

STEVEN PRUNTY  
BOWLES RICE McDAVID GRAFF & LOVE  
7000 HAMPTON CENTER STE K  
MORGANTOWN, WV 26505-1720

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**THIRD AMENDMENT TO**  
**DECLARATION OF COMMON INTEREST COMMUNITY**  
**FOR**  
**VILLAGE AT SLEEPY HOLLOW**  
**a residential Planned Community in**  
**Monongalia County, West Virginia**

THIS DECLARATION OF COMMON INTEREST COMMUNITY FOR VILLAGE AT SLEEPY HOLLOW, effective the 3rd day of May, 2010, by Sleepy Hollow Properties, LLC, a West Virginia limited liability company, (hereinafter referred to as "DECLARANT").

Whereas, Declarant has created that certain residential Subdivision known as Village at Sleepy Hollow, by Declaration of Common Interest Community for Sleepy Village at Sleepy Hollow by Declaration of Common Interest Community dated June 30, 2005, which is recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book No. 1297 at page No. 698, and also the First and Second Amendments thereto dated August 25, 2005, and January 25, 2007, which are recorded in Deed Book No. 1306 at Page No. 534, and in Deed Book No. 1334 at Page No. 10 (collectively including this instrument "Declaration"); and

Whereas, Phase I of the Subdivision is laid down, designated, described and depicted on that certain map or plat prepared by Potesta & Associates, Inc., dated April, 2005, and recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Map Cabinet D, Envelop 32A, which was amended with regard to Units 11 through 15, inclusive, by that certain map or plat prepared by Potesta & Associates, Inc., dated January 10, 2007, and recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Map Cabinet D, Envelope 90B; and

Whereas, Declarant reserved in the Declaration and also pursuant to WV Code § 36B, the Development Rights to: (i) add real estate to the Subdivision; and also (ii) to create Units, Common Elements and Limited Common Elements within the Subdivision; and

Whereas, Declarant identified in the Declaration certain real property which it reserved the right to dedicate, in whole or in part, to the Subdivision, and Declarant hereby dedicates a portion of said real property as Units, Common Elements and Limited Common Elements.

WITNESS, Declarant hereby dedicates and submits to the Planned Unit Development variety of Common Interest Community known as Village at Sleepy Hollow, Phase III, of the Subdivision as set forth laid down, designated, described and depicted on that certain map or plat prepared by Potesta & Associates, Inc., dated July 31, 2009, and recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Map Cabinet 5 Envelope 65A, which said map or plat is hereafter individually referred to as Map and collectively with the above referenced earlier maps or plats collectively referred to as "Plats". Phase III is comprised of eight (8) Units, Common Elements and Limited Common Elements as set forth and shown on the Map, and the total Subdivision, to date, is set forth and shown on the Plats as follows:

<b>Total acreage of parent tracts</b>	<b>68.497 Acres</b>
<b>Total acreage dedicated as Phase I</b>	<b>16.834 Acres</b>
<b>Total acreage dedicated as Phase III</b>	<b>7.83 Acres</b>
<b>Remaining parent tract acreage not dedicated as any Phase of Sleepy Hollow Subdivision but which may be dedicated as future Units</b>	<b>42.833</b>

<b>Number of Units in Phase I</b>	<b>15 Units</b>
<b>Total acreage of all Units in Phase I</b>	<b>14 Acres</b>
<b>Total acreage of Common Elements in Phase I</b>	<b>2.83 Acres</b>
<b>Total acreage of Limited Common Elements in Phase I</b>	<b>0</b>

<b>Number of Units in Phase III</b>	<b>8 Units</b>
<b>Total acreage of all Units in Phase III</b>	<b>4.77 Acres</b>
<b>Total acreage of Common Elements in Phase III</b>	<b>3.86 Acres</b>
<b>Total acreage of Limited Common Elements in Phase III</b>	<b>0 Acres</b>

The Sewage Treatment Facility situate in Phase I, on Common Element B, is a Limited Common Element allocated to Units 7 through 15, inclusive in Phase I and all 8 Units in Phase III. All Common Elements are allocated equally to all Units in all Phases. Declarant reserves the right to create not more than 200 total Units in all phases of the Subdivision. The final Common Expense liability and Limited Common Expense liability for each Unit will depend on the total number of Units created by Declarant and the extent to which Limited Common Elements are dedicated. Final Common Expense Liability and Limited Common Expense Liability will not be determined until all Units in all Phases, present and future, are dedicated.

Unit Owners can determine their allocated interests by the formula that an allocated interest is equal to a fraction wherein the numerator is one (representing one Unit) and the denominator is a number equal to the total number of Units in the Subdivision. Likewise, any Limited Common Expense liability is allocated by the formula that an allocated interest is equal to a fraction wherein the numerator is one (representing one Unit) and the denominator is a number equal to the total number of Units entitled to utilize the Limited Common Element (total Units to which the Limited Common Element is allocated).

