

THE WOODS
AMENDED DECLARATION AND RESTRICTIVE COVENANTS

ARTICLE I

PREAMBLE

DEFINITIONS

“Association” shall refer to The Woods Homeowners Association, Inc.

“Cluster association” shall refer to the association established by the Declaration applicable to any cluster development within The Woods.

“Lot” shall mean any lot or unit, together with all improvements. Lot and unit shall be used interchangeably.

“Lot Owner” shall refer to each individual or entity holding legal title to any lot within The Woods. Where more than one individual or entity holds title, “Lot Owner” shall mean all of the owners so holding title who shall be jointly and severally obligated for compliance with all applicable covenants.

“Nuisances” as used in these covenants shall be given the meaning ascribed to it at common law and shall refer to an obstruction or unreasonable interference with the reasonable and comfortable use of property.

“Modification of the exterior improvements” shall include, but not be limited to decks, hot tubs, patios, pools, and similar alterations.

“New structures” and “new construction” includes the installation and construction of equipment and material housing, dog runs, gazebos, arbors associated with landscaping, and other similar construction.

“PVP” shall mean Potomac Valley Properties, Inc., which is the developer of The Woods.

PURPOSE AND SCOPE

The following amendments to the Declaration and Restrictive Covenants shall be applicable throughout the Woods Subdivision and Walden Woods Subdivision, and Woods II, (hereinafter referred to as “The Woods”) as the same are described on the hereto attached Exhibit entitled “Description of Woods and Walden Woods Subdivision.” Exempted from these restrictions are the recreational areas and the Club areas owned by P.V.P. It is the intention of the lot owners of The Woods, through this Amended Declaration, to effect certain uniform covenants for the entire subdivision in order to protect the reasonable expectations of all lot owners and the quality of life

within the Woods. To the extent that existing covenants for any section of The Woods set forth requirements that are either not addressed herein or are more stringent than those herein provided, same shall remain in full force and effect except where expressly otherwise herein provided. Examples of restrictions which currently exist for all sections of the Woods and are not modified by these covenants include the prohibition against outside burning except for small family picnics, the prohibition against dumping or burning of trash or garbage, the prohibition against the use of firearms, the use of a lot as an access to outlying real estate, the prohibition against re-subdivision of any lot, and building set back limitations which are established for all sections within the Woods. **Prospective purchasers should obtain a copy of the additional restrictions applicable to the particular section of interest from the seller, his agent or the closing attorney prior to settlement.** All existing covenants applicable to any section within the Woods are of record in the Office of the Clerk of the County Commission of Berkeley County. Unless they have been impliedly or expressly modified by these amended covenants, such applicable covenants for each section remain as enforceable as therein stated.

The adoption of these covenants shall not be construed so as to interfere with the privilege of any cluster association to subsequently adopt specific covenants addressing matters not addressed herein or which establish more restrictive standards than those addressed herein. Likewise, to the extent that the Declaration and Covenants in certain sections of The Woods grant specific powers to the cluster homeowners associations thereof, those powers granted to such cluster associations shall not be deemed superceded by these amendments and the powers of the individual cluster homeowners associations shall coexist concurrently with those of The Woods Homeowners Association. Otherwise, the Woods Homeowners Association is given the authority for the enforcement of these amendments throughout The Woods together with such authority as it enjoys under existing covenants.

AUTHORITY

In accord with the general scheme of development as set forth in the original set of covenants for The Woods, dated April 1976, and recorded on June 22, 1976 in the Office of the Clerk of the County Commission of Berkeley County, West Virginia in Deed Book 297 at page 1 and in the set dated May 1987, and recorded in said Clerk's Office on September 8, 1987 in Deed Book 420 at page 509, said restrictive covenants may be amended after September 2001, and September 8, 2002, respectively, by an instrument signed by the owners of two thirds (2/3) of the Lots agreeing to the change. Said provisions require, however, that notice of the proposed change must be sent to every owner not less than ninety days prior to the proposed action to be taken, and that the proposed change must be recorded three (3) years in advance of the effective date of the proposed change.

