

FRENCH'S NECK WEST
REVISED
DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, referred to as Property Owners Association of French's Neck West, hereafter referred to as POAFNW, lying and being situate in Springfield District, Hampshire County, West Virginia, and being more fully described on the plat and survey of David G. Vanscoy, Professional Engineer, W.Va., Registration No. 6649, and made a part hereof, and recorded in the Clerk's Office in the County Commission of Hampshire County, West Virginia, in Map Book 5, page 126 to which reference is hereby made, and said real estate being part of a larger tract of real estate conveyed to Neat Retreats, Inc., a West Virginia Corporation, by deed from the West Virginia University Foundation, dated January 26, 1987, and recorded in the Hampshire County Clerk's Office in Deed Book No. 290 at Page 439.

This Revised Declaration of Protective Covenants, Conditions and Restrictions is being recorded pursuant to the terms and conditions set forth in the above referenced original Declaration of Protective Covenants, Conditions and Restriction; Article V, paragraph number 4, wherein, the original Declaration provisions allows the Declaration to be changed after a term of twenty (20) years.

All numbered lots in French's Neck West shall be subject to the following protective covenants, conditions, and restrictions and easements which shall run with the land and shall be binding upon all subsequent owners of the lots.

ARTICLE I – DEFINITIONS

1. “Association” shall mean and refer to POAFNW, formally known as Property Owners Association of French’s Neck West, its successors and assigns.
2. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is part of the property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
3. “Property” shall mean and refer to that certain real property described above and such additions thereto as may hereafter be brought within the jurisdiction of the Association.
4. “Lot” shall mean and refer to the numbered lots shown on the aforescribed plat of French’s Neck West recorded in the aforesaid Clerk’s office in Map Book No. 5, page 126.
5. “Common areas” are all areas shown on the plat designated as such, for the non-exclusive use and benefit of all property owners in French’s Neck West.

ARTICLE II – MEMBERSHIP AND VOTING RIGHTS

1. Every owner of a lot which is subject to assessment shall be a member of the Association.

Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

2. A property owner's association having been established with membership consisting of the owners (and only the owners) of each lot in French's Neck West who shall have one (1) vote per lot owned. It is also understood and agreed that any lot being owned jointly shall only be entitled to one vote for that lot. All lots adjoined pursuant to Article III, paragraph 1, of this Declaration shall be considered one lot for voting purposes.

3. The Association shall be governed by the majority of the lot owners. A Board of Directors of three (3) members shall be elected by the lot owners.

4. It will be the responsibility of the lot owners to keep the Association informed of their current addresses and telephone numbers.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENT

1. The Association shall assess for each lot (property that consist of two or more lots originally that are adjoined would be considered as one lot) the sum of two-hundred dollars (\$200.00) per year for the use, upkeep and maintenance for the right of way within French's Neck West, upkeep and maintenance of the rights to and from West Virginia State Route 1/1, the upkeep and maintenance of all common areas and the administrative upkeep of the Association. For any transfers of real estate within the subdivision after the date of this document the said two-hundred dollar fee (\$200.00) shall be collected on day of settlement and upon deed conveyance.

2. Any assessment made pursuant to this paragraph, including a late fee of five dollars (\$5.00), interest at the rate of ten percent (10%) per annum from the date of delinquency, and reasonable attorney's fees incurred in the collection thereof, shall constitute a lien on this property until paid. The lien is expressly inferior and subordinate to any mortgage liens presently or hereafter encumbering the property affected by these protective covenants. This assessment may not be increased unless said increase is made pursuant to Chapter 36B, Article 1, Section 114, of the West Virginia Code, as amended. The owner of each lot, by acceptance of a deed thereto, automatically becomes a member of the Property Owners Association and does thereby covenant and agree to pay two-hundred dollars (\$200.00) per lot per year, (as stated above, two or more original lots that are adjoined would be considered as one lot), beginning on the day of settlement and upon deed conveyance and to pay annually thereafter to the Property Owners Association, as herein set forth, an amount determined by the positive vote of owners of at least two-thirds (2/3) of the lots in said subdivision as necessary for the purpose of maintaining and improving

