

## GIS DATA DISTRIBUTION AGREEMENT

Terms and Conditions Concerning Use Of Geographic Information System Data Provided by Avery County.

This Agreement specifies the terms and conditions under which Avery County Geographic Information System digital data and/or digital data products shall be used where those data have been provided through a GIS Data Distribution Agreement with Avery County at the cost defined on either the "Avery County Mapping Department Price List" or in the case of custom projects, on the "Map Bill" provided with the GIS Product. In addition, the data user will not resell or otherwise use Avery County GIS data for commercial or trade purposes except as allowed by NC Public Records Law (NC GS 132-10). Digital data products are distributed through the Mapping Department, contained within the Avery County Tax Assessor's Office, located at 200 Montezuma St., Newland, NC.

# Geo-referencing System

All Geographic Information System data, unless otherwise specified, utilizes North American (horizontal) Datum 1983 (NAD83), FIPS Zone 3200 (North Carolina), UTM Zone 17 (projection). Topographical (contour) data is derived from USGS Digital Elevation Models (D.E.M.'s). Datum and/or other associated aspects may vary depending on current available DEM's.

#### Format.

Parcel-based (cadastral) Avery County GIS data are distributed as ArcInfo coverages or shapfiles. Other requests may be considered. Tax Databases are distributed as Microsoft Excel Worksheets or .dbf (dBase IV). Other requests may be considered.

## Media

All data products related to this Distribution Agreement are distributed on floppy disk or CD-R, depending on file size. FTP sites or compressed e-mail attachments may be considered on an individual basis, but are not common distribution methods utilized by the Avery County Mapping Department. Faxed paper maps also fall into this category. It is not the policy of the Mapping Department to fax paper maps. 8.5 x 11 inch maps may be obtained on the online GIS site at no charge.

## GIS Site

Avery County has an online GIS site for public use. By going to "averycountync.gov" and selecting the "online mapping" link on the home page, this data is accessible to the public via the Internet.

### USE OF DATA PROVIDED UNDER THIS AGREEMENT

Avery County will grant the use of relevant data to agencies, organizations or individuals, hereafter collectively referred to as the consumer, based upon requests and pre-existing projects undertaken by the Avery County Mapping Department. Policy of the Avery County Board of Commissioners, Section 22 entitled "Public Data Policy" grants the GIS Director the right to delay or refuse a publicly proposed project based on current workload and/or project complexity.

Data obtained under this agreement should not be redistributed or resold to other agencies, organizations or individuals without prior written permission from Avery County.

Avery County GIS cadastral map data do not replace or modify land surveys, deeds, and/or other legal instruments defining land ownership and use.

#### Limitations

- Avery County is not responsibility for any hardware or software needed to access and use the product and information therein.
- 2. The Avery County GIS products distributed by Avery County contain information from publicly available sources. The products have been developed for internal use by Avery County. All data is provided as is, with all faults, and without warranty of any kind, either expressed or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.
- 3. The consumer understands and acknowledges that the products and information contained therein are subject to constant change and that its accuracy cannot be guaranteed. Avery County makes no warranties or guarantees, either expressed or implied, as to the completeness, accuracy, or correctness of such products, nor accepts any liability arising from any incorrect, incomplete or misleading information contained therein.
- Avery County shall not be subject to liability for human errors, defect of failure of machines, or any material used in connection with the machines, including but not limited to tapes and disks.
- Avery County shall not be liable for any loss of profits or consequential damages, or claims against the consumer by third parties. The entire risk as to the quality, performance and usefulness of the data rests with the consumer.
- 6. The consumer releases Avery County and its officers, agents, consultants, contractors and employees from any and all claims, actions or causes of action for damages including, but not limited to, any costs of recovering, reprogramming or reproducing any programs or data stored in or used with the Avery County GIS data, damage to property, damages for personal injury or for loss of profits, lost savings or other special incidental or consequential damages arising out of the use or the inability to use the Avery County GIS data.
- 7. The consumer shall indemnify and hold harmless Avery County and its officers, agents, consultants, contractors and employees from any and all liability claims or damages to any person or property arising from or connected with the use of Avery County GIS data.

### Restrictions On Use

- 1. The consumer understands that this is a one-time only delivery and that Avery County and has no responsibility for updating this product or information therein.
- This GIS Distribution Agreement does not constitute a transfer of any title or interest in the Avery County GIS product.
- 3. The consumer agrees to recognize and honor in perpetuity the copyrights, and other proprietary claims for databases, tax maps, and other collateral information, and products established or produced by Avery County or the vendors furnishing said items to Avery County.
- 4. Derived Products Graphic displays and printed tabular listings may be used in publications and presentations, provided that credit is given to the Avery County Mapping Department for geographic data and to the Avery County Tax Assessor's Office for tax-related data. Credit should be given to the original source of the data if other than Avery County and its above mentioned offices/departments. Avery County requires that in the use of this data the consumer employ, attach or release a statement which includes the following text:

AVERY COUNTY MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, INCLUD-ING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL AVERY COUNTY BE LIABLE FOR LOST PROFITS OR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES CAUSED BY THE USE OF THE MAP/DATA FILES.

- 5. Copies Digital copies of Avery County GIS Data Products may be copied for the purpose of back-up ONLY. Paper versions of this data or created by utilizing this data may be copied provided that the guidelines set forth in this document are adhered to. Mailing labels are excluded from this constraint.
- 6. In order to maintain data quality and consistency and ensure notification to all parties regarding data updates, the consumer agrees that the GIS products or portion thereof will not be licensed, assigned, released, published, transferred, sold or otherwise made available to a third party without the express written permission of Avery County.
- 7. Upon the occurrence of the breach of or non-compliance with any term or provision of this agreement, Avery County may provide written notice of this occurrence to the consumer, and terminate this Agreement. This Agreement shall terminate 60 days following such notice by Avery County. The consumer shall, within 30 days after termination of this Agreement, return ALL GIS Products that were exchanged through this Agreement and are in the possession of the consumer to Avery County.
- 8. This Distribution Agreement constitutes the entire agreement between the parties hereto. This Agreement may not be changed, modified, or amended, in whole or in part, except in writing and signed by both parties.

ANY CONSUMER, BY USING ANY GIS PRODUCT, DOES CONSENT TO ABIDE BY THE TERMS CONTAINED IN THIS DISTRIBUTION AGREEMENT. THE FOLLOWING FORM MUST BE SUBMITTED TO THE AVERY COUNTY MAPPING DEPARTMENT AT; PO BOX 305

NEWLAND, NC

28657

TO RECEIVE GIS PRODUCT.

Project Name, Description and Intended Use:
Organization:
Project Contact Person:
The Products being granted by Avery County for this project are:
Mailing Address:
The Consumer shall pay the one-time fee of for the direct cost of materials and services. Whenever state law subjects the material of this GIS Data Agreement to any sales, use or similar tax, Avery County shall separately itemize the applicable tax or taxes, which shall be paid by the consumer.
The undersigned acknowledges the terms and conditions of the GIS Data Distribution Agreement specified above:
Authorizing Signature:
Date:
Print Name:
Affiliation:
Avery County agrees to this GIS Data Distribution Agreement for the purpose specified above:
James Seaberg, Avery County GIS Director
Date



Please print off a copy of this last sheet and mail it to;

Avery County Assessor Attn: Mapping PO Box 305 Newland, NC 28657