

FISHER'S LANDING

DECLARATION OF EASEMENTS & RESTRICTIVE COVENANTS

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Fisher's Landing, Section One

Newport News, Virginia

THIS DECLARATION, made this 30th day of March, 1989, by ROBERT E. YANCEY and MARGARET O. YANCEY, husband and wife, of Newport News, Virginia, hereinafter collectively referred to as the "Developers";

W I T N E S S E T H:

WHEREAS, the Developers are the owners and proprietors of that certain tract of land as shown on a certain plat entitled "Fisher's Landing Section One Being a Subdivision of Property of The Ardamee Corporation, et al, Newport News, Virginia" dated March 8, 1988, prepared by Langley and McDonald, P. C., and recorded in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia in Deed Book 1178 at page 1578 (said plat being hereinafter referred to as the "Plat"; and the lots shown thereon being hereinafter referred to individually as a "lot", or, if more than one lot, or collectively, as the context may require, as the "lots"); and

WHEREAS, the Developers of the above described property desire that the lots embraced in said tract and shown on the Plat shall be held and sold subject to certain easements, conditions and restrictive covenants;

NOW, THEREFORE, the Developers do hereby declare, covenant and agree, for themselves and their successors and assigns and for all persons and their successors and assigns to whom such lots may be sold to or held by hereafter, that each such lot as shown on the Plat shall hereafter be held and sold subject to the following easements, restrictions, covenants, conditions, limitations and reservations, to-wit (all such provisions hereinbelow set forth being hereinafter collectively referred to as the "Declarations"):

Article 1. Permitted Uses

1.1 Single Family Dwellings. All lots shown on the Plat shall be used solely for residential purposes, and no structure shall be erected upon any one (1) lot other than one (1) detached single family dwelling with an attached or detached, enclosed garage and the usual and customary outbuildings. No commercial trade or business of any kind shall be conducted on any lot.

1.2 Completed Dwellings. No dwelling commenced to be erected on any lot shall be occupied until the same has been substantially completed and a certificate of occupancy issued therefor, and such dwelling erected or commenced to be erected on any lot shall be completed within a reasonable period of time from the commencement thereof but which shall not exceed one (1) year in any event.

1.3 Temporary Facilities. No trailer, boat, mobile home, tent, basement, garage, shack, barn or other permanent or temporary facility or other outbuilding placed on a lot shall at any time be used as a residence, either temporarily or permanently, nor shall any residence of a temporary character be permitted thereon, except suitable living quarters for domestic servants may be provided in any portion of a garage building erected thereon. For construction purposes, a tool or storage shed or trailer may be temporarily located on the site during construction periods and must be removed when construction is completed, and said period shall not exceed one (1) year.

Article 2. Design Committee

2.1 Construction to First be Approved. Except as may first be approved in writing by the Fisher's Landing Design Review Committee as hereinafter provided (the "Design Committee"):

- (i) No lot shall be cleared nor the grade thereof be materially altered;

(ii) No building or structure on any lot including but not limited to dwellings, garages, outbuildings, gazebos, boat sheds, piers and raised walkways, decks, pools, patios, walls, and fences shall be erected, constructed or materially altered; and

(iii) No exterior elevation of any such building or structure, nor the materials or color thereof, shall be substantially changed from the elevation, materials or color previously approved therefor by the Design Committee.

Any or all of the foregoing activities are hereinafter referred to individually or collectively, as the context may require, as "Improvement(s)".

2.2 No Waiver. The Design Committee's approval of a proposed Improvement based upon plans submitted therefor shall not be deemed a waiver of any provision set forth in these Declarations (and, in particular, those certain standards set forth in Article 3 hereof). Further, the foregoing requirements of paragraph 2.1 above shall not be deemed a prohibition on normal maintenance, repair and upkeep of a lot and any Improvement thereon; nor shall disapproval of any proposed Improvement be deemed a waiver of the respective lot owner's requirement to maintain his property in accordance with these Declarations or any law or ordinance.

2.3 Applications and Approval. An applicant for approval of any proposed Improvement shall submit to the Design Committee a completed application form supplied by the Design Committee and two (2) sets of plans and specifications setting forth in reasonable detail the proposed Improvement together with any additional information including color swatches and samples of materials as may be reasonably requested by the Design Committee. Collectively, such items submitted are hereinafter referred to as the "Plans". The Design Committee shall have thirty (30) days from the date the Plans are submitted (including all such additionally requested information, samples and swatches) either to approve or reject such Plans; provided, however, if such Plans are not rejected (or not acted upon as the case may be) by the Design Committee within such time limit following a completed submission, such Plans shall be deemed approved. The Design Committee may keep one set of Plans, and such other information, material samples or color swatches as it deems necessary to monitor completion of the Improvements for conformity to approved Plans.

