirements apply to garage doors and service entry doors:

- (a) Garage doors and garage service entry doors may be metal or wood and should be raised panel in design or otherwise detailed to compliment the architectural style of the home. Custom designed garage doors will be reviewed on a case-by-case basis.
- (b) Garage door windows may be considered for approval if they are proposed as clear, obscure glass and installed in the top panel. The window design must match or compliment the windows on the home.

5.5 Siding

Exterior walls constructed of natural materials, such as, rough-sawn wood, exposed heavy timbers, textured siding, wooden shingles and/or native stone, are preferred. Brick or/and stucco may be considered acceptable depending on mass, location, texture, and color. Certain manufactured exterior siding, trim and stone products may be considered for approval. Exterior materials *must* be used consistently on all elevations for a harmonious appearance. The following types of siding are not allowed:

- (a) Aluminum, steel, or vinyl.
- (b) Flashed brick or brick proposed with an epoxy sealant.

5.6 Windows

The size and percentage of windows on all elevations *must* be in balance with the overall design. Home designs that promote large expanses of exterior walls without window installations are discouraged. The following requirements address color and materials:

- (a) Wood, aluminum and/or vinyl clad window materials are acceptable and dark colors are recommended.
- (b) In general, colored or stained glass is not encouraged. Clear, decorative, leaded, or obscure glass designs are allowed.
- (c) Glass block may be considered acceptable depending on location, mass, and visibility. If approved, the color of grout utilized for the glass block installation *must* match the siding or window frame color. Grout in any shade of white is not allowed.
- (d) Window tinting is allowed but only if non-reflective material is used.

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5.7 Driveways

The area or size of the driveway should be kept to a minimum with the form of the driveway softened with curves to prevent any long, straight views. Building materials and other requirements are as follows:

- (a) All driveways *must* be either paved with asphalt or concrete. For purposes of maintenance, consistency, and appearance, matching the driveway material with the adjoining road material is preferred as a minimum standard.
- (b) The intersection of the driveway and community roadway *must* be paved with a durable, erosion resistant surface. Surface shall be concrete, asphalt, paving stone or paving brick and shall extend the full width of the driveway at the intersection with the community roadway and extend a minimum of 20 feet into the lot from the community roadway edge.
- (c) Driveways should be designed to minimize storm water runoff and potential erosion. Properly sized culvert drainpipes shall be installed as needed along the driveway within the road right-of-way. There shall be no diversion of water within the road right-of-way or onto adjoining properties.

- (d) Adequate guest parking should be planned to contain all parking within the Property/Unit without being a prominent design feature.

5.8 Exterior Colors

Exterior color schemes proposed for all structures must blend or compliment the natural surroundings. Subdued earth or forest tones of brown, warm grays or greens are preferred. Shades of white may be submitted for consideration for the house trim but in no case will the body of a house be allowed to be painted white. All structures on a Property/Unit *must* be painted the same approved color scheme unless otherwise approved by the ARB. Flue caps, electric meters, conduits, gutters, downspouts, etc., *must* be painted to match or blend with the surrounding materials. In addition, walls, gates and other exterior structures *must* be painted or stained to match or blend with the color scheme of the home. Deck band boards, rails, associated pickets and stair risers to decks may be left natural wood. The following are exterior colors and finishes that are not recommended and require ARB approval:

- (a) Pastels.
- (b) Primary colors.
- (c) High contrast color schemes.
- (d) Highly reflective paint finishes such as gloss enamel or epoxy paints.

Approval from the local ARB is required for any change to an existing color scheme on any structure (samples of the proposed colors are required at time of submittal). No fee is required.

5.9 Landscaping and Fences

It is extremely important that elements of the landscape, the home, and any other structures upon a Property/Unit harmoniously unite to form a single, attractive entity. When thoughtfully designed, a landscape plan becomes an extension of a well planned home. Careful selection of plants according to type, size, location, growth pattern and climate tolerance is best accomplished by an experienced Horticulturist or Landscape Architect. Of course, the most desirable landscaping is the current, undisturbed natural vegetation that exists on the mountain. The ARB looks very favorably upon landscape plans that propose the least amount of disturbance to the pre-existing plant material while adding indigenous plants to meet the screening requirements. Imperative considerations that must be addressed in the proposed landscape plans are as follows:

- (a) No clear-cut tree removal or topping of trees is allowed. Very selective tree removal and/or thinning to improve views may be considered for approval.
- (b) A plant list showing all newly installed plant species will be required as part of the landscape plan. Indigenous plant selection is highly recommended, however, newly introduced species of plants that compliment the natural surroundings may be considered acceptable but only if arranged according to a coherent landscape plan.
- (c) Landscape screening is required around the perimeter of foundation walls, including HVAC units, above ground fuel tanks, parking areas, etc.