rights-of-way and roadways shown on the subdivision plat and the right-of-way from said subdivision to West Virginia State Route 1/1 over other real estate not a part of this subdivision and all common areas and facilities. The association shall notify each lot owner in writing, as to the amount of the lot assessment which shall be due and payable by the lot owner to the Property Owners Association of French's Neck West. Lot assessments will be due and payable each year by on or before the annual Association meeting and continue thereafter unless changed pursuant to the terms and conditions of this Declaration. If due(s) are not paid within thirty (30) days of the Association's annual meeting the due(s) shall be considered in default. In the event of a resale or transfer of one or more parcels in said subdivision, this obligation shall run with the land and become the obligation of the new owner(s) even though it may have been assessed to a prior owner. In the event of a transfer by judicial sale or sale under deed of trust, any past due and unpaid road maintenance fees shall be paid by the party forcing the sale of the lot or be paid by the new purchaser.

3. If the owner of any lot is in default in the payment of any assessment(s), the Property Owners Association may bring an action at law against the owner of said lot obligated to pay same, the owner in default of payment shall be responsible for costs of collection of said debt, including court costs and reasonable attorney fees and interest if awarded by the court. Proper jurisdiction for collection of any assessment(s) due and payable under this Declaration shall be either the Hampshire County Magistrate Court or the Hampshire County Circuit Court.

4. If any one owner owns **two or more adjoining** lots, only one assessment shall be payable so long as two or more **adjoining** lots are so owned, and only one house is built by said owner of said lots. If any of said lots is hereafter sold or conveyed or improved by an additional dwelling, it shall be subject to separate assessment of

two-hundred dollars (\$200.00). Nothing herein shall be deemed to alter the "one vote per one lot" rule which is established in Article II, paragraph 2 above.

6. The Property Owners Association shall be governed by all applicable federal, state and county laws, rules, regulations and ordinances, now in effect or hereinafter enacted.

ARTICLE IV

USE RESTRICTIONS

1. Each lot owner shall have an unobstructed and nonexclusive right of ingress and egress to and from his lot and the South Branch of the Potomac River over the rights-of-ways and roadways as shown on the subdivision plat, and the plat attached to the hereinafter described Right of Way Agreement. The Property Owners Association shall be responsible for maintenance of the subdivision roads, and responsible for the maintenance of the access road to and from West Virginia State Route 1/1, and all other obligations in that certain Right-of-Way Agreement dated the 20th day of August, 1989, by and between William E. Rogers and Susan L. Rogers, husband and wife, and the Declarant (of the original Declaration of Protective Covenants), a copy of which is to be recorded in the aforesaid Clerk's office, which is expressly incorporated herein by reference.

2. The Association reserves unto itself and its successors and assigns, easement for the installation, erection, maintenance, operation and replacement of telephone and electric light poles, (guy wires may extend beyond the easement limit), cable t.v., electric, and water lines, on, over and under a strip of land fifteen (15) feet wide along all property lines not serving as the centerline for rights-of-ways, and fifteen (15) feet along each side of all the rights-of-ways, in addition to easements reserved by any other instrument duly recorded. However, the rights and responsibilities concerning the right-of-way road from West Virginia Route 1/1 to French's Neck West shall be controlled solely by the Right of Way Agreement dated August 20, 1989, signed by William E. Rogers and Susan L. Rogers and recorded in the office of the Clerk of the County Commission of Hampshire County, West Virginia, contemporaneously with this document. Nothing herein shall be construed as creating any duty on the Association

to install or maintain any utility services, however, as it is contemplated that actual installation will be made at the expense of the utility and/or the owners.

3. No signs or advertising of any nature shall be erected or maintained on any residential lot, except signs for sale of property, rental signs, or signs indicating property name, owners name and address and these signs should not exceed six (6) square feet in area.

4. Any lot in French's Neck West may be re-subdivided by the owner so long as the size of any resulting lot or residue thereof shall not be less than two (2) acres. Construction of any improvements on the lots re-subdivided shall be governed by Paragraph No. 8 below.