EFFECTIVE DATE

These amended and supplemental covenants shall be effective on the third anniversary date subsequent to their recordation in the Office of the Clerk of the County Commission of Berkeley County, West Virginia.

APPLICABILITY

These amended covenants shall apply to all sections of The Woods existing or hereinafter developed, provided, however, that in the event that one or more of the provisions hereof shall be less restrictive than the existing covenant applicable to any section within The Woods, such specific and more restrictive covenant shall remain enforceable and unaffected hereby except where herein it is otherwise expressly provided and the balance of these covenants shall nonetheless remain applicable and enforceable in such section. All existing covenants which are not addressed herein shall likewise remain in full force and effect. The adoption of these covenants shall not be construed so as to interfere with the privilege of any cluster association to subsequently adopt specific covenants addressing matters not addressed herein or which establish more restrictive standards than those addressed herein. All lot occupants are subject to these covenants and all lease agreements shall be subject to these covenants. Notwithstanding any lease agreement or other agreement to the contrary, the obligations of the lot owners shall be joint and several with those of their occupants.

ENFORCEABILITY

The rights and privileges of enforcement which inure to the benefit of both the Association and to the owners of lots by virtue of these covenants shall not be construed as mandatory so as to require the Association to take action against any lot or lot owner or tenant. Any failure to enforce any one or more of these provisions shall not be deemed a waiver of such rights of enforcement nor for subsequent enforcement.

SEVERABILITY

If any provision of these covenants shall be held invalid, its invalidity shall not affect any other provisions hereof that can be given effect without the invalid provision, and for this purpose the provisions of these covenants are hereby declared to be severable.

ARTICLE II

SUPPLEMENTAL AND AMENDED COVENANTS AND CONDITIONS

SECTION 1. LOT MAINTENANCE

Each lot owner, his successors and assigns, shall be individually responsible for the maintenance of his home and lot and for requiring that the activity thereon shall conform to the restrictive covenants.

No junk, rubbish or trash and garbage shall be kept or stored upon any residential premises except temporarily in enclosed containers or approved structures and the same shall be maintained free from man-made debris and unsightly conditions. The outdoor storage of building materials except for during reasonable periods of active construction and outdoor placement of indoor

furniture are examples of conditions that shall be deemed unsightly. Lots must be maintained free from conditions that create nuisances in the subdivision.

Owners of substantially wooded lots shall not cut or remove trees, except for the following purposes: to construct buildings, driveways, walkways and gardens, to remove dead, injured or diseased trees, and to conservatively thin forested areas, including the improvement of views.

Owners of substantially open lots shall maintain ground covering sufficient to prevent significant erosion. Grass shall be mowed with the frequency necessary to prevent unsightly appearance and in no case shall grass or weeds exceed 8" in length. Lot owners are responsible for the maintenance of adjoining easements, drainage ditches and that portion of adjacent real estate adjoining the paved portion of roads. Mulching shall be permitted but no lot owner shall mulch or otherwise maintain his lot in a manner so as to interfere with the drainage patterns established at final grading of the property, or so as to obstruct water meters, block drainage ditches or create a fire hazard.

It shall be the responsibility of every owner of every lot on which any part of an open storm drainage ditch or swale is situated to keep such portion of his lot continuously unobstructed and in good repair.

The owner shall keep the improvements upon his lot in good repair in order to prevent the existence of any unsightly condition that reasonably tends to detract from or diminish the aesthetic appearance of the development. Owners shall be specifically responsible for the painting (or other appropriate external care) of all buildings and structures on the lot in a manner and with such frequency as is consistent with good property management and maintenance. Improvements which have been partially or totally destroyed by fire or act of God shall not be permitted to remain in such condition for more than ninety (90) days from the time of such destruction or damage.