2.4 Subsequent Improvements. Plans approved by the Design Committee shall be valid with respect to Improvements which are constructed in accordance with such Plans and substantially completed within two (2) years from the date of such approval. Modifications to existing improvements made under Plans which were previously approved by the Design Committee shall require resubmission to, and approval by, the Design Committee of the Plans for such modification; provided, however, such approval shall not be unreasonably withheld if the proposed changes are in substantial conformity and harmony with the previously approved Improvements then existing on such lot.

2.5 Requests for Applications; Plan Approval. Requests for application forms, and submission of Plans and requests for their approval shall be made in writing to the Design Committee in care of John Yancey Companies at its corporate offices in Newport News, Virginia (or to such other address which the Design Committee may designate). Requests for applications or for approval of Plans shall be accompanied by a self-addressed, postage prepaid envelope. Such requests shall include a name and address to whom application forms or approval or rejection of Plans can be mailed.

2.6 Design Committee. The Design Committee shall be composed of the Developers, and their heirs, successors, assigns and designees. The Developers, their heirs, successors and assigns, may, at any time, form a committee composed of some or all of the lot owners and delegate to such committee the duties and authority of the Design Committee; or by a recorded amendment to these Declarations terminate the requirement for and existence of the Design Committee, in which event the requirements of this Article 2 shall cease and, the specifications of Article 3, and the existing subdivision of the lots as set forth in the Plat, shall thereafter become fixed and not subject to modification.

Article 3. Specific Building Requirements

3.1 Minimum Living Area. Any dwelling constructed on any lot shall have the following minimum enclosed living area exclusive of garages and open or partially enclosed porches. For any dwelling that said enclosed living area is:

(i) located solely on one (1) floor, the minimum enclosed living area shall be two thousand square feet (2,000 sq. ft.); and

(ii) located on two (2) or more floors, the minimum enclosed living area shall be two thousand five hundred square feet (2,500 sq. ft.);

provided, however, the Design Committee may approve lesser square footages in its sole and absolute discretion.

3.2 Height. The single family dwelling to be erected on any lot shall not exceed two and one-half (2 1/2) stories above that grade which is along the majority of the front wall of such structure; and any detached outbuilding as permitted herein shall not exceed one and one-half (1 1/2) stories also measured as aforesaid.

3.3 Setbacks. The minimum building setback lines on all lots shall be as set forth on the recorded Plat unless the City of Newport News by ordinance requires a greater setback, in which event, the minimum building setback line(s) will conform to said ordinance; provided, however, no building including outbuildings shall be erected on any lot nearer than ten feet (10') to any side or rear lot line. The foregoing notwithstanding, the Design Committee may authorize a reduction of up to ten feet (10') from the setback of the side of a dwelling to the adjacent side street for any dwelling occupying a corner lot (but in no event shall the setback be less than the minimums established by City ordinance). For purposes of this covenant, eaves, steps and open porches shall not be considered as part of a building; provided, however, that this shall not be construed to permit any encroachments upon another lot, or violations of applicable setback ordinances.

3.4 Fences and Walls.

a) No chain link or welded wire fence shall be permitted on any lot within two hundred feet (200') of a public street or fifty feet (50') from any other property line; and

b) No fence or wall of any description (other than a retaining wall or a wall establishing a courtyard formed primarily by the walls of the dwelling) shall be permitted on any lot:

(i) within one hundred fifty feet (150') of the street fronting said lot, or the distance from the front property line to the rear wall of the dwelling on such lot, whichever is less; or

(ii) within the minimum building setback line, as shown on the Plat, from any side street abutting such lot.

3.5 Sight lines. No hedge or shrub planting or structure which obstructs sight lines at elevations between two and six feet (2' and 6') above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five feet (25') from the intersection of said street property lines, or in the case of rounded property corners, from the intersection of the street property lines extended. The same sight line limitation shall apply within the triangular areas of any lot formed by the edge of a private drive on such lot and the edge of paving of a public street into which said drive connects, and a line connecting them at points ten feet (10') from the intersection of said lines. No tree shall be permitted to remain within such triangular areas unless the foliage line is maintained at sufficient height to prevent obstruction of sight lines.