(d) All landscaping *must* be installed as per the approved landscape plans prior to the Completion Deadline as stated in ARTICLE 6, Section 6.8, of these Standards. An extension may be granted to complete the landscape installation if extended winter weather or the time of year the home is completed justifiably hinders said completion.

(e) The following types of fences do not require approval:

- (i) Split Rail
- (ii) Stacked Locust Rail
- (iii) Living Fence
- (iv) Invisible

5.10 Temporary Structures

Temporary structures of any kind, including but not limited to, storage sheds, play structures, tree-houses, portable basketball goals, etc. may be submitted to the local ARB for consideration for approval. The submittal must include a plot plan showing the proposed location of the temporary structure, a picture, brochure or plans detailing the appearance and dimensions of the proposed structure and its color scheme.

5.11 Fuel Tanks

In General, fuel tanks should be proposed as underground installations. Above ground fuel tank installations may be considered for approval if proposed to be installed on the least visible side of the home and painted earth or forest tones to match or blend with its surroundings. In addition, landscaping must be utilized to screen fuel tanks from view.

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5.12 Septic Tanks

Septic systems shall not be located any closer than 75 feet from streams or any other body of water or water source. If unable to comply with the setback requirement due to lot configuration, the septic system *must* comply with the minimum setback requirements of the County Health Department.

5.13 Wells

Wells shall not be located within 25 feet of a natural water source nor shall a water source be diverted or altered to allow for well installation. **A silt fence must be installed prior to drilling the well.**

This precludes runoff of water and other materials from damaging adjacent property, common areas, or clogging ditches. Upon completion of well installation, if the well is functional, it shall be covered with simulated rock. If the well is non-functional, per Buncombe County it shall be filled and capped. **Natural and indigenous plantings around the well are required to disguise the site.** The area around all wells shall be returned as much as possible to its natural state. Additionally, any scarring or staining of pavement is the responsibility of the property /homeowner to repair.

5.14 HVAC Units

HVAC units *must* be installed in the least visible location adjacent to the home. Wherever located, HVAC units *must* be screened from view with shrubs. The use of a lattice enclosure for screening is acceptable (lattice and frame *must* match color of home). However, the use of shrubs to soften the appearance is required.

5.15 Basketball Goals

Basketball goals may be considered for approval depending on their proposed location, visibility, and impact on neighboring Properties/Units, if they comply with the following requirements:

- (a) Basketball backboards must be clear acrylic/glass or painted to match the background color where attached if mounted above the garage door.
- (b) Only clear acrylic/glass basketball backboards will be allowed for free standing pole installations. Poles must be black or painted to blend with its surroundings.
- (c) Portable basketball goals may be considered for approval.

5.16 Mail Boxes

Mailboxes, mailbox posts, and paper boxes must match the color scheme of the home or be subdued earth or forest tones (mailboxes may also be black). White mailboxes and/or mailbox posts are *not* recommended. Mailboxes and mailbox posts may be installed in the right-of-way along the roadside.

5.17 Exterior Lighting

Traditional light fixtures, such as carriage lights, proposed for installations at entry doors, garage doors and stairways are acceptable and encouraged. The following types of lighting are *not* allowed:

- (a) Floodlight fixtures with fully exposed bulbs. (Floodlight fixtures may be considered for approval if proposed with hoods or covers and are painted to match or blend with the surrounding materials where attached.)

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- (b) Exterior lighting must be installed so that light is not directed onto or toward adjacent properties and streets. Colored lights or lenses of any kind, including ‘bug zappers’, are *not* allowed.

5.18 Antennas

Antennas or, as termed by the Federal Communications Commission (FCC), “Over-The-Air Reception Devices” (OTARD), with a diameter of 1 meter (39.37 inches) or less, which include, but are not limited to, satellite dish antennas may be installed without prior approval from the ARB provided the installation meets the following requirements:

- (a) The antenna *must* be installed in the least visible location as viewed from the road or other vantage points.
- (b) The color of the antenna *must* reasonably blend with the background color at the point of attachment or its surroundings depending on location.

