

SLEEPY HOLLOW LOT OWNERS ASSOCIATION, INC.

Policy Guidelines Regarding Lot Rentals

Statement of Board Authority

This Association, as successor to the developer of Sleepy Hollow Subdivision, is vested with the authority and duty of restrictive covenant enforcement for the development. Under West Virginia Code § 36B-3-102(1) the Association is empowered to adopt rules regarding the covenants. Under West Virginia Code § 36B-3-103(a), the Association's Board of Directors is authorized to act on behalf of the Association except where limited by the Declaration of Covenants or the Bylaws of the Association. The Bylaws of the Association as adopted on September 15, 1979, and June 25, 1985, do not limit the authority of the Board to adopt rules and, in fact, the Amended Bylaws adopted on May 15, 1997, Article IV, Section B.5. specifically empower the Board to "[a]dopt and publish Guidelines governing the use of Common Facilities by Members and their guests thereon."

Statement of Law Applicable to Sleepy Hollow Restrictive Covenants

The Board finds that the manifest purpose and intent of the covenants governing the lots in the Sleepy Hollow community, when properly read as a whole, is to preserve the character and nature of this development as a stable residential community, free from transient use and occupancy, free from commercial like activities and free from uses that may become an annoyance or tend to interfere with the security of lot owners in their property. The restrictive covenants are expressly designed to protect property values and amenities for the single-family dwelling use for which they were intended. Paragraphs 4, 5, and 6, of the said Declaration titled "Plats, Dedication and Restrictive Covenants" read, in pertinent part as follows:

"(4) No building of a temporary nature shall be erected or placed on any of said lots...", "(5) Not more than one residence shall be erected on any one lot..." and "(6) All of said lots shall be used for residential purposes only..."

In a recent (2021) decision of the Circuit Court of Morgan County, the Honorable Judge Debra McLaughlin presiding, the following finding was made regarding the restrictive covenants of Sleepy Hollow:

"Consistent with maintaining the residential character of the community, the covenants clearly prohibit the temporary or transient use of a lot for purposes other than residential occupancy in a permanent home or dwelling house."

Further the Court found:

"The unambiguous intent and purpose of the restrictive covenants is that Sleepy Hollow be developed and maintained as a residential community free from commercial and commercial like activity."

Clearly, homes that are rented out and/or occupied for use as a single-family permanent dwelling do not lose their single-family residential character. Were an individual to purchase a

lot for the sole or principal purpose of establishing it for hotel-like short term rental use, thus creating a commercial purpose instead of a permanent single-family residential use for the lot, such scheme would appear to violate the purpose and intention of the Covenants. Likewise, it has been determined that conversion of a home to a rooming house for rental of separate rooms is a violation of the single-family residential use covenant. See *Wallace v. St. Clair*, 147 W. Va. 377, 127 S.E.2d 742 (1962).

Statement of Board Policy Regarding Rental Units

This policy statement is designed to render the owners of units, together with their Renters, responsible for compliance with the restrictive covenants governing this development and with the House Rules For Renters accompanying these Guidelines. As used in this Policy Statement, "Rental," "Rentals" and "Renting" refers to the practice of permitting a third party or parties who are not closely related to the owner by blood or marriage, to occupy the owner's residence, with some form of compensation, either monetary or quid pro quo. Unit owners remain responsible to see that their guests and family members comply with the restrictive covenants and the applicable House Rules accompanying these Guidelines.

The Board recognizes that every lot owner enjoys the right to enforce the restrictive covenants. And, on occasion, a violation of a restrictive covenant may occur for which the Board does not deem it appropriate to expend Association resources. Nonetheless, a member or group of members may choose to bring an enforcement action for a violation of the Restrictive Covenants without the Association's participation.

Board's Position Statement On Prohibited Rentals

The Board of Directors finds that the purchase of a lot for the sole purpose of renting it out for short term, hotel like Rentals from day to day or week to week, will constitute a violation of the covenants. Moreover, the conversion of a unit from a single-family dwelling to a rooming house for rental of separate rooms will constitute a violation of the covenants. Wallace v. St. Clair, 147 W. Va. 377, 127 S.E.2d 742 (1962).

