

**REPORT TO THE BAYCLIFF COMMUNITY FROM THE
BAYCLIFF COVENANTS AND RESTRICTIONS COMMITTEE**

**Retired Chairman: James "Ted" Land
Summary Remarks Written by Chuck Buis
Updated January 2007 by Bill Westendorf**

The Baycliff Covenants and Restrictions (C&R) affect the Baycliff subdivision. These C&R deal with such issues as requiring that only single family detached houses be built, limiting fence heights, putting power and other lines underground, maintaining free navigation in the waterway to Broad Bay and other factors that could effect the value and livability of the neighborhood. As you can see from the current state of our neighborhood, Baycliff Development Corporation did an excellent job.

The Civic League has had several attorneys review this situation, and it is their opinion that the C&R are still in effect, valid and technically enforceable. Many of us who bought houses in recent years were not aware of the C&R, but if you check, you should find that the existence of the Baycliff Covenants and Restrictions is mentioned in your title search, which was done when you bought your house.

The C&R were placed into effect as each plat of the Baycliff subdivision was developed, starting in the late 1960's. A generic copy of the Baycliff Covenants and Restrictions are included in this directory for your review and also appear at www.baycliff.net. Thirty five years ago, there were far fewer city ordinances governing the development of land and the standards for housing. The Baycliff Development Corporation was concerned that our community be developed as a prime subdivision and that there would be no structures built or properties neglected in such a way that there would be a negative effect on the appearance and value of the neighborhood. Building plans were also preapproved by the developers to make sure that no one built a structure that would bring down the value of the surrounding homes. The C&R were written to remain in full effect and unchanged for a 35 year period from the date of filing, and then to extend automatically every year, for a one year period, unless a majority of the owners of the lots within that particular plat voted to change them, in whole or in part.

The C&R were written and once enforced by the developer. The Baycliff Development Corporation no longer exists today as a legal entity, having been dissolved decades ago. While the Baycliff Covenants and Restrictions do still exist, enforcement of the C&R is now the responsibility of individual homeowner(s) acting on their own behalf through the courts. Please be advised that, in the opinion of the attorneys who have reviewed our C&R, the Baycliff Civic League has no legal "standing" in court in respect to enforcement.

DECLARATION OF RESTRICTION AFFECTING THE PROPERTY SHOWN ON PLAT OF SUBDIVISION OF

BAYCLIFF, SECTION I-IV, LYNNHAVEN BOROUGH

VIRGINIA BEACH, VIRGINIA

The undersigned owner of all of the property shown on that certain plat entitled "Subdivision of Baycliff, Section I, Lynnhaven Borough, Virginia Beach, Va." dated _____ and recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia, in Map Book _____ at Page _____ does hereby declare and give notice that all numbered lots shown on said plot of subdivision are made subject to the following conditions, restrictions and reservations, which shall run with the land:

1. For the purpose of insuring development of the lands in the subdivision as a residential area of high standard, the undersigned reserves the right to control the buildings and structures placed on each lot.

Whether or not provision therefor is specifically stated in any conveyance of record made by the undersigned, the owner or occupant of each and every lot, by acceptance of title thereto or by taking possession thereof, covenants and agrees that no building, wall, fence, swimming pool, boathouse, dock, bulkhead, aerial, antenna, dog house, tool shed, or other structure shall be placed upon said lot unless and until the plans and specifications therefor and the plot plan have been approved in writing by the undersigned, its successors, assigns. All plans, specifications, and plot plans shall be submitted in duplicate, with one set to be retained by the undersigned, if approved, and shall include a floor plan drawn to scale, front elevation, and a landscaping plan providing for a reasonable number of trees and shrubs. Each such building, wall, fence, swimming pool, boathouse, dock, bulkhead, aerial, antenna or other structure shall be placed on the premises only in accordance with the plans and specifications and plot so approved. Refusal of approval of plans and specifications by the undersigned, its successors or assigns, may be based upon any ground, including purely esthetic grounds, which in the sole and uncontrolled discretion of the undersigned, its successors and assigns shall be deemed sufficient. (Without in any wise limiting the foregoing, plans and specifications providing for cinder block or asbestos siding will be disapproved.) No alteration in the exterior appearance of any structures shall be made without like approval. The undersigned reserves the right to designate an individual, association or corporation, through its Board of Directors and its Architectural Committee or Committees, to act for the undersigned in the approval or rejection of such plans, and for the enforcement of this restriction, and the said designee shall have all power and authority as reserved to the undersigned for the administration, enforcement, and carrying out of these reservations and restrictions. Such designation is hereby made and such authority shall continue and remain vested in the said designee until such time as the undersigned, its successors or assigns, shall cancel the same in writing by an instrument equal in dignity to this Declaration of Restrictions. In the event that for any reason the powers herein or hereafter granted are terminated by court order or otherwise, then the same shall automatically re-vest in the undersigned, its successors or assigns.