3.6 Screening of Appurtenances. All refuse containers, heating and/or cooling units, oil tanks, bottle gas tanks, soft water tanks, clothes lines or similar structures or installations shall be placed under the ground or placed in a screened or enclosed area or otherwise located so that same shall not be visible from the street or adjacent property.

3.7 Utilities. All buildings constructed on said lots shall be served with underground utility service, including cable television, electric and telephone, and shall be served by a minimum of 200 amp electric service. All dwellings shall be connected to a municipal sanitary sewer system before the dwelling is occupied.

3.8 No Exposed Cement Block. No dwelling or structure on a lot shall contain any exposed cement block; and any exposed foundation thereof, and any fence, wall or retaining wall on a lot containing cement block shall be covered with stucco, brick or stone or with such other suitable material as may otherwise be approved by the Design Committee.

3.9 Outbuildings Compatible. Any detached garage, barn or other outbuilding permitted to occupy a lot shall be constructed of materials compatible with the dwelling thereon. No carport or structure of similar design shall be constructed on any lot.

3.10 Driveways. Any and all driveways located on any lot shall be bituminous asphalt, concrete, tar and gravel, or brick (or other) pavers, or as may otherwise be approved by the Design Committee.

3.11 Mailboxes. Mailboxes and newspaper receptacles located near the street, and corner or entrance monuments or similar ornamental devices or structures located along or near the front of a lot (including frontage on a side street) shall only be as approved by the Design Committee.

3.12 Antennae. Exterior radio, television or other antennae, including towers or dishes, are prohibited, unless approved by the Design Committee.

Article 4. Easements Reserved

4.1 Subject to Recorded Easements, Etc. All lots will be sold subject to the rights-of-way, easements, restrictions and reservations of record; and all streets and roads shown on the Plat are hereby expressly dedicated to public use.

4.2 Easements Reserved. The Developers, their heirs, successors, assigns and licensees reserve the right to grant easements for the installation and maintenance of public utilities and for drainage over, under and along either (one or more of) the front, rear or side lines of any lot, not to exceed ten feet (10') in width.

4.3 Fisher's Creek. The Developers, and their heirs, successors, assigns and licensees reserve the right to grant certain easements set forth below with respect to those lots which abut, adjoin or extend into Fisher's Creek or its tributaries which adjoins Fisher's Landing Subdivision (the "Creek"). The area of said easements shall be limited to the area of each lot which is ordinarily inundated by the Creek at mean high water. The easements are: (i) for drainage into and across the Creek from any lot or public roadway; and (ii) for the uninterrupted recreational use of the Creek (on, over, under, along, and across the Creek) by any owner of any lot adjoining, abutting or extending into the Creek. Provided, however, the foregoing easement described in (ii) above shall not be construed to grant any right to any person to erect any structure whatsoever, whether temporary or permanent, or to moor a vessel, except within the property lines of the lot owned by such person. Further, the owners of those lots adjoining, abutting or extending into the Creek shall not use the Creek in any way that will impair or prohibit the lawful use and enjoyment of others, and shall not obstruct passage on same in any manner. The owner of any lot extending out into the Creek may erect a walkway, pier and/or dock within the boundary of said owner's lot, but not to the extent free passage along the Creek is prevented. However, no walkway, pier or dock or other structure may be constructed in the absence of prior approval as to design and location by the Design Committee.

Article 5. Prohibited Activities

5.1 Animals. No animals, livestock or poultry of any kind may be raised, bred or kept on any lot, except dogs, cats or other household pets (collectively, "pets") may be kept, provided such pets are not kept, bred or maintained for any commercial purpose. No lot owner or occupant shall permit any pet to run loose on any other lot, or to create unsanitary conditions, or to otherwise constitute a nuisance in any respect, including, without limitation, barking.

5.2 Automobiles. No inoperable, unlicensed or abandoned motor vehicle of any type shall be parked or stored upon a lot and no lot shall be used for any substantial repair, overhauling, painting, or work of a similar nature on any motor vehicle, routine maintenance being specifically permitted.

5.3 Parking. Other than passenger automobile(s), no truck(s), pick-up truck(s), motorcycle(s), motor home(s), trailer(s), camper(s), boat trailer(s), recreational vehicle(s) or utility vehicle(s) of any description, self-propelling or otherwise, nor any boat(s), shall be parked or allowed to stand for more than twenty-four (24) hours on any area of a lot within two hundred feet (200') of a public street, or within the distance from such street to the rear wall of the dwelling constructed thereon, whichever is less, except in a fully enclosed garage.