If, in the opinion of the ARB, the antenna location or color is unacceptable, modification of the antenna will be required to conform to the above guidelines. Satellite dish antennas in excess of 1 meter will be reviewed on a case-by-case basis but, if approved, will require complete screening from view including neighboring properties.

5.19 Flags

Flags that meet the following criteria may be displayed without approval from the ARB:

- (a) The maximum flag size allowed is 3 feet by 5 feet. Flagpoles attached to the home or garage *must* not exceed 6 feet in length and *must* blend with the existing color scheme of the dwelling or be natural wood.
- (b) A *maximum* of 1 flag on the front side and 1 flag on the rear side of a home will be allowed.
- (c) Ground installed flagpoles 20' or less in height with a flag no larger than 4' x 6'.

In addition, flags that become faded, torn or otherwise deteriorated *must* be removed or may be replaced with a new flag.

ARTICLE 6

ARCHITECTURAL REVIEW PROCESS

The Architectural Review Process for new home construction and/or other prominent structures consists of a Preliminary Plan Review, a Final Construction Plan Review and specified on-site Construction Reviews to verify that the actual construction is in conformance with the approved Final Construction Plans. The Architectural Review Process nears conclusion after the construction, including all proposed and required landscaping, is completed and the Association makes its Final Review. If the project is in compliance, the Final Review is signed off as approved with written notification of completion being sent to the Owner and the process is concluded. If the project is found to be incomplete or is not in compliance with the approved plans, the Association will take whatever action it deems necessary, including the imposing of fines, to

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ensure completion and/or compliance of the project as described in ARTICLE 4, Sections 4.5, and 4.6, of the CCR's. Owners are strongly encouraged to work with an Architect who is knowledgeable and experienced in mountain home design and construction.

6.1 Review ,Impact Fees and Deposit

Per Article 9, 9.2 of the CCR's, the following fees are required to be paid to the Association at the time an Owner submits the Preliminary Plan Review Application for construction of a new home, an addition to an existing home or any other prominent structure:

- (a) A Review Fee of:
 - (i) For structures up to 500 square feet (decks, retaining walls, etc), submit request to local ARB. An optional deposit may be collected by the local ARB, depending of the scope of work to be performed.
 - (ii) \$1,000 for structures in excess of 500 square feet, up to 1,000 square feet.
 - (iii) \$1,500 for structures in excess of 1,000 square feet.
- (b) A Road Impact Fee of \$3,000.00. The Road Impact Fee covers extra wear and tear on the road system that occur's during the new home construction process. It does not cover actual damage, accidental or otherwise, to the roads, road shoulder, drainage systems, vegetation or other Avery Park improvements or property.

- (c) Site Damage Deposit. The fee insures the conduct of all contractors and sub contractors will adhere to all Avery Park Architectural Standards, and Avery Park Community Association Rules and Regulation.

- (i) \$1,500.00 Refundable at construction completion.

Add the Review Fee, Road Impact Fee and Site Damage Deposit for a total amount to be submitted to the Association. The Association will *not* be able to accept a Preliminary Plan Review Application and/or any plans for review without the required Review and Impact Fees. For requests for all temporary structures and non-structural improvements, such as, play structures, portable basketball goals, name plaques, exterior lighting, etc., refer to Section 6.9.

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6.2 Preliminary Plan Review

This first and vital step in the Architectural Review Process gives the Owner the opportunity to present their conceptual design ideas to the ARB on paper through their architect. Due to the high probability of changes and revisions being made during this initial step, it is *strongly* recommended that these preliminary plans be rough drawings, although to scale, and *not* final construction drawings. Along with a completed Preliminary Plan Review application, Owners must submit the required fees as stated in Section 6.1 and 2 sets of plans that include the following:

- (a) Preliminary schematic topographical site plan at a scale of 1 inch = 20 feet (maximum 2 foot contour intervals) identifying: Property/Unit boundaries and acreage, house sitting along with any other proposed structures, driveway, parking area, potential tree (in excess of 6 inches in diameter) and shrub removal, septic system, well, utility areas, etc. Neighboring homes, garages and other structures must be shown in outline form (drip line to drip line). In addition to adhering to the setback requirements stated in ARTICLE 5, Section 5.1, of these Standards, please refer to your Deed Restrictions for any additional setback requirements.
- (b) Conceptual floor plans at a scale not smaller than 1/8 or 1/4 inch = 1 foot showing overall house dimensions, room sizes, windows and doors. All rooms shall be labeled as to function.
- (c) Conceptual elevations (all sides) at a scale not smaller than 1/4 inch = 1 foot showing all exterior materials, windows, doors, decks, height above foundation cap, etc.

