

**DECLARATION OF RESTRICTIVE COVENANTS OF THE
WESSYNTON MARINE ASSOCIATION¹**

ARTICLE I

AMENDMENT BY COMPLETE RESTATEMENT

This Declaration of Restrictive Covenants constitutes an Amendment made this 9th day of April, 1993 by complete restatement of the Declaration of Restrictive Covenants which was established by WESSYNTON JOINT VENTURE and WESSYNTON HOMES ASSOCIATION on the 27th day of January, 1969. The January 27, 1969 Declaration provided that it could be amended at any time by recordation of an Amendment executed by the Wessynton Marine Association after approval of more than two-thirds (2/3) of the total membership of the Wessynton Marine Association at a special meeting of the Wessynton Marine Association called for that purpose, by at least thirty (30) days, but not more than sixty (60) days, written notice to all members. This Declaration of Restrictive Covenants which-constitutes an Amendment by complete restatement was agreed upon by more than two-thirds (2/3) of the membership of The Wessynton Marine Association on the 27th day of March 1993. Due notice was provided all members.

ARTICLE II

THE CORPORATION—THE WESSYNTON MARINE ASSOCIATION

- A. The Wessynton Marine Association, incorporated as a non-stock corporation under the provisions of and subject to the Non-Stock Corporation Act of the Commonwealth of Virginia, does hereby impose the restrictive covenants contained within this Declaration upon Parcel F, Lots 27,28,29, and 30, and outlots B, C, D and E of Section 4, and Lots 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, and 56, and outlots Y, X, W, Z, G, H, J, H, K. L, M, N, P-1, P-2, Q, R, S, T, U, V of Section 5 of Wessynton Subdivision as duly platted and recorded among the land records of Fairfax County, Virginia.
- B. The Wessynton Marine Association shall have one class of members; all owners of lots numbered 27, 28, 29 and 30, Parcel F of Section 4, and lots 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55 and 56 of Section 5 of Wessynton Subdivision shall be members. Each member shall be entitled to one vote for each such lot or parcel owned; provided, however, that the Wessynton Homes Association (which is the owner of Parcel F of Section 4) shall be entitled to seven votes. Costs of operation of the corporation shall be shared among the members in direct proportion to the number votes allocated such members.

ARTICLE III

ACKNOWLEDGMENT IN DEED

Every deed (other than a deed of trust) conveying an interest in any one of the above enumerated lots, parcels and outlots in Wessynton Subdivision shall contain, and every contract for the sale or other conveyance of an interest in such lot, parcel or outlot of Wessynton Subdivision shall set forth that the vendee or other grantee agrees to accept a deed which shall contain a statement that the vendee or other grantee acknowledges and will comply with the restrictive covenants contained herein.

1. This document was translated from the original using optical-character recognition. It may contain errors.

ARTICLE IV
WATERFRONT

- A. Parcel F and all lots and outlots mentioned in Article II of this Declaration have, or are immediately adjacent to lots which have, water frontage on that navigable waterway shown as Parcel G on the plat entitled "Section 5, Wessynton, Mount Vernon District, Fairfax County, Virginia," prepared by Springfield Surveys, dated January 2, 1968, revised March 14, 1968 and recorded in Deed Book 3001 at page 277.
- B. Parcel G, as is Parcel F, is owned by the Wessynton Homes Association. Parcel G consists primarily of two navigable channels which converge at their eastern limits and open into little Hunting Creek. The southern channel lies between lots on Cunningham Drive and Sevor Lane. The northern channel, hereinafter referred to as the Community Channel, contains at the west end a turning basin and a boat ramp. Approximately seventy percent (70%) of the boat ramp is in Parcel G; the remainder in Parcel F. The line of demarcation between Parcels F and G is approximately eleven (11) feet inland from the bulkhead abutting the turning basin.
- C. Parcels F, G and all lots and outlots immediately adjacent to Parcel G are defined as waterfront areas for purposes of this Declaration.

ARTICLE V
LEASED AREAS AND LEASED PROPERTY

- A. The Wessynton Marine Association leases from The Wessynton Homes Association all but a small portion of Parcel G, the boat ramp contained in Parcels F and G, the turning basin bulkhead contained in Parcel G, and the floating dock attached to the turning basin bulkhead. The Deed of Lease, dated November 3, 1990, and filed in the County of Fairfax, Virginia on November 28, 1990, is for an indefinite period. It can be cancelled by either respective association President upon ninety (90) days written notice.
- B. Should the Deed of Lease, dated November 3, 1990, be canceled or revised, neither event in itself shall alter the provisions of this Declaration of Restrictive Covenants.