In the event that an owner fails to maintain his home or lot in accord with this section, The Association, not less than ten (10) days after giving notice of the violation(s) and its intentions, through the U.S. Mail, return receipt requested, at the address of the subject lot, or at such other address as the lot owner shall have provided in writing to The Association, shall have the right to enter the lot for the purpose of performing necessary work to correct the failure, such as mowing the lawn and performing necessary clean up work or repairs, including the removal of junk, trash and rubbish, and to assess the owner for all costs so incurred. Said assessment shall constitute a lien against the lot which The Association shall have the right to perfect by recordation and to proceed to suit and judgment for said costs, plus all reasonable costs of collection including attorney fees and expenses incurred in the collection of such assessment.

SECTION 2. COMMERCIAL USES

No grantee or grantees, under any conveyance, nor purchasers, shall at any time conduct or permit to be conducted on any residential lot any trade or business of any description either

commercial or noncommercial, religious or otherwise, including, but not limited to, day schools, nurseries, or church schools. *Provided, however, that home offices which do not involve on-site physical traffic of patrons or customers shall be permitted.* Except for during reasonable periods of active construction, no commercial trucks, vans, tractors, or truck-type tractors or trucks exceeding three quarters (3/4) ton shall be kept, maintained, stored or parked upon the said premises or adjacent streets or except as permitted for motor homes and camper trailers. No advertising signs or billboards of any kinds may be erected or maintained upon any residential lot or upon the street in front of such lots, except for reasonably sized and lettered address signs or "For Sale" signs.

SECTION 3. ARCHITECTURAL CONTROL

The Board of Directors of The Association is authorized, when and if it deems it necessary, to establish an Architectural Control Committee (ACC). Once the ACC is established, the Board of Directors shall propose certain guidelines and standards known as "Architectural Guidelines" to be used in considering whether to approve or disapprove plans for improvements. "Plans for improvements" to a lot shall be deemed to include, but not be limited to, plans and specifications for construction and/or improvement or modification of exterior improvements upon any lot within The Woods *and shall thereafter be submitted to the Board of Directors of the Woods Homeowners Association or its duly appointed Architectural Control Committee for approval.* Such application shall be made on forms provided by The Association which shall establish written procedures for processing same. Any review by an architectural committee shall be subject to appeal to the Board of Directors of The Association in accord with the procedures to be established by said Board. *Provided, however, that such approval shall only be reasonably withheld where specific reasons are given, but shall not be granted by The Association or by the Committee if the proposed construction would violate the set back limitations or any other provisions contained in these covenants or would be incompatible with the character and nature of the community.*

In addition to such specific standards, guidelines and procedures as the ACC shall establish, the following rules shall apply to all lots:

- A. All structures on a lot and their texture and color shall be architecturally compatible with other structures on a lot as well as with the community as a whole.
- B. Propane and other above ground tanks, solar devices, chimney flues, hot tub pumps, swimming pool pumps and filtration systems, satellite dishes, and similarly exposed mechanical equipment, shall be aesthetically concealed from view on all sides and shall be shielded in such a manner as to minimize noise and safety risks, to the extent technically feasible. Swimming pools constructed after the date of the approval of these amendments by the Board of Directors as hereinafter set forth, shall not be supplied with water from the Woods public water utility. This provision shall exclude small temporary child wading pools.