Should the undersigned, through its designee or otherwise, or its successors or assigns, fail to approve or disapprove the plans and specifications submitted to it by the owner of a lot or lots within the subdivision within thirty (30) days after written request therefor, then such approval shall not be required, provided, however, that no building or other structure shall be erected or be allowed to remain on any lot which violates any of the covenants or restrictions herein contained.

2. No building shall be allowed or erected on any numbered lot in the subdivision except one(1) single family dwelling house, for the use and occupancy of one(1) family and attendant domestic servants only, provided that no such building shall exceed two and one-half (2 1/2) stories in height, in addition to any basement. All garages, porte cocheres, storage areas, tool cabins, garden houses, etc. must be attached to said dwelling house and be constructed so as to constitute one building only. Said dwelling house shall occupy a floor area of actually and fully enclosed building, including attached garage or porch or porte cochere, of not less than two thousand (2,000) square feet. In computing such minimum areas, the area of the porches and garages shall not be given credit, under any circumstances, in excess of two hundred (200) square feet.

3. No building shall be erected upon any lot so that any part of said building shall be closer than fifty (50) feet to any front boundary line of said lot, which line extends along a street or highway, or so that any part of said building is closer than sixteen (16) feet to any of the side boundary lines of said lot, or so that any part of said building is closer than twenty-five (25) feet to any rear boundary line; except if said property is a corner lot, the placement of the building thereon shall be exclusively under the control of the undersigned or its designee. Notwithstanding the above, if the Board of Zoning Appeals

grants a variance to the then existing setback requirements of the City, said variance shall not be considered as a violation of these restrictions. The undersigned reserve, however, the right to oppose the granting of any variance by the Board of Zoning Appeals.

4. Terraces, wall, fences, hedges, low platforms or steps, swimming pools, and similar low, unrooted and unscreened construction may be erected, as may boathouses and docks, provided such construction be first approved in writing by the undersigned, or its designee, and be in compliance with the prevailing city zoning regulations. Notwithstanding the above, any fence which is constructed shall not exceed five (5) feet in height and shall not extend beyond the front line of the dwelling., i.e. only the side yards adjacent to the structure and the back yards may be fenced. Additionally, any fence which is otherwise allowed on any corner lot must not extend beyond the front building line of the lots adjacent to the said corner lot.

5. The undersigned herein reserves for itself, its successors or assigns, a five (5) foot easement along the side and rear lines of each numbered lot on the plat of subdivision, unless a greater width be shown on the plat of subdivision, for public utility and drainage purposes, and any other reasonable purpose with the right to assign the same for such uses as deemed by it necessary for the service of-said lands or adjoining lands. Where there is located on one or more lots, or portions thereof, a single ownership, then the easements shall not be located along the sidelines of each lot but also on the sidelines of the combination of lots or portions thereof.

6. No lines or wires for communication of for the transmission of current or any other purposes shall be constructed, placed or permitted to be placed upon any numbered lot unless the same shall be contained in conduits, and as to any part of parts of said wires or lines which are outside the dwelling house, the same shall be constructed or placed and maintained underground.

7. No seawall, dock or boat slip, boathouse, bulkhead, piers or mooring post shall be placed or constructed upon or abutting any lot unless the same shall be constructed according to plans, specifications, elevations, types and designs approved by the undersigned, its successors or assigns, in writing. No vessel or boat shall be anchored offshore in any of the waterways adjacent to the subdivision so that the same shall in anywise interfere with navigation. No boathouse shall be constructed on or adjacent to any of the waterfront lots in the subdivision, nor shall any boat canal be dug or excavated in any of the waterfront lots unless the same shall be constructed according to plans, specifications, elevation, types and designs approved by the undersigned, its successors or assigns, in writing.

The interior waters of the various canals transversing portions of the subdivision shall not be used or navigated by anyone who is not an owner, lessee or occupant of a 'lot in the subdivision or a guest or member of the family of such owner, lessee or occupant. No lot shall be increased in size by filling in the water on which it abuts, regardless of the ownership of title in such abutting water, without the prior consent, in writing, of the undersigned.