5.4 No Offensive Activity. No noxious or offensive pursuit or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to

the neighborhood.

Article 6. Miscellaneous Provisions

6.1 No Further Subdivision. No lot or combination of lots shall be further subdivided in any manner whatsoever without the prior express written consent of the Design Committee, which may be withheld in its sole and absolute discretion.

6.2 More than One Lot Used. Should more than one (1) lot as shown on the Plat be used as a single building lot, these restrictions shall apply as though the entire building site were one (1) lot.

6.3 Signs Restricted. No sign of any kind shall be displayed to the public view on any lot except one (1) sign of not more than five square feet (5 sq. ft.), advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

6.4 No Rubbish. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. Such containers shall be placed or screened to shield them from public view.

6.5 Maintenance. The owner of a lot shall keep and maintain all Improvements thereon in good condition and repair. The lawn of each lot, regardless of whether or not the lot is improved with a residence, shall be adequately and properly mowed at all times. No weeds or trash shall be allowed to accumulate.

6.6 No Building Material Stored. No building material may be stored on any lot until such time as Plans therefore have been approved by the Design Committee and a building permit has been issued.

Article 7. General Provisions

7.1 Duration. These Declarations are to run with the land hereby embraced and shall be binding on all parties owning lots in this tract and all persons claiming under them for a period of twenty-five (25) years from the date hereof, at which time these Declarations shall be automatically extended for successive periods of ten (10) years unless, by a vote of the majority of the then owners of the lots, it is agreed to change these Declarations in whole or in part.

7.2 Amendment. These Declarations may be amended at any time by an instrument duly recorded and containing the written consent of (i) at least seventy-five percent (75%) of all of the owners of all of the lots; and (ii) the Developer, if the Developer retains ownership of any lot; provided, however that any amendment terminating the existence of and requirement for the Design Committee pursuant to paragraph 2.6 may be made solely by the Developers, or their heirs, successors and assigns.

7.3 Enforceability. All easements, restrictions, covenants, conditions, limitations and reservations herein shall inure to the benefit of and be enforceable by the owner of any lot shown on the Plat, their respective heirs, successors and assigns, and failure by any land owner to enforce any restriction shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or as to any prior or subsequent breach. If any person, firm or corporation, or their heirs, successors or assigns, shall violate or attempt to violate any of these Declarations before their expiration, any other person or persons owning any part or parcel of the said land shall be entitled to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate such Declarations, to enjoin such violation, and to recover damages therefor, and be reimbursed for all costs thereof (including reasonable attorney's fees) by the person or persons against whom the Declarations are enforced. Said rights herein shall inure also to the Developers of the property.

7.4 Invalidation. Invalidation of any one of these easements, restrictions, conditions, covenants, conditions, limitations or reservations by law or Court order shall in no wise effect any other provisions hereof, all of which shall remain in full force and effect.

7.5 Subsequent Development. If the property adjacent to the property described herein is developed as an extension or continuation of "Fisher's Landing" (whether in one or more phases), the owners of lots in such subsequently developed section(s) shall automatically be entitled to the same rights as owners of the lots in Fisher's Landing, Section One to enjoy and enforce these Declarations, subject to and upon the recordation of a Declaration of Easements and Restrictive Covenants substantially in the form hereof which applies to such new lots to be developed and which sets forth

reciprocal rights to the owners of the lots of Fisher's Landing, Section One (and any other sections of Fisher's Landing). In such an event, any amendment to these Declarations shall not be effective unless every such new declaration is likewise amended, and vice versa; and the required consent of seventy-five (75%) of the lot owners shall be deemed to mean seventy-five percent (75%) in the aggregate of all lot owners affected by these Declarations and any such new declaration.

IN WITNESS WHEREOF, the said Robert E. Yancey and Margaret O. Yancey have hereunto set their hand and seals as of the day and year first above written.

s/s R.E.Y. (SEAL)
Robert E. Yancey

s/s M.O.Y. (SEAL)
Margaret O. Yancey

State of Virginia

City of Newport News

The foregoing instrument was acknowledged before me in the jurisdiction aforesaid by Robert E. Yancey and Margaret O. Yancey this _____ day of _____, 1989.

Notary Public

My commission expires: _____

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UPLOADED
11/30/2020