ARTICLE VI
RESPONSIBILITIES

- A. The Wessynton Marine Association shall take steps to ensure that the following are maintained in such manner to perform their functions satisfactorily and not become unsafe, unsightly or a nuisance:
 - 1. Marina facilities owned or leased by the corporation.
 - 2. Channels serving the waterfront.
 - 3. Waterfront bulkheads owned by corporation members or leased by the corporation.
 - 4. Docks and piers owned by corporation members or leased or owned by the corporation.
 - 5. Waterfront areas, in general.
- B. The Wessynton Marine Association shall have sole and corporate responsibility for maintaining marina facilities owned or leased by the corporation, and for maintaining to satisfactory working depths the channels serving the waterfront areas which are leased by the corporation or are owned by corporation members.
- C. The Wessynton Marine Association shall have a major corporate, but not sole, responsibility for maintaining the waterfront bulkheads, none of which is owned outright by the corporation. Individual

owners of bulkheads shall be responsible for preventing their respective portions of bulkheading from deterioration caused by neglect, improper use, or normal wear and tear. Ownership and responsibilities for bulkhead maintenance are further discussed in Article VIII of this Declaration.

- D. The Wessynton Marine Association shall have sole and corporate responsibility for maintaining docks and piers leased or owned by the corporation, but shall have no responsibility for maintaining docks and piers owned by corporate members. Ownership and responsibilities regarding docks and piers are further discussed in Article IX of this Declaration.
- E. The Wessynton Marine Association Board of Directors shall estimate and fix the anticipated cost for the corporation of (1) maintenance of the marina, bulkheads and channels for each calendar year; and (2) an annual contribution to a reserve for contingencies, future maintenance or capital expenditures. The estimate shall serve as the basis for the corporation to assess a charge against each subdivision lot or parcel, as nearly as practicable on a pro-rata basis, and the same shall constitute the annual assessment or charge discussed in Article VII hereof.
- F. Corporation members shall be responsible for maintaining waterfront areas which they own in conformance with the restrictive covenants of the Wessynton Homes Association and in such manner that the waterfront areas do not become unsafe, unsightly or a nuisance.
- G. The Wessynton Marine Association Board of Directors shall, as necessary, inform and require corrective action by corporation members should docks, piers, structures, bulkheads, or waterfront areas owned by such members be deemed unsafe, unsightly or a nuisance. Failure to correct may result in denial of use of corporation facilities and in legal action.
- H. The Wessynton Marine Association and The Wessynton Homes Association are, as associations, insured against claims for bodily injury or property damage resulting from incidents in the waterfront areas. Notwithstanding the associations' insurance coverage, members of The Wessynton Marine Association remain individually liable and shall be individually responsible for providing their own insurance against claims of negligent maintenance of privately owned docks, piers, bulkheads or waterfront areas.

ARTICLE VII

FEES, CHARGES, AND ASSESSMENTS

- A. Each lot owner, by the acceptance and recordation of a deed to an above enumerated lot, outlot or parcel in Wessynton Subdivision, hereby covenants and agrees to become a member of The Wessynton Marine Association and to pay to The Wessynton Marine Association:
 - 1. Annual assessments or charges, and
 - 2. Special assessments for capital improvements,

such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land in the subdivision owned by the member and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them.

- B. Payment of annual assessments or charges and special assessments may be enforced by an assessment levied by the Board of Directors of The Wessynton Marine Association upon the land in the subdivision owned by the members, which assessment shall constitute a lien upon the land second only to taxes and any bona fide, duly recorded deeds of trust.

- C. The assessments levied by the corporation shall be used exclusively for the purpose of (1) constructing marina and waterfront area facilities and maintaining marina and waterfront area facilities owned or leased by the corporation; (2) maintaining bulkheads upon waterfront areas owned by members of the corporation or leased to the corporation or for which easement has been granted the corporation; and (3) maintaining channels to working depths which serve the waterfront areas owned or leased by the corporation.
- D. As a matter of record, the maximum annual assessment for calendar year 1969 was \$30 per vote entitled to be Cast. For calendar year 1990, it was established by a special vote of the membership as \$200.
1. The maximum annual assessment may be increased, to the nearest rounded dollar, by the Wessynton Marine Association Board of Directors effective January 1 of each year, without a vote of the membership, in conformance with the annual percentage rise, if any, of the CPI (Consumer Price Index), All Items Urban Base, for July of the preceding year, utilizing the 1967 base computation. The CPI may be obtained by calling the Department of Labor, Washington, DC. 202-606-7000.
 2. The maximum annual assessment may be increased above that which would conform to a change in the Consumer Price Index by a special vote of the members, provided that any such change shall have the assent of two-thirds (2/3) of the votes cast, in person or by proxy, at a meeting duly called for this purpose. Written notice of such meeting shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. Quorum requirements are in paragraph G of this article.
 3. At anytime the membership elects to increase the maximum annual assessment beyond that which would conform to a CPI change, the new maximum annual assessment and the CPI for July of the year preceding the new assessment shall be used as new base numbers (constants) for calculating future maximum annual assessment increases in conformance with the CPI. For example, the maximum annual assessment for calendar year 1990 of \$200 per vote entitled to be cast exceeded that which would have conformed to the Consumer Price Index rise. Accordingly, for calendar years 1991 and beyond, the figure of \$200 and the CPI for July of 1989, which was 372.7. became new base numbers (constants) for calculating maximum annual assessment increases in conformance with CPI changes. By way of further example, the 1992 maximum annual assessment was calculated as follows:

$$(CPI \text{ for } 7/91) 408 / (CPI \text{ for } 7/89) 372.7 \times \$200 = \$218.94 \text{ (rounded to } \$219)$$
 4. After consideration of current maintenance costs and future needs of the corporation, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum.
 5. The limitations and conditions stated in this paragraph shall not apply to any change in the maximum annual assessment and basis of the assessments undertaken as an incident to a merger or consolidation in which the corporation is authorized to participate under its Articles of Incorporation.
- E. In addition to the annual assessments authorized above, the corporation may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of capital improvements upon the lands or waterways leased by the corporation or over which it has easements, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes cast, in person or by proxy, at a meeting duly called for this purpose. Written notice of such meeting shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. Quorum requirements are in paragraph G of this article.
- F. Each member shall have one vote for each lot or parcel owned by the member, provided, however, that Wessynton Homes Association, which is the owner of Parcel F in Section 4, shall have seven votes. Both annual assessments and special assessments shall be allocated among the members in direct proportion to the number of votes entitled to be cast by the various members once levied, the assessments shall be a lien against all of the lots, parcels and outlots owned by the member.

- G. At the first meeting called, as provided in paragraphs D and E of this Article, the presence at the meeting of members or of proxies entitled to cast eighteen (18) of all thirty (30) ' votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in paragraphs D and E, and the required quorum at any such subsequent meeting shall be one-half (1/2) (that is, a nine vote entitlement) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.
- H. The Board of Directors shall fix the amount of the annual assessment against each member and against each lot, parcel or outlet, at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every member subject thereto not later than the first of June of each year. The due dates shall be established by the Board of Directors. The corporation shall upon demand at any time furnish a certificate in writing signed by an officer of the corporation setting forth whether the assessments on a specified lot, parcel or outlet have been paid. A reasonable charge may be made by the corporation for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.
- I. Any assessments which are not paid when due shall be delinquent.' If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent (6%) per annum and the corporation may bring action at law against the member personally obligated to pay the same, or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No member may waiver or otherwise escape liability for the assessments provided for herein by non-use of the facilities of the corporation or abandonment of his lot, parcel or outlet.
- J. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgages. Sale or transfer of any lot, parcel or outlet shall not affect the assessment lien. However, the sale or transfer of any lot, parcel or outlet which is subject to any mortgage, pursuant to a decree or foreclosure under such mortgage or any proceeding in lieu of the foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such lot, parcel or outlet from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VIII

BULKHEADS

- A. The respective portions of bulkheading which contain the Parcel G waterway and which adjoin the lots and outlots of individual property owners are owned by the respective property owners. The bulkhead which abuts the turning basin at the west end of the Community Canal of Parcel G is owned by The Wessynton Homes Association.
- B. The Wessynton Marine Association shall plan, coordinate and fund, as financially feasible, maintenance of all bulkheading for the common good of all members of the corporation.
- C. In the event of catastrophic or extensive damage to bulkheads from natural occurrences or from circumstances clearly beyond the control of individual members of the corporation, The Wessynton Marine Association shall accomplish all repairs consistent with the financial resources of the Association.
- D. Individual corporation members, including The Wessynton Homes Association, shall be responsible for prudent preventive maintenance of bulkheads respectively owned. For example, owners shall ensure that depressions and gaps between the soil portions of their respective properties and the inland edges of bulkheads are properly filled in order that rain water will drain over the bulkheads rather than behind where cavitation and weakened bulkhead anchoring might occur. Additionally, individual

owners shall be responsible that no construction on, or landscaping of their properties causes undue stress on, or deterioration of bulkheading. Failure of an individual owner to accomplish prudent preventive maintenance as determined by the Board of Directors shall be cause to require such owner to pay all or a portion of the costs should repair of the member's bulkhead be necessary for the common good of members of the corporation.