5. No owner of any lot shall interfere with the natural drainage of surface water from such lot to the detriment of any other lot. Consequently, in the construction of a driveway into any lot, a twelve (12) inch diameter culvert, or larger if necessary, shall be used in constructing the driveway in order to alleviate blockage of natural drainage. No parking is permitted upon any subdivision roads within the subdivision at any time and as a part of the development of any lot, the owner shall provide adequate off-road parking for owner and his guest(s).

6. No trucks, buses, old cars, or unsightly vehicles of any type or description may be left, stored or abandoned on said lots.

7. No building of a temporary nature shall be erected or placed on any lot except those temporary facilities erected in connection with building operations and in such cases should not exceed the period covered in the building permit and in any case not to exceed 18 months. However, nothing shall be construed to prevent the owner from erecting tents or a temporary camping trailer on the lot and to camp in said tent/trailer for a period of not more

than twenty (20) days and a semi-permanent camping trailer (one per lot) for the period from April 15th until October 15th. A semi-permanent camping trailer should not be placed on the lot prior to April 15th and should be removed by October 15th.

8. No more than one single family residence per two (2) acres may be placed on any lot shown upon the plat for French's Neck West or on the lots re-subdivided as elsewhere provided for herein. For example, a four (4) acre lot can have no more than two (2) single family residences placed thereon and a six (6) acre lot can have no more than three (3), etc. Residences shall contain a minimum of 600 square feet of living area, excluding basement, garage, porch, carport, deck, and overhanging eaves. All exterior construction must be completed and closed within the period of the building permit, but not to exceed eighteen (18) months of the commencement of construction.

9. Each lot shall be used for residential/recreational purposes only, and any garage or outbuilding must conform generally in appearance and material to any dwelling on said lot. Use of the numbered lots for any form of commercial or agricultural use or the raising of livestock or poultry (regardless of number) is not allowed, except that a lot owner is given prior approval by a two-thirds (2/3) vote of the members of the Association. Further, any persons lawfully possessing livestock pursuant to the prior Declaration of Covenants may continue that possession of livestock, however that possession right does not transfer at the sale of their respective lots.

Notwithstanding the prior paragraph, the following uses are permitted, subject to applicable state and local laws:

- (a) The raising and use of horses for personal use and not commercial use or sale.

(b) Home occupations conducted by the occupant (s).

(c) Home gardening.

10. The owner shall maintain, repair and restore, as necessary, the exterior of any building or other improvements erected on any lot owned by him. Owners likewise agree to repair and restore promptly to its prior condition any part of a subdivision road damaged by equipment of owner or his contractor enroute to or from owners' lot. All lots improved or unimproved, must be maintained by the lot owner in a neat and orderly condition at all times. No garbage, trash or inoperative vehicle or other debris shall be permitted to accumulate or remain on any lot.

11. No building shall be erected closer than fifty (50) feet from the centerline of any subdivision road, nor closer than twenty (20) feet to the side or rear property lines, with the exception that where two or more tracts are used together for the construction of one dwelling, then said twenty (20) feet setback rule is thus waived for the individual lots and the two or more lots which comprise the consolidated lots shall thereafter be sold and conveyed as one unit with the aforementioned setback lines applying to same and may not thereafter be sold separately.

12. Each owner is responsible to comply with all applicable building ordinances now or hereafter adopted by the Hampshire County Commission or other governmental body which regulates the building of homes or structures.

13. All sanitation facilities constructed on any lot shall conform with the regulations of the Hampshire County Health Department.

14. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste must be kept in sanitary containers. All trash, garbage, fuel storage tanks, garden equipment, supplies and stored raw materials must be kept from view of the public. In the event any lot owner shall fail to discharge his aforesaid responsibilities in a manner satisfactory to the Board of Directors of the Property Owners Association, upon two-thirds (2/3) vote of the Board of Directors, and after fifteen (15) days notice to the owners of the Property, the Property Owners Association shall have the right, through its agents and employees, to enter upon said lot and perform necessary maintenance repairs (including mowing and removal of grass over 24" high), and restoration, or to remove any offending material or object. Such action shall not be deemed a trespass, and the cost of same when performed by the Association shall be added to and become a part of the assessment of which such lot is subject.