- (d) A copy of the Property/Unit Deed including all Restrictions and Covenants.

Prior to contacting the Association to submit the preliminary plans and to set up an on-site meeting to review the plans and Property/Unit, the Property/Unit perimeter *must* be clearly marked with white stakes (minimum 3 feet tall) by a licensed Surveyor and shall remain in place until the construction project is completed. The corners of the proposed home site shall also be staked and identified. Building corners shall include all above ground structures such as decks, garages, and patios. Orange flags or tape shall mark any trees or shrubs proposed for removal. NOTE: In accordance with ARTICLE 10, Section 10.10, *no* grading, tree or shrub removal or construction, except what is required to for the County Health Department survey and proposed septic system location inspection, will be allowed until *after* approval of the Final Construction Plans is granted, in writing, by the ARB.

If the Association accepts the proposed Preliminary Plans the Owner will be sent an acceptance letter within 30 days of the on-site meeting. Owners may then have their Architect proceed with final construction drawings. If the proposed Preliminary Plans are not accepted, a letter will be sent to the Owner within 30 days stating the reasons for the non-acceptance. Once each reason for non-acceptance is addressed and *all* required changes are made to the Preliminary Plans, the Owner may resubmit to the Association for review.

6.3 Final Construction Plan Review

After receiving Preliminary Plan Review acceptance, Owners may direct their Architects to proceed with the Final Construction Plans. When completed, Owners *must* submit a Final Construction Plan Review application along *with 2 sets of plans* that include the following:

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- (a) A final site plan showing all items required for the Preliminary site plan plus any proposed new topography (grading, drainage, cut and fill), etc., at a scale of 1 inch = 20 feet or larger.
- (b) Floor plans showing complete construction details at a scale of ¼ inch = 1 foot. They shall include location of exterior HVAC units, exterior light fixtures, all utility locations, meters and easements, if applicable, trash enclosure with type of screening noted, fuel tank size and location, etc. *Include a third set of plans in 11 x 14 or 8 ½ x 14 format.*
- (c) Elevations (all sides) at a scale not smaller than ¼ inch = 1 foot showing all exterior materials, windows, doors, decks, height above foundation cap, etc.
- (d) Drainage plan showing the proposed path of surface water and points of its discharge. Under no circumstances may the natural flow of water be artificially concentrated so as to create erosion problems or additional flow over neighboring Property/Unit.
- (e) A color and materials board with samples of the proposed exterior paint/stain color scheme and any proposed siding, stone, brick, roofing material, etc.
- (f) A copy of the approved County Building Permit.
- (g) A copy of the approved County On-site Wastewater Disposal Application.

If any of the above requirements are absent or incomplete, the Association will not be able to conduct this phase of the review process and will return all submitted items to the Owner with a letter detailing the absent required exhibit(s).

Once the Association receives a complete submission a decision must be rendered within 30 days of receipt. If the Association approves the proposed Final Construction Plans and the color/material samples, the Owner will be sent an approval letter and may then schedule their Contractor(s) to begin grading. If the proposed plans are not approved, a letter will be sent to the Owner within 30 days of receipt of the submittal stating the reasons for disapproval. Once each reason for disapproval is addressed and all required changes are made to the Final Construction Plans and/or color and materials samples, the Owner may resubmit to the Association for review.

6.4 Building Codes

All construction should comply with state and local building codes, fire codes, electric and plumbing codes. Compliance is the responsibility of the Owner/Contractor and they shall be responsible for obtaining all required permits and approvals. Association approval and reviews are separate and independent of government inspections.

The basis for the Association's approval of plans and materials is aesthetics and not engineering design. By approving submitted plans and materials, the ARB, APCA Board of Directors and Managing Agent(s) assumes no liability or responsibility for any defect in any structure constructed from such plans and its specifications as further elaborated in ARTICLE 9, Section 9.9, of the CCR's and ARTICLE 7 of these Standards.

