

ARTICLES OF INCORPORATION

OF

EVERY PARK COMMUNITY ASSOCIATION, INC.
(A North Carolina Nonprofit Corporation)

SOSID: 552565
Date Filed: 6/6/2000 9:49 AM
Elaine F. Marshall
North Carolina Secretary of State

20 130 5046

Article 1. Name. The name of the corporation is Avery Park Community Association, Inc. ("Association").

Article 2. Nonprofit Corporation. The Association is formed as a nonstock, nonprofit corporation under the laws of the State of North Carolina, Chapter 55A, General Statutes of Laws of North Carolina.

Article 3. Principal Office. The initial principal office of the Association is located in Buncombe County, North Carolina at the following address:

1998 Hendersonville Highway, Suite 11
Arden, N.C. 28704

Article 4. Duration. The Association shall have perpetual duration.

Article 5. Purposes. The purposes for which the Association is formed are:

(a) to be and constitute the Association to which reference is made in the Declaration, to perform all obligations and duties of the Association, and to exercise all rights and powers of the Association, as specified in the Declaration and the By-Laws, and as provided by law; and

(b) to provide an entity for the furtherance of the interests of the Owners.

Article 6. Powers. The powers of the Association shall include and be governed by the following provisions:

(a) The Association shall have all of the common law and statutory powers conferred upon nonprofit corporations under North Carolina law and all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the By-Laws, or the Declaration, including, without limitation, the power:

(i) to establish, collect, and enforce payment, by any lawful means, of assessments and other charges to be levied against the Units;

(ii) to manage, control, operate, maintain, repair, and improve the Properties and any other property for which the Association by rule, regulation, covenant, or contract has a right or duty to provide such services;

(iii) to enforce covenants, conditions, or restrictions affecting any property to the extent the Association may be authorized to do so under the Declaration or By-Laws;

(iv) to engage in activities which will actively foster, promote, and advance the common interests of all Owners;

(v) to buy or otherwise acquire, sell, dedicate for public use, or otherwise dispose of, mortgage, or otherwise encumber, exchange, lease, own, hold, use, operate, grant easements, and otherwise deal in and with real and personal property of all kinds and any right or interest therein for any purpose of the Association, subject to such limitations as may be set forth in the Declaration or By-Laws;

(vi) to borrow money for any purpose, subject to such limitations as may be set forth in the Declaration or By-Laws;

(vii) to enter into, make, perform, and enforce contracts of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other association, corporation, or other entity or agency, public or private;

(viii) to act as agent, trustee, or other representative of other corporations, firms, or individuals, and as such to advance the business or ownership interests in such corporations, firms, or individuals;

(ix) to adopt, alter, and amend or repeal such By-Laws as may be necessary or desirable for the proper management of the affairs of the Association; provided, however, such By-Laws may not be inconsistent with or contrary to any provisions of the Declaration; and

(x) to provide any and all supplemental municipal services to the Properties and Adjacent Properties as may be necessary or proper.

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other rights and powers which may now or hereafter be permitted by law; the powers specified in each of the paragraphs of this Article are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph of this Article.

(b) The Association does not contemplate pecuniary gain or profit, direct or indirect, to its Members and shall make no distributions of income to its Members, directors, or officers.

Article 7. Members.

(a) The Association shall have two classes of membership, Class "A" and Class "B".

(b) The Class "A" Members shall be all Owners, except the Class "B" Member, if any. The Owner of each Unit shall be a Class "A" Member of the Association and shall be entitled to vote in accordance with the terms of the Declaration and the By-Laws. Class "A" membership is appurtenant to, and inseparable from, ownership of a Unit. Change of membership for Class "A" Members of the Association shall be established by recording in the Public Records a deed or other instrument establishing record title to real property subject to the Declaration. Upon such recordation, the owner designated by such instrument shall become a Class "A" Member of the Association and the membership of the prior owner shall be terminated. The share of a Class "A" Member in the privileges, rights and assets of the Association cannot be assigned, hypothecated, or transferred in any manner, except as an appurtenance of such Member's Unit.

(c) The Class "B" Member shall be the Declarant. The Class "B" Member's rights are specified in the Declaration and By-Laws.

(d) The manner of exercising voting rights for each class of membership shall be as set forth in the Declaration and in the By-Laws of the Association.