15. No noxious or offensive trade or activity shall be carried on upon any tract or right of way and the use of any motorcycle or motor vehicle without proper noise abatement equipment is prohibited within French's Neck West.

16. No hunting or discharging of firearms shall be allowed in French's Neck West, except with the prior written approval of the owner of the property where the action is taking place and in accordance with the rules, laws, and regulations of the State of West Virginia and/or Hampshire County or other such governing body. The property owner is responsible to ensure the individual or individuals utilizing the property for said activity are aware of the Subdivision rules regarding same.

17. Pollution of the South Branch of the Potomac River is prohibited by any of the property owners of French's Neck West, their family, guests or invitees, as is the discharging of firearms across the river, up or down the river, or near the river bank where it would endanger recreational traffic on the river.

18. All animals shall be restrained to the property of their owners and not allowed to run free on property owned by others in French's Neck West, nor allowed to run free on the 268 acre parcel now owned by the lot owners of Blue Meadows North.

19. If any lot owner shall violate any of the covenants herein, the be brought to the attention of the Board of Directors of the POAFNW, however if the problem is not resolved to the satisfaction of the complainant it shall be lawful for any other person or persons owning any real estate situate in said subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, either to prevent him or them from so doing or to recover damages or other dues for such violation. Failure to enforce any provision herein contained shall in no way be deemed a waiver of the right to do so hereafter. Notwithstanding the above provision, the Board of Directors shall be able to enforce the assessment fees (dues) as prescribed in Article III.

20. The Association, by vote of two-thirds (2/3) of its members, may make additional rules, covenants, and restrictions for the use of the Property, which together with the above, may be enforced by fines or other penalties.

ARTICLE V

GENERAL PROVISIONS

1. All sewage disposal systems constructed on said lots shall conform to the regulations of the Hampshire County Health Department. Free standing toilets are also subject to the aforementioned requirements and shall not be constructed unless specific authority is first obtained from the Health Department, and then they must be placed in such location with respect to the residence, cabin or accessory building located on the premises that the free standing toilet does not create an unnecessarily unsightly condition to the adjoining lot owners with the subdivision. In this connection, the owner shall submit plans for the construction to the Property Owners Association, and obtain prior approval from the Board of Directors prior to the location and construction of a free-standing toilet.

2. The Association, or any owner, shall have the right to enforce by any proceedings, at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any owner to enforce any provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

3. The covenants, restrictions and other provisions of this Declaration shall run with and bind the land for a term of ten (10) years from the date this Declaration is recorded, after which they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by not less than two-third (2/3) of the lot owners, by an instrument signed by not less than two-third (2/3) of the lot owners. However, the

obligations of the Property Owners Association in regard to the Right-of-Way Agreement attached hereto shall not be changed except with the consent of all the necessary parties having an interest therein.

4. Invalidation of any of the covenants, restrictions or other provision of this Declaration by judgment or Court Order shall in no wise affect any other provisions, which shall remain in full force and effect.

5. Whenever in this Declaration the context so required, the masculine gender includes the feminine and neuter, singular number includes the plural and the plural number includes the singular.

Property Owners Association of French's Neck West

By Kettie McWilliams, Its President

The foregoing instrument, revised and approved by seventy-five percent (75%) of the property owners of French's Neck West Subdivision as attested to by their signatures and signed by Kettie McWilliams, duly elected president of the association as attested to by a copy of the minutes of the association's meeting electing Kettie McWilliams as President of said association. on April 26, 2008, was acknowledged before me on this the _____ day of September, 2009.

Notary Public

STATE OF WEST VIRGINIA, County of Hampshire to wit:

Be it remembered that on the ____ day of September, 2009 at _____, this Covenants was presented in the Clerk's Office of the County Commission of said County and with the certificates thereof annexed, admitted to record.

Atest _____ Clerk
Clerk, County Commission, Hampshire County, WV