6.5 Erosion Control

Erosion control is a critical protective measure for soil conservation and protection of streams and river systems. Soil and drainage systems are especially fragile in this mountain ecosystem. Erosion

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control measures should be clearly shown on all site plans. The following requirements are minimum standards intended as preventive maintenance in order to avoid costly and possibly irreparable environmental damage. Erosion control will be monitored throughout the construction project.

- (a) Prior to soil disturbance, temporary sediment barriers must be properly installed along Property/Unit lines according to existing and expected drainage patterns.
- (b) As clearing progresses, temporary diversions shall be installed along with barriers, mulch, etc., to reduce drainage flow rates and any resulting erosion.
- (c) Periodically remove collected sediment to maintain the barriers in an effective condition.
- (d) Revise the planned control measures as the site conditions change. Gaps in protection will not be allowed.
- (e) Install utilities early in the construction process and stabilize slopes quickly thereafter. Driveways should be continuously maintained with proper aggregate material throughout construction.
- (f) Finish grade and establish a permanent ground cover as soon as possible.
- (g) Once Final Construction Review approval has been granted, barriers may be removed with proper disposal of all materials and accumulated sediments, along with final stabilization as necessary.

6.6 Construction Reviews

After receiving Final Construction Plan approval and before grading/construction has commenced, the Association or its designate will make the following scheduled and non-scheduled reviews to ensure that the work performed is in compliance with the approved plans:

- (a) Preliminary Site Layout Review. Before grading and clearing begin, but after building Footprint and vegetative removal has been marked, owners, their architect or contractor must contact the Association to schedule its review.
- (b) Foundation Review. After grading and foundation forming is completed but before pouring of concrete or laying of block. Owners, their Architect or Contractor must contact the Association as foundation forming is nearing completion to schedule its review.
- (c) Framing Review. After the completion of framing, Owners, their Architect or Contractor must contact the Association as framing is nearing completion to schedule its review.
- (d) Unscheduled Reviews. Random, periodic reviews of the construction site by an Association representative for compliance with the Association's Construction And Contractor Rules (Refer to ARTICLE 8) will take place without prior notice.
- (e) Final Construction Review. After completion of the construction project, the Owner, Architect or Contractor *must* contact the Association to schedule its

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Final Review. Before notifying the Association to schedule its Final Construction Review, owners must make sure the following requirements have been met:

- (i) Completion of all construction and exterior painting/staining.
- (ii) Installation of landscaping.
- (iii) Removal of dumpster, portable toilet, other temporary facilities, temporary utility pole and all other construction related materials and/or debris.
- (iv) Repair of any damage to right-of-way, common areas and adjacent areas caused during construction.
- (v) Repair of any damage to the roadway, including structural or scarring, pavement stains, concrete spills, and replanting of grass or other damaged plants.
- (vi) A copy of the 'as built' plans detailing actual location of the septic tank and system to be submitted to the ARB.

Failure to contact the Association for any of the above scheduled reviews, any non-compliance discovered during the scheduled reviews or any non-compliance of the Construction And Contractor Rules discovered during any periodic, unscheduled review will result in a *Stop Work Order* being

issued. A *Stop Work Order* notice will be posted on the Property/Unit and a copy sent to the Owner describing the violation(s). No further construction work will be allowed, enforced by the Sheriff's

Department until such time as the non-compliance has been corrected and verified by the Association. When the violation(s) is corrected, the Owner, Architect or Contractor is required to contact the Association to arrange a review to confirm compliance. Upon confirmation of compliance the Association will remove the *Stop Work Order* and notify the Owner of the approval to proceed with the construction project. If violation(s) are not corrected in a timely manner or if violations re-occur during the construction project, the Owner may be assessed fines and be subject to further action being taken by the Association.

6.7 Field Changes

Changes of any kind to the approved Final Construction Plan, Exterior Elevation Review documents are not allowed without prior approval from the ARB. The ARB realizes that circumstances arise from time to time during construction that require a change to the originally approved plans. If such a circumstance arises, the ARB will expedite the request as quickly as possible. Such change requests must be accompanied by the required review fee as outlined in Section 6.1. of these Guidelines. If changes are made without prior approval by the ARB, the Owner may be assessed a fine and could be required to modify the construction to comply with the originally approved plans at the expense of the Owner.