Article 8. Dissolution. The Association may be dissolved only upon a resolution duly adopted by the Board of Directors and the affirmative vote of Members representing at least 2/3 of the Class "A" votes in the Association and during the Development Period, with the written consent of the Declarant. In the event of dissolution, liquidation or winding up of the Association, subject to the Declaration, the Association's assets remaining after payment, or provisions of payment, of all known debts and liabilities of the Association shall be divided among and distributed to the Members thereof in accordance with their respective rights therein.

Article 9. Merger and Consolidation. The Association may merge or consolidate only upon a resolution duly adopted by the Board of Directors and the affirmative vote of Members representing at least 2/3 of the Class "A" votes in the Association and during the Development Period, with the written consent of the Declarant.

Article 10. Directors and Officers.

(a) The business and affairs of the Association shall be conducted, managed, and controlled by a Board of Directors. The initial Board shall consist of three directors. The number of directors may be increased in accordance with the By-Laws.

(b) The names and mailing addresses of the initial directors, who shall hold office until their successors are elected and qualified, or until removed, are as follows:

<u>J. Robert Ward</u>	<u>605 River Chase Ridge</u>	<u>Atlanta, Ga 30328</u>
<u>Richard W. McWhorter</u>	<u>260 Glen Meadow Court</u>	<u>Atlanta, Ga 30328</u>
<u>Tim Enterkin</u>	<u>1998 Hendersonville Highway,</u>	<u>Arden, NC 28704</u>

Each of the foregoing persons has consented to be a director.

(c) The method of election, removal, and filling of vacancies on the Board of Directors and the term of office of directors and officers shall be as set forth in the By-Laws.

(d) The Board may do or cause to be done all acts and things which the Declaration, the By-Laws, these Articles or North Carolina law do not direct to be done and exercised exclusively by the membership generally.

(e) The Board may delegate its operating authority to such corporations, individuals, and committees as it, in its discretion, may determine.

Article 11. By-Laws. The By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended, or rescinded in the manner provided in the By-Laws. The quorum requirements for meetings of Members and directors shall be set forth in the Declaration and By-Laws.

Article 12. Liability of Directors, Officers and Committee Members. To the fullest extent that North Carolina law, as it exists on the date hereof or as it may hereafter be amended, permits the limitation or elimination of the liability of directors, officers and committee members, no director, officer or committee member of the Association shall be personally liable to the Association or its Members for monetary damages for breach of duty of care or other duty as a director, officer or committee member. No amendment to or repeal of this Article shall apply to or have any effect on the liability or alleged liability of any director, officer or committee member of the Association for or with respect to any acts or omissions of such director, officer, or committee member occurring prior to such amendment or repeal. The Association shall indemnify any director, former director, officer, former officer, committee member or former committee member of the Association against liability to the fullest extent permitted under North Carolina law.

Article 13. Amendments. These Articles of Incorporation may be amended by a resolution duly adopted by the Board of Directors and the approval of Members representing at least 2/3 of the Class "A" votes in the Association and during the Development Period, with the written consent of the Declarant; provided, no amendment may be in conflict with the Declaration. No Member shall be entitled to vote on any amendment to these Articles which is for the sole purpose of complying with the requirements of any governmental or quasi governmental entity or institutional lender authorized to fund, insure or guarantee Mortgages on individual Units, as such requirements may exist from time to time. Further, no amendment shall be effective to impair or dilute any rights of Members that are governed by such Declaration.

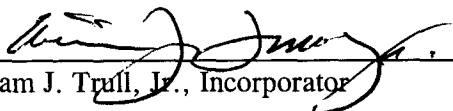
Article 14. Incorporator. The name and address of the incorporator of the Association are as follows:

William J. Trull, Jr., P.A.
31 Clayton Street
Asheville, North Carolina 28801

Article 15. Registered Agent and Address. The Association hereby appoints William J. Trull, Jr., whose address in Buncombe County, North Carolina is 31 Clayton Street, Asheville, North Carolina 28801, as its lawful statutory agent upon whom all notices and processes, including service of summons, may be served, and which when served, shall be lawful, personal service upon this corporation. The Board may, at any time, appoint another agent for such purpose and the filling of such appointment shall revoke this or any other previous appointment of such agent.

Article 16. Definitions. The words used in these Articles shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that certain Declaration of Covenants, Conditions, and Restrictions for Avery Park recorded, or to be recorded, in the Public Records, as it may be amended (the "Declaration"), unless the context indicates otherwise.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation, this 12 day of April, 2000.



William J. Trull, Jr., Incorporator