ARTICLE IX

DOCKS. PIERS. WATERFRONT AREAS STRUCTURES

- A. Piers or floating docks attached to canal banks or to the bulkheading are either owned solely by the owners of the banks or bulkheads to which the piers or docks are attached, or owned jointly by two or more corporation members. The floating dock attached to the bulkhead in the turning basin of Parcel G is owned by the Wessynton Homes Association. The corporation owns no docks or piers but reserves the right to construct, own or lease docks, piers or water areas structures.
- B. Those members of the corporation who claim joint ownership of a pier or a floating dock shall agree among themselves who shall be responsible for responding to inquiries, requests or claims regarding ownership, access, maintenance, appearance, safety, and liability. In the absence of agreement among those claiming joint ownership of a pier, or floating dock, any of those members claiming joint ownership shall be deemed responsible for responding.
- C. The Wessynton Marine Association shall have no responsibility to provide funds for the maintenance of privately owned docks, piers or other structures erected or emplaced in the waterfront areas.
- D. No dock, floating or fixed, pier or structure shall be erected, emplaced or extensively expanded or modified in or over the Parcel G waterway without written authority of the Board of Directors. All docks, piers, or structures in place as of the date of this Declaration shall be considered authorized. Requests to erect, emplace or extensively expand or modify docks, piers or structures shall be submitted in writing. Requests shall attest to appearance, utility, and safety. No requests shall be necessary should owners wish to remove completely their docks, piers or structures. Requests shall be answered within 31 calendar days, else considered approved.
- E. Individual and joint owners of docks, piers or structures erected or emplaced within or over the Parcel G waterway shall ensure that all such facilities are maintained to perform their functions satisfactorily and not become unsafe, unsightly, obstructive or incompatible with the residential nature of the Wessynton Subdivision. The Board of Directors shall from time to time inspect all such privately owned facilities and request corrective action, to include removal, by owners deemed in non-compliance.

ARTICLE X

GENERAL PROVISIONS

- A. Grantee, grantee's heirs and assigns covenant to use the above mentioned marina, bulkheads, channels, docks, piers and waterfront areas only in accordance with the rules and regulations which may from time to time be promulgated with reference thereto, and vests The Wessynton Marine Association, its successors or assigns, with the power to deprive any person, including grantee, members of grantee's family, grantee's heirs and assigns of the use of such facilities, temporarily or permanently, for infraction of such rules and regulations without impairing the above described obligation to pay such charges, or the lien therefore.
- B. Each lot, outlot and parcel owner hereby agrees to abide by the by-laws and rules promulgated by The Wessynton Marine Association, concerning the use and maintenance of the marina, bulkheads, docks,

piers, waterfront areas, and channels serving the waterfront areas. If the parties hereto or any of them or their successors or assigns shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any of the lots herein described to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from so doing or to recover damages for such violations. In addition, The Wessynton Marine Association shall have the power to revoke any privileges which may have been extended to him to use any facility or property of the corporation.

- C. Invalidation of any one of these covenants by judgment of court shall in no way affect any of the other provisions which shall remain in full force and effect. Covenants or Termination of Restrictive Covenants, as the case might be, executed by The Wessynton Marine Association after approval of at least twenty-one (21) votes, cast in person or by proxy, of the total thirty (30) votes entitled the membership of The Wessynton Marine Association at a special meeting of The Wessynton Marine Association called for that purpose, by at least thirty (30) days, but not more than sixty (60) days, written notice to all members.

IN WITNESS WHEREOF, WESSYNTON MARINE ASSOCIATION has executed this Declaration of Restrictive Covenants as of the 9th day of April 1993.

WESSYNTON MARINE ASSOCIATION

By: [Jeffrey G. Smith, President]

3000 Sevor Lane, Alexandria. VA 22309

By: [Thomas M. Constant, Secretary-Treasurer]

3005 Sevor Lane, Alexandria. VA 22309

STATE OF VIRGINIA

COUNTY OF FAIRFAX, to-wit:

I, the undersigned Notary Public in and for the County aforesaid, in the State of Virginia, whose commission expires on the 31st day of May 1995, do hereby certify that personally appeared before me [Jeffrey G. Smith] and [Thomas M. Constant] whose names as _____, President and _____, Secretary-Treasurer, respectively, of WESSYNTON MARINE ASSOCIATION, are signed to the foregoing Declaration of Restrictive Covenants, bearing date on the 9th day of April, 1993, and acknowledged the same in my County and State aforesaid.

GIVEN under my hand and notarial seal the 9th day of April, 1993.

Notary Public

My Commission Expires: 5/31/1995