6.8 Completion Deadline

All construction must be completed and a Final Construction Review made by the Association and approved, in accordance with Section 6.6, (d) above, within 12 months from the commencement of grading. The Association may consider a request, in writing, by the Owner for an extension to complete the construction project if deemed necessary. Failure to complete the construction project

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within the Completion Deadline timeframe, including any extensions granted by the Association, constitutes a violation of these Standards. The Association will then pursue whatever action it deems necessary to ensure the completion of the construction project in a timely manner. All legal fees and costs reasonably incurred by the Association for such action will be assessed to the Owner.

If no work commences within 6 months of the Association's Final Construction Plan Review approval letter date, the approval status will be rescinded and the plans considered disapproved. If the Owner wishes to pursue the project after the approval has been rescinded, a new Application along with 2 sets of plans must be submitted for review.

If construction does not begin within 12 months after removal of any vegetation, especially if grading has taken place, the Owner will be required to return the Property/Unit to its original condition as much as possible.

6.9 Home Improvement Requests

The Home Improvement Request process is required for Owners proposing temporary structures and non-structural improvements. Examples include, but are not limited to, garages, playhouses, name plaques, exterior lighting, exterior paint/stain color changes, window or door installations or changes, fountains, basketball goals, walkways, etc. In order to help expedite the Home Improvement Request process without requiring an application form to be completed, Owners simply need to provide the following:

- (a) A written request, signed, describing the proposed improvement to their Property/Unit, its proposed location, and a picture or brochure of the improvement submitted to the local ARB.
- (b) A \$50.00 review fee.

In the case of a paint/stain color change request, paint samples must be submitted and identified as to their proposed location (i.e., trim, wood siding, plaster/stucco, front door, shutters, etc.).

The ARB has a maximum of 30 days from the date a request is received, along with all required pictures and/or attachments and the \$50.00 review fee, to render a decision. If a complete submittal is received but a decision is not rendered within the 30 day time limit, such request shall be deemed approved. Owners will be notified in writing of the ARB's decision. Once approved, Owners must complete the proposed improvement within 90 days from the date of the approval letter from the Association. The Association may consider an extension request, in writing, by the Owner for an additional 90 days if deemed necessary. If the installation has not begun within 90 days from the date of the approval letter and no extension request has been received or if an extension has been granted and no work has begun within the maximum 180 day period allotted, the approval becomes void and the Owner must re-submit a new Home Improvement Application prior to starting any work. The Association will review the completed improvement for conformance with the approved request, pictures and/or attachments.

If any installation of any kind begins prior to approval in writing by the ARB, the Owner is in violation of these Standards and may be required to return the Property/Unit to the condition prior to the work and/or be assessed fines.

6.10 Appeal Process

In the event of any dispute regarding an ARB decision during the Architectural Review Process, the Owner has 15 days from the date of the written disapproval notice from the ARB to request a hearing. The Board will preside over the hearing to hear evidence and discuss the dispute. The Board will render a decision on the appeal, in writing, within 10 days of the hearing. All decisions will be final.

6.11 Variances

The ARB, or the Board shall have the right and privilege to permit any Owner (without consent of other Owners) to deviate from any of the Architectural Design Standards, provided that such a deviation is necessary, in the opinion of the Board of Directors, in order to carry out the general purposes of the Declaration and/or the Design Standards. Any such permission of the Board of Directors shall be in writing and shall not constitute a waiver of the ARB or Association's powers of enforcement with respect to any of the architectural controls as to any other of the covered Property/Units.

6.12 Enforcement/Fines.

Failure to adhere to these Standards during any portion of the Architectural Review Process and construction project, or at any other time, could result in action being taken by the Association which may include fines and/or other legal action. Fines shall constitute a lien upon the Property/Unit and, if not paid in the timeframe specified, the Association will take whatever action it deems necessary to bring the Property/Unit into compliance and to recuperate all costs involved in taking such action.

- (a) The following is a schedule of fines that may be filed against aq home site for failure to comply with these Architectural Guidelines. Fines are subject to change at the discretion of the ARB and are in addition to the other rights and remedies of the Association. Additional fines and remedies will be imposed for continuing violations.

