

# **Articles Of Incorporation**

## **The Moorings Boat Owners Club**

We hereby associate to form a nonstock corporation under the provisions of Chapter 10 of Title 13.1 of the Code of Virginia, and to that end set forth the following:

### **Article One**

#### **Name**

The name of this Corporation shall be: The Moorings Boat Owners Club, Inc. (the "Corporation").

### **Article Two**

#### **Purposes and Powers**

(1) The Corporation is formed exclusively for the pleasure and recreation of its members, as contemplated by Section 501(c)(7) of the Internal Revenue Code of 1986 ("the Code," and any reference herein to any provision of the Code shall be deemed to mean the corresponding provision(s) as now or hereafter existing, amended, supplemented or superseded in any future United States Internal Revenue Law). More specifically, purposes of the Corporation include: own, maintain and operate a boat dock facility exclusively for its members.

(2) Notwithstanding any other provision of these Articles, the Corporation shall not carry on any activities not permitted to be carried on by an organization exempt from Federal income tax under section 501(c)(7) of the Code.

(3) The Corporation is organized and shall be operated on a nonprofit basis. The activities, net earnings and assets of the Corporation shall be at all times dedicated only to the recreation of its members. None of the net earnings shall inure to the benefit of any private shareholder, individual, association or corporation, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes and objectives. If for any reason it becomes necessary to dissolve or liquidate the Corporation, the remaining assets of the Corporation, after its lawful obligations and all other requirements of law are met and complied with, shall be distributed, transferred or conveyed for one or more exempt purposes within the meaning of section 501 (c)(3) or 501(c)(7) of the Code, to one or more corporations, societies, or organizations engaged in activities similar to those of the Corporation and qualifying under Section 501 (c)(3) or 501(c)(7) of the Code, or to the federal government or to a state or local government for a public purpose, or as may be specified in a plan of distribution adopted as provided by law or as directed by a court of competent jurisdiction.

(4) The Corporation shall not engage in any unlawful discrimination including discrimination on the basis of race, religion or color.

(5) The Corporation shall do any and all lawful things which may be necessary, useful, suitable or proper for the furtherance or accomplishment of the purposes and powers of the Corporation, and may exercise all powers possessed by Virginia corporations of similar character, including the power to own, hold, lease, transfer, contract for the purchase, sale or transfer of, and to mortgage or otherwise encumber, real property and tangible and intangible personal property, and interests in such property, including easements or other rights in any such property, wheresoever such property or interests therein may be situate and howsoever held.

### **Article Three Membership**

The Corporation shall have members. The classes of members, their qualifications and rights, including voting rights, shall be set forth in the Bylaws of the Corporation.

### **Article Four Board of Directors**

The affairs of the Corporation shall be managed by the Board of Directors.

- (a) The initial number of directors of the Corporation shall be two.
- (b) The number of directors may be increased or decreased from time to time by amendment to the Bylaws.
- (c) The directors shall be elected or appointed as provided in the Bylaws.
- (d) The initial members of the Board of Directors shall be:

Michael Hardman - Chairman  
Carroll Thackston - Secretary/Treasurer

### **Article Five Indemnification and Elimination of Liability**

Section 1. Indemnification of Directors and Officers. Except as provided in Section 2 of this Article, the Corporation shall indemnify every individual made a party to a proceeding because he is or was a director or officer against liability incurred in the proceeding if: (i) he conducted himself in good faith; and (ii) he believed, in the case of conduct in his official capacity with the Corporation, that his conduct was in its best interests, and, in all other cases, that his conduct was at least not opposed to its best interests (or in the case of conduct with respect to an employee benefit plan, that his

conduct was for a purpose he believed to be in the interests of the participants of and beneficiaries of the plan); and (iii) he had no reasonable cause to believe, in the case of any criminal proceeding, that his conduct was unlawful.

Section 2. Indemnification Not Permitted. The Corporation shall not indemnify any individual against his willful misconduct or a knowing violation of the criminal law or against any liability incurred by him in any proceeding charging improper personal benefit to him, whether or not by or in the right of the Corporation or involving action in his official capacity, in which he was adjudged liable by a court of competent jurisdiction on the basis that personal benefit was improperly received by him.

Section 3. Effect of Judgment or Conviction. The termination of a proceeding by judgment, order, settlement or conviction is not, of itself, determinative that an individual did not meet the standard of conduct set forth in Section 1 of this Article or that the conduct of such individual constituted willful misconduct or a knowing violation of the criminal law.

Section 4. Determination and Authorization. Unless ordered by a court of competent jurisdiction, any indemnification under Section 1 of this Article shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the individual is permissible in the circumstances because: (i) he met the standard of conduct set forth in Section 1 of this Article and, with respect to a proceeding by or in the right of the Corporation in which such individual was adjudged liable to the Corporation, he is fairly and reasonably entitled to indemnification in view of all of the relevant circumstances even though he was adjudged liable; and (ii) the conduct of such individual did not constitute willful misconduct or a knowing violation of the criminal law.