SECTION 4. NEW CONSTRUCTION

- A. Construction. No lot shall be used for storage of materials for a period greater than thirty (30) days prior to the start of construction. Construction shall proceed diligently and shall be complete within nine (9) months of commencement. Owner is responsible for maintaining a neat and orderly construction site. No dwelling constructed on any lot in the development shall be occupied or used for residential purposes or human habitation until the owner has received a certificate for occupancy by the appropriate governmental agencies. Every dwelling constructed must contain a heating plant capable of providing adequate heat for year-round human habitation.
- B. Grading and Landscaping. Each lot shall be finish graded to drain in a manner that will resist erosion on adjacent lot(s). Owners are prohibited from accumulating or otherwise concentrating rainwater and discharging it in a way that causes damage to an adjacent property. This provision shall not restrict an owner's right to discharge water in its natural, historical direction of flow. Within nine (9) months after the completion of a dwelling or other improvement, those portions of the lot not covered by such building or buildings shall be placed in a neat and orderly condition, free of uprooted stumps and other debris. Any areas of said lot not so covered which were bared of their natural growth during construction shall be covered with established grass, plants or other ground cover.
- C. Utility Connections. All electrical service from the main service in the subdivision, all cable television, telephones and other wired services to each residence must be underground where underground service is available.

SECTION 5. VEHICLES

No boat, boat trailer, house trailer, horse trailer, unlicensed automobile or recreational vehicle, truck exceeding three quarter (3/4) ton, or commercial vehicle, except in a routine course of services and deliveries to such residential premises, or any part thereof shall be stored or permitted to remain on any residential lot unless the same is stored or placed in a garage or fully-enclosed space, and except for temporary storage for a period not to exceed thirty (30) consecutive days in duration, with such temporary occurrences not to exist more than three (3) times in any one calendar year. Recreational vehicles stored on the lot in accordance with this exception may not be occupied. Provided, however, that at such time as the developer or The Association shall provide an approved parking area for campers and motor homes, then utilization of such parking area for such purposes of storage shall be permitted. Vehicles shall be maintained and operated so that they do not emit loud noises. No disabled, unregistered or non-working vehicles may be kept outside of a structure. Such vehicles that are not capable of performing their designed function shall be kept in an enclosed structure. All vehicles must be parked so as not to impede traffic or damage vegetation. No unlicensed vehicles shall be permitted upon the roads which are maintained by the Association.

SECTION 6. NOXIOUS, ILLEGAL OR OFFENSIVE USE

No noxious, illegal, or offensive use of property shall be permitted on any lot, nor shall anything be done thereon that may be, or become, an annoyance or nuisance to the neighborhood. Excessive noise that intrudes upon the peaceful enjoyment of a resident's property is not permitted.

SECTION 7. HAZARDOUS USES; WASTE

Nothing shall be done or kept on the properties which will increase the rate of insurance applicable for permitted uses for other lots or the common areas or any part thereof without prior written consent of the Board of Directors, including, without limitation, any activities which are unsafe or hazardous with respect to any person or property. No person shall permit anything to be done or kept on the properties which will result in the cancellation of any insurance on any other lot, or the common areas or any part thereof or which would be in violation of any law, regulation or administrative ruling. No vehicle of any size which transports flammable or combustible or explosive charge may be kept or driven on the common areas or on any lot area at any time, except in the case of vehicles carrying flammatory materials to be used in licensed and authorized construction, blasting and lawful fireworks displays, propane tanks and other like substances reasonably and customarily necessary for the full use and enjoyment of residential real estate. Each owner shall comply with all Federal State and local statutes, regulations, ordinances, or other rules intended to protect the public health and welfare as related to land, water, groundwater, air or other aspects of the natural environment (the "Environmental Laws"). Environmental Laws shall include, but are not limited to, those laws regulating the use, generation, storage or disposal of hazardous substances, toxic wastes and other environmental contaminants (Collectively, the Hazardous Materials"). No lot owner shall knowingly use, generate, manufacture, store, release, dispose of or knowingly permit to exist in, on, under or about such owner's lot and the common areas, or any portion of the properties, or transport to or from any portion of these properties any Hazardous Materials except in compliance with the Environmental Laws. No waste shall be committed on the common areas.

SECTION 8. EMISSIONS

There shall be no emissions of dust, sweepings, cinders, odors, gases or other substances into the atmosphere except for normal residential chimney or BBQ grill emissions and properly operated motors used in the ordinary course of residential living.