No Dumpster	\$100.00 per day
Burning	\$100.00 per day
Littered Site	\$100.00 per day
No or inadequate erosion control*	\$100.00 per day
No temporary sanitation (Portolettes)	\$100.00 per day
Parking in Right-of-Way	\$100.00 per day
Parking on adjacent property	\$100.00 per day
Storage in Common area or Right-of-Way	\$100.00 per day
Damage to Common Area or Right-of Way	Subject to assessment of damage
Damage to undisturbed area vegetation	\$100.00 per day
Unauthorized removal or destruction of trees greater than 6" as measured two feet from the ground in excess of 10 feet from the house or drive way	\$ Cost of tree replacement
Unauthorized plan change (Minor)	\$100.00 per day
Unauthorized plan change (Major)	\$100.00 per day
Unauthorized finishes	\$100.00 per day

*The ARB reserves the right to direct the installation of Erosion Control measures at the Owner's expense if such measures are not properly installed and maintained.

IT SHOULD BE NOTED THAT FINES LEVIED AGAINST A HOMESITE ARE SECURED BY A LIEN AGAINST THE HOMESITE, WHICH MAY BE FORECLOSED.

ARTICLE 7
DISCLAIMER

No implied warranties of good workmanship, design, habitability, quality, fitness for purpose, or merchantability shall arise as a result of any plans, specifications, standards or approvals made by the Declaration, the Association, the Architectural Review Board or Managing Agent(s) Company.

Neither the Architectural Review Board, nor the Avery Park Property/Unit Owners Association, nor the Declarant, nor the Managing Agent(s) shall be liable to an Owner or to any other person on account of any claim, liability damage or expense suffered or incurred by or threatened against an Owner or such other person arising out of or in any way relating to the subject matter of any review, acceptances, inspections, permissions, consents or required approvals which must be obtained from the Architectural Review Board of the Association whether given, granted, or denied.

ARTICLE 8
CONSTRUCTION AND CONTRACTOR RULES

The Construction And Contractor Rules will apply to all Contractors, their Employees, Sub-Contractors and all Service Personnel while on the premises of Avery Park Community. Although it is the Association's desire that each worker take responsibility for their own behavior and adherence to these rules, it is ultimately the responsibility of the Owner. Failure of any of the workers on the project to adhere to any of the following rules could result in fines being assessed to the Owner and/or other action taken by the Associations or the Sheriff's Department in order to ensure compliance. It is therefore, strongly recommended that Owners make their Architect, Contractors, Sub-Contractors, Service Personnel, etc., aware of these rules by providing them a copy.

8.1 Construction Hours.

Construction will be allowed from 7:00a.m. to 7:00p.m. Monday through Friday and from 8:00a.m. to 5:00p.m. on Saturday. No construction will be allowed on Sundays or the following Holidays; New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day.

8.2 Speed Limit.

The speed limit within Avery Park must be obeyed at all times. Avery Park has numerous blind curves, steep drives and narrow roads, which require drivers to be vigilant. In addition to the abundant wildlife in Avery Park, residents take advantage of our natural setting and are quite often walking with family members and pets. Unless otherwise posted, the speed limit shall not exceed 25 miles per hour. The Association has the right to suspend access to the community by a Contractor with more than 2 speeding violation notices.

8.3 Discarding Of Trash.

All personnel working within Avery Park are to properly discard and secure their trash. Lunch bags, drink cans or bottles, wrappers and other trash are not to be thrown from any vehicle nor be left unsecured so it could possibly blow out of a vehicle.

8.4 Project Access.

In an effort to minimize damage to the edge of roadway pavement, the owner/contractor shall install an approved size culvert. Such culvert shall be covered by compacted crushed stone, which shall be flush with the pavement and extend at least to the lot line. This culvert and stonework shall be completed prior to the

commencement of any clearing or construction on the property and must be maintained during the entire construction period. In the event that a culvert is not required, the owner shall be required to lay the crushed stone as stated above. All access to the property shall be over the approved driveway.

8.5 Home Site Boundary Fence.

A boundary fence *must* be established around the perimeter of the home when forms for the foundation are constructed. The offset distance should not be greater than 15 feet. Except to construct septic systems, driveways, walkways, and other landscaping features, no construction equipment should be permitted outside of the home-site boundary.