Such determination shall be made: (i) by the Board of Directors by a majority vote of a quorum consisting of Directors not at the time parties to the proceeding; or (ii) if such a quorum cannot be obtained, by a majority vote of a committee duly designated by the Board of Directors (in which designation Directors who are parties may participate), consisting solely of two or more Directors not at the time parties to the proceeding; or (iii) by special legal counsel selected by the Board of Directors or its committee in the manner heretofore provided or, if such a quorum of the Board of Directors cannot be obtained and such a committee cannot be designated, selected by a majority vote of the Board of Directors (in which selection Directors who are parties may participate.) Authorization of indemnification, evaluation as to reasonableness of expenses and determination and authorization of advancements for expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those selecting such counsel.

Section 5. Advance for Expenses. The Corporation may pay for or reimburse the reasonable expenses incurred by any individual who is a party to a proceeding in advance

of final disposition of the proceeding if: (i) he furnished the Corporation a written statement of his good faith belief that he has met the standard of conduct described in Section 1 of this Article and a written undertaking, executed personally or on his behalf, to repay the advance if it is ultimately determined that indemnification of such individual in the specific case is not permissible; and (ii) a determination is made that the facts then known to those making the determination would not preclude indemnification under this Article. An undertaking furnished to the Corporation in accordance with the provisions of this Section shall be an unlimited general obligation of the individual furnishing the same but need not be secured and may be accepted by the Corporation without reference to financial ability to make repayment.

Section 6. Indemnification of Employees and Agents. The Corporation may, but shall be required to, indemnify and advance expenses to employees and agents of the Corporation to the same extent as provided in this Article with respect to directors and officers.

Section 7. Elimination or Limitation of Liability of Directors and Officers. Except as provided in Section 8 of this Article, in any proceeding brought by or in the right of the Corporation, the damages assessed against a director or officer arising out of a single transaction, occurrence or course of conduct shall be limited as follows:

(1) A director or officer who does not receive compensation for his services as such shall have no liability for damages if, at the time of the transaction, occurrence or course of conduct giving rise to the proceeding, the Corporation was exempt from federal income taxation under Section 501(c) of the Code and Regulations.

(2) The liability of a director or officer who does not receive compensation from the Corporation for his services as such shall not exceed the amount of \$100.00 if, at the time of the transaction, occurrence or course of conduct giving rise to the proceeding, the Corporation was not exempt from federal income taxation under Section 501(c) of the Code and Regulations.

(3) The liability of director or officer who receives compensation from the Corporation for his services as such shall not exceed the amount of \$100.00.

Section 8. Liability of Director and Officers Not Eliminated. The liability of a director or officer shall not be eliminated or limited in accordance with the provisions of Section 7 of this Article if the director or officer engaged in willful misconduct or a knowing violation of the criminal law.

Section 9. Definitions. In this Article:

“Corporation “ means The Moorings Boat Owners Club, Inc. and any domestic or foreign predecessor entity of The Moorings Boat Owners Club, Inc. in a merger or other transaction in which the predecessor's existence ceased upon the consummation of the transaction.

“Director” and “officer” mean an individual who is or was a director or officer of the Corporation, as the case may be, or who, while a director or officer of the organization is or was serving at the Corporation’s request as a director, officer, partner, trustee, employee or agent of another foreign or domestic organization, partnership, joint venture, trust, employee benefit plan or other enterprise. A director or officer shall be considered to be serving an employee benefit plan at the Corporation’s request if his duties to the Corporation also impose duties on, or otherwise involve services by, him to the plan or to participants in or beneficiaries of the plan.

“Individual” includes, unless the context requires otherwise, the estate, heirs, executors, personal representatives and administrators of an individual.

“Expenses” includes but is not limited to counsel fees.

“Liability” means the obligation to pay a judgment, settlement, penalty, fine, including any excise tax assessed with respect to an employee benefit plan, or reasonable expenses incurred with respect to a proceeding.

“Official capacity” means: (i) when used with respect to a director, the office of director in the Corporation; (ii) when used with respect to an officer, the office in the Corporation held by him; or (iii) when used with respect to an employee or agent, the employment or agency relationship undertaken by him on behalf of the Corporation. “Official capacity” does not include service for any foreign or domestic organization or other partnership, joint venture, trust, employee benefit plan or other enterprise.

“Party” includes an individual who was, is or is threatened to be made a named defendant or respondent in a proceeding.

“Proceeding” means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal.

Section 10. Provisions Not Exclusive. As authorized by the Virginia Nonstock Corporation Act, the provisions of this Article are in addition to and not in limitation of the specific powers of an organization to indemnify directors and officers set forth therein. If any provision of this Article shall be adjudicated invalid or unenforceable by a court of competent jurisdiction, such adjudication shall not be deemed to invalidate or otherwise affect any other provision hereof or any power of indemnity which the Corporation may have under the Virginia Nonstock Corporation Act or other laws of the Commonwealth of Virginia.

## **Article Six**

### **Registered Agent**

The name of the Corporation's initial registered agent is Richard L. Grier.

The initial registered agent is an individual who is a resident of Virginia, and a member of the Virginia State Bar.

The Corporation's initial registered office address which is identical to the business office of the initial registered agent is: 100 Shockoe Slip, Richmond, Virginia 23219.

The registered office is physically located in the City of Richmond.