8. No lot or contiguous group of lots shall ever be re-subdivided or replatted in any manner which would bring about the creation of a lot or lots smaller in area than the smallest lot in area shown on the above-described plat of subdivision. A residential site may consist of one (1) or more lots; all of one lot and part of a contiguous lot or lots; or any other combination of contiguous parts of lots which shall form one plot of land suitable for use as a site for a residence, provided, however, that it extends from the street on which the said lot fronts back to an existing rear property line, waterway or canal, but no site which changes the lot, as originally planned, shall have a front or rear dimension of less than is contained in the smallest lot shown on the original plat of the subdivision.

9. Nothing shall be done on any lot which may be or become an annoyance or nuisance to the neighborhood. No horses, cattle, swine, goats, poultry or fowl or other animal not customary as a household pet shall be kept on any lot. No sign of any character shall be displayed or placed upon any of the premises or lots in said subdivisions, except, however, a FOR SALE sign not to exceed six (6) square feet in total area ,and signs placed upon the premises by the undersigned during the original development of the property. No manufacturing, trade, business, commerce, industry, profession or other occupation whatsoever will be conducted or carried on upon any lot or any part thereof, or in any building or other structure erected thereon. No trash shall be allowed to accumulate so as to be unsightly or to be a detriment to the area or a fire hazard. In the event that any owner or occupant shall fail or refuse to keep his premises free of weeds, underbrush or refuse or other unsightly growth or objects, then the undersigned, its successors or assigns, may enter upon said lands and remove the same at the expense of the owner.

The use of any carport, driveway or parking area which may be in front of, adjacent to or part of any lot in said subdivision as an habitual parking place for commercial vehicles is prohibited. The use of any driveway or parking area which may be in front of, adjacent to or a part of any lot as an habitual parking place for boats or trailers of any kind is

prohibited. The parkway (that area between the pavement and the lot line) of each lot shall not be used for the parking of private or commercial vehicles or boats or trailers. The term "commercial vehicles" shall include all motor vehicles and vehicular equipment which shall bear signs or shall have printed thereon reference to any commercial undertaking or enterprise, and all trucks.

10. Each owner of a lot or lots in the subdivision shall be responsible for the maintenance of the parkway (area between pavement and lot line) abutting his property, and for the maintenance if his hedges, plants and shrubs in a neat and trim condition; he shall provide a suitable enclosure for the exterior of storage of trash and garbage, in accordance with plans approved by the undersigned; and he shall enclose any clotheslines on his property in a hedge or other protective enclosure, the nature and form of which shall be approved by the undersigned. The approvals herein provided for shall be as a part of the plans for the improvements to be located on the property.

11. The undersigned, its successors and assigns, hereby reserves the right to enter into agreements with the owner of any lot or lots, including itself (without the consent of the owners of other lots in the subdivision) to deviate from these conditions, restrictions, limitations and agreements in this declaration set forth, and any such deviation shall be manifested by agreement in writing and shall not constitute a waiver of any such condition, restriction, limitation or agreement as to the remaining lots in said subdivision, and the same shall remain fully enforceable as to all other lots located in the said subdivision, by the undersigned, its successors and assigns, and by the owners of other lots except as against the lot where such deviation is permitted by such written agreement.

12. These agreements, covenants, restrictions and conditions shall run with the land and shall remain in full force and effect for thirty-five (35) years from the date hereof, at which time they shall automatically extend for successive periods of time of one (1) year each unless and until by vote of the majority of the then owners of the numbered lots on the plat of subdivision of Baycliff, it is agreed to change them in whole or in part.

13. In the event of a violation of breach of any of these restrictions, covenants, agreements and conditions by any person or concern claiming by, through or under the undersigned, or by virtue of any judicial proceedings, (excepting however, the undersigned, its successors or assigns during development of this or other Sections of the Subdivision),¹ the undersigned, its successors and assigns and the owners of the numbered lots in the subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance with the terms hereof or to prevent the violation or breach of any of them. The failure to enforce any right, reservation, restriction or condition contained herein, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement. The invalidation by any court of any provision herein contained shall not in any way affect any of the other provisions hereof but they shall remain in full force and effect.

14. The undersigned and its successors may assign any and all its rights, powers, obligations and privileges under this instrument to any other corporation, association, firm or person.

BAYCLIFF DEVELOPMENT CORPORATION