8.6 Portable Toilet.

All construction sites are required to have a portable toilet on the premises. Portable Toilets shall be located within the Home Site Boundary Fence described in Section 8.5 to be screened from view as much as possible. Portable toilets shall be regularly serviced and not allowed to create a nuisance due to neglect or any other reason.

8.7 Tree, Shrub, Plant Removal.

No removal of any trees, shrubs or any other type of plants shall take place, except what is required by the County Health Department survey and proposed septic system location inspection, until the Owner has received Final Construction Plan Review approval in writing from the Architectural Review Board.

8.8 Construction Trash/Debris.

Throughout the construction project, all trash, debris, construction materials, and waste shall be picked up, contained and kept neat daily. Dumpsters are to be emptied as soon as they reach their capacity.

8.9 Burning/Burying Trash.

Unauthorized burning or burying of trash or unused or damaged building materials is not permitted. Burning is only allowed if a North Carolina burn permit has been issued and permission is granted by the ARB. The applying contractor *must* specify the location and date of burning. In addition, a representative of the contractor *must* supervise the burning at all times and have all of the necessary equipment to contain or extinguish any fire. At the end of the day, the contractor is responsible to ensure that the burn has been completely extinguished including all embers.

8.10 Radios, Tape and CD Players.

Radios, tape and CD players and other similar equipment shall not be played loudly so as to create a nuisance.

8.11 Cleaning Vehicles/Equipment.

Cleaning of vehicles/equipment on the streets or other APCA Property/Unit is prohibited. Concrete delivery trucks must be washed out on the construction site where the delivery is made. Contractors/company employees violating this ordinance will be held responsible for the complete removal and clean-up of spills and/or debris.

8.12 Construction Vehicles/Trailer/Equipment.

Storing of construction vehicles, trailers and/or equipment may be left on-site while needed, but shall not be allowed to be left on any street.

8.13 Temporary Utilities.

Contractors shall use only the utilities provided to them on the immediate building site on which they are working.

8.14 Utility Damage.

If any telephone, cable TV, electrical, water, gas, drainage or any other lines are cut, it is the contractor's responsibility to immediately contact the utility company whose lines have been cut and to notify the Association.

8.15 Miscellaneous Damage.

Any damage to streets, curbs, drainage, inlets, street lights, street markers, mail boxes, walls, etc., shall be the responsibility of the contractor. If the damage is not repaired within 30 days of the incident, or sooner if deemed necessary, the Association will repair the damage and the property owner of the project the contractor is working on will be assessed for all costs incurred.

8.16 Hunting.

Hunting is not permitted within Avery Park at any time.

8.17 Pets.

No pets of Contractors, Sub-Contractors or their Employees, etc., shall be allowed on the job sight.

ARTICLE 9
MAINTENANCE RESPONSIBILITIES

Every Owner shall maintain their Property/Unit including, but not limited to, their home, all structures, walls, fences, landscaping (including fallen tree removal), etc., in good condition and repair. If, in the opinion of the Association, any maintenance is required to be performed, the Owner will receive written notice of such requirement with a timeframe in which to accomplish the maintenance.

Maintenance shall be accomplished in accordance with the Architectural Design Standards and, if required by the Standards, only after approval of the Architectural Review Board. Approval would be required for any change or modification such as roof material change or paint/stain color change, etc.

In the event an Owner fails to perform properly their maintenance responsibility, the Association may, after proper notice, perform such maintenance responsibilities and assess all costs incurred by the Association against the Property/Unit and the Owner.

AVERY PARK

Community Association

To: OWNERS AND GENERAL CONTRACTORS

The Architectural Review Board along with the APCA and the Avery Park continues its efforts to make Avery Park Estates a safer environment for all owners and their guests.

The attached “**Construction and Contractor Rules**” must be observed at all times. Please take a few moments to read the document carefully. Failure to comply could result in your being denied entry by the Avery Park under North Carolina General Statute Section 14-159.

It is the responsibility of the Owner and the General Contractor to make sure that all construction personnel have a copy and comply to the attached document. Extra copies are available on request.

I hereby acknowledge receipt of the “**Construction and Contractor Rules**”,
for Avery Park and will make sure all construction personnel working on this
construction site have a copy and will comply to the document.

_____ General Contractor

_____ Date

Return Signed and Dated Original to:

Avery Park Community Association
c/o IPM Corporation
PO Box 580
Arden, NC 28704