SECTION 9. CLOTHES LINES

There shall be no outside laundering or drying of clothes, except inside fenced patios with clothes to be hung below fence level so as not to be visible from streets or common areas or other units.

SECTION 10. DOMESTIC ANIMALS

The maintenance, keeping, boarding or raising of livestock, ducks, geese, and chickens or other farm animals shall be not be permitted in The Woods. No domestic animals or pets shall be permitted which pose a risk to human health and safety or to the safety of other pets which are properly maintained within The Woods. All pets must be maintained at all times so that they do not create a nuisance for any other property owner. Dogs must be confined to the owners' premises or maintained on a leash at all times. The persistent disturbance created by pets such as the persistent barking of a dog shall not be permitted and may constitute a nuisance for purpose of this covenant. No lot shall be used for the accumulation and/or harboring of pets in a manner that constitutes or creates a nuisance. This covenant shall supercede existing covenants regarding domestic animals but this provision shall not be construed so as to preclude the subsequent adoption of provisions in cluster sections which are more restrictive than is this section. All pets shall be licensed and vaccinated in accordance with State laws.

SECTION 11. RENTALS

In the event an owner leases his residence, the owner has an affirmative duty to notify the tenant of the existence of a homeowners association and to provide a copy of all covenants and restrictions to such tenant.

SECTION 12. NOTICES

All lot owners shall be required to provide to The Association their current mailing address. Utilization of the address supplied to The Association, or in the absence of same, of the address to which assessments are mailed for said lot, shall constitute the legal address for the purpose of any notice required pursuant to all restrictive covenants applicable to said lot.

In the event that any lot is occupied by tenants, the owners shall be responsible for insuring that The Association is provided the identity of the tenants and their mailing address. The owners of all lots shall notify any tenant occupying their premises of the joint obligations of both owner and tenant to provide The Association with the identify of all tenants and their addresses. Provided, however, that this requirement shall not be construed so as to require that tenants also be notified of a violation of any covenant where notice is duly provided to the owner(s) of same as herein provided.

SECTION 13. LIEN FOR ENFORCEMENT

In the event that The Association shall reasonably incur expenses, costs, and/or attorney fees in the enforcement of any one or more of these covenants against any lot owner, such costs and expenses may be assessed by The Association against the owner or owners of the subject lot in violation and said assessment shall constitute a lien against the lot which The Association shall have the right to perfect by recordation and shall have the right to proceed to suit and judgment for said

costs, plus all reasonable costs of collection including attorney fees and expenses incurred in the collection of said assessment.

SECTION 14. BINDING ON SUBSEQUENT OWNERS

These covenants shall inure to the benefit of all lot owners within the Woods, including Potomac Valley Properties, Inc., the developer and its heirs and assigns, and the rights of enforcement of these covenants shall be held by The Association concurrently with the rights of enforcement by any lot owner including Potomac Valley Properties, Inc. These covenants shall run with the land and bind the heirs, assigns and grantees of all lot owners.

SECTION 15. AMENDMENTS

The provisions for amendment of the covenants at The Woods are hereby superceded by these provisions.

These covenants may be amended at any time by recordation of such amended covenants as adopted by the Board of Directors of The Association with the written consent of two thirds (2/3) of all lot owners who shall vote on a proposal for said amendment. Not less than thirty (30) days, nor more than ninety (90) days prior to the adoption of any proposed amendment by the Board of Directors of The Association, a copy of same shall be delivered to each owner of a lot within The Woods, provided, however, that depositing a copy of such proposed amendments in the U. S. Mail, postage prepaid, return receipt requested, to the address of any lot owner, as herein defined and provided, shall constitute the delivery thereof to same.

By the signature of the President of its Board of Directors, The Woods Homeowners Association, Inc., does hereby adopt this Amended Declaration and Amended Covenants this 17th day of March ~~2000~~ 2001.

The Woods Homeowners Association, Inc.,
a West Virginia Corporation

By: 

Garland Liskey

Its: President