Regarding all other Rentals of units within the jurisdiction of the Association, the Board adopts the attached House Rules For Rental Units. All Rental agreements of lots, whether, oral or in writing, must be accompanied by a copy of the attached House Rules For Rental Units, which must be signed in agreement by at least one responsible third party occupying the unit. These Guidelines and the House Rules For Rental Units accompanying them shall serve to guide the covenant enforcement authority of the Association, its members and the Board of Directors. The Association shall post these Guidelines on its website and provide a copy of these Guidelines and the House Rules to any requesting owner and to any requesting Renter.

Enforcement

In accord with the restrictive covenants governing Sleepy Hollow of record, the Association may bring an action at law or in equity against any lot owner who violates the provisions of these Guidelines. Lot owners are responsible for the actions of those Renting their

units and are therefore subject to penalties for violations by Renters. The Association shall be entitled to recovery of its reasonable attorney fees and expenses in bringing such action.


In addition to the right of the Association to institute a court action for enforcement of these rules, the owner/member or members of the Association found to be in violation are subject to a fine in the amount of \$50.00 per day for each day in which the violation continues.

All fines and assessments for attorney fees incurred in the enforcement of these rules shall constitute a lien against the real estate of the owner/member(s) found in violation.

Certification of Adoption

I hereby certify that this Interpretative Rule Regarding Short Term Rentals has been duly adopted by the Board of Directors of this Association on the 24th day of October, 2022.

Attest:



President

SLEEPY HOLLOW LOT OWNERS ASSOCIATION, INC.

House Rules For Rental Units

- 1) All Lot owners and Renters of units must comply with these Rules including the Restrictive Covenants which are hereto appended.
- 2) All Lot Owners who Rent must provide their tenants with a copy of the restrictive covenants and these Rules to help ensure such compliance.
- 3) Tenants are expected to demonstrate the same respect for their neighbors and the neighborhood as should rightfully be expected of owners who occupy their residences, consistent with the restrictive covenants and the single-family residential character of the neighborhood.
- 4) Solicitations and invitations for Rentals through third party mediums and/or agents shall include reference to the fact that the Rental agreement will include house rules mandated by the Association.
- 5) The owners of Rentals will be jointly responsible together with their Renters to ensure that all occupants of the unit comply with the Restrictive Covenants and these House Rules For Rental Units.
- 6) The owners of Rentals are required to provide the Association with their current contact information, including an email address or a telephone number, at which they may be contacted by the Board or its designee in the event of a violation of the restrictive covenants or the House Rules For Rental Units.
- 7) When not on the property of the Owner/Tenant, dogs must be kept on a leash. Dog feces must be removed and properly disposed of. "Vicious dogs," and "Habitually Barking, Howling or Yelping Dogs" as defined by the Berkeley County Dog Ordinance adopted on August 1, 2010, ¹are declared a nuisance under the Restrictive Covenants.
- 8) The willful making or causing to be made continued loud, unnecessary and unusual noise which disturbs the peace and quiet of any neighbor or causes discomfort or annoyance to any neighbor and any violation of the Morgan County Noise Ordinance adopted on May 1, 2007, is declared to be nuisance activity prohibited by the Restrictive Covenants.
- 9) All Rentals must be serviced by contracted trash pick-up which is provided by Apple Valley Waste, the Public Service Commission's authorized trash service in the development. The Owners of Rental Units must secure an adequate number of trash containers and Renters must properly dispose of all trash in the containers provided and take any excess trash with them when they leave the unit.


¹ Editorial Note: Reference is made to the Berkeley County Dog Ordinance to define terms and resolve any dispute over the terms used herein. The Morgan County Dog Ordinance does not address these matters.

- 10) Tenants are expected to respect and comply with all posted rules governing the use of roads and Common Facilities.
- 11) Tenants must have a physical copy of a valid Lake Pass in order to access the lake. The owners of Rentals are responsible for obtaining Lake Passes (from the VP of Common Facilities or its authorized representative) and assuring same are returned to the Owner by the Tenant upon expiration of rental term.
- 12) Tenants must comply with all state and local statutes and ordinances concerning campfires, open burning, hunting, and firearms.

Certification of Adoption

I hereby certify that this House Rules for Rental Units has been duly adopted by the Board of Directors of this Association on the 24th day of October, 2022.

Attest:



President