**Table of Common Expense and Limited Common Expense Allocations, Phases I and III:**

Unit	Phase	Cost of Common Elements (roads, etc.)	Cost of Limited Common Element (Sewage Treatment Facility)
Units 1-6	I	Allocated (1/23 each)	Not Allocated
Units 7-15	I	Allocated (1/23 each)	Allocated (1/17 each)
Units 1-8	III	Allocated (1/23 each)	Allocated (1/17 each)
<b>Total Units to which cost is allocated</b>	<b>All</b>	<b>23 Units</b>	<b>17 Units</b>

The Declaration is hereby amended in part with regard to the following provisions, as set forth below:

**VIII COMMON ELEMENTS/EXPENSE ALLOCATIONS:**

2. Parks: The park referenced in Section VIII(2) of the Original Declaration is Common Element B, shown on the Maps or Plats. All Common Element tracts of land which are not roadways are allocated to all Unit Owners and which must be completed by the Declarant. The Declarant may transfer ownership and maintenance obligations for one or more park area to the Association at any time. The Treatment System Limited Common Element is improvements to land only and is allocated to only the Units benefitted by same.

**X CONSTRUCTION STANDARDS:**

All Building Construction Standards or "BCS" set forth in the Declaration are applicable to all Units in Phase III, except as set forth below:

- 7. No dwelling may be constructed more than three (3) stories above ground at any point and the front of each dwelling shall not be constructed more than two (2) stories above ground. For the purpose of this document, the ground level or ground floor of any dwelling shall be the lowest level or floor which contains a "walk-out" exit or doorway. The BCC is vested with absolute and unilateral discretion to make final determinations as to which floor or level of a dwelling is the ground level or ground floor. No Patio-Home may be constructed more than one and two (2) stories above ground.
- 8. No dwelling, except Patio-Homes shall contain less than **Two Thousand (2000)** square

feet, of total finished living area. For the purpose of calculating "finished living area" walk-out basements which are finished with dry-wall may be included in area calculations but non-walk-out basements, porches, decks and finished garages may not be included in such calculations. Provided, however, that in the event Patio-Homes are constructed in any one or more Phases of the Subdivision, no Patio-Home dwelling shall contain less then **One Thousand Four Hundred (1,400)** square feet, of total finished living area.

10. The construction set-backs are the following number of lineal feet from as follows:

	Minimum distance from the Unit front boundary(s)	Minimum distance from the Unit rear boundary(s)	Minimum distance from the Unit side boundary(s)	Minimum distance from any boundary which is also the perimeter of the Subdivision	Minimum distance from any Unit boundary abutting a Road or Common Element
PHASE I	50 feet	15 feet	15 feet	25 feet	25 feet
PHASE III	10 feet	10 feet	10 feet	10 feet	10 feet
Future Phases	To be determined	To be determined	To be determined	To be determined	To be determined

To the extent that more than one of the above set-backs are applicable in any location, the greater number shall apply absent written variance or contrary approval by the Association.

**NOTE-** the easements reserved are 10 feet along all property lines. As a result, when there is a greater set-back, there is a lesser easement. Thus, no change to easement language.

12. The exposed exterior wall surfaces of all buildings shall be of either masonry construction, wood, or attractive vinyl siding with not less than ten (10%) per cent of the exposed front facing of each dwelling being "Masonry Construction". Specific and appropriate variances to this requirement may be granted on a Unit basis under special circumstances, depending on the style, location, size, character and over-all post construction esthetics of the dwelling at issue. Synthetic sidings such as "Hardy Plank" are permitted. "Masonry Construction" shall be limited to that of brick, drive type material, stucco or natural or cultured stone. No building or other improvement shall have concrete or cinder blocks or concrete masonry exposed in any manner.

17. BCC shall establish standards for the size, color, style and appearance of all mailboxes and the structures to which same are mounted and those standards may vary between Phases. Mailboxes for any Phase or Phases may, in accordance with United States Postal Service requirements be: (a) single box per Unit; (b) grouped boxes within a Common Element roadway or easement benefitting multiple Units; or (c) cluster boxes situate on a Common Element or easement benefitting multiple Units. Mailboxes may not be removed, relocated, painted or otherwise modified without the prior written consent of the Building Control Committee. All mailboxes shall be maintained in good condition by the Unit Owner at all times (except for Cluster Boxes which will be maintained by Association and/or United States Postal Service) and Declarant reserves from each Unit an easement for the Association and/or its agents or employees to enter onto each Unit for the purpose of repairing and/or replacing mailboxes and the structure on which same are mounted. In the event Declarant or Association shall establish one or more uniform mailboxes or mounting systems for uniform mailboxes, non-conforming mailboxes and mountain systems shall not be permitted.
18. The Owner of each Unit in any Phase shall install natural gas lights or dusk-to-dawn photo-sensitive decorative electric lights. The Association is vested with exclusive authority to determine the size, height, color, style, design, bulb style and wattage of all such lights. The decorative lights must be maintained in working order by the owner of each unit and all lights must be approved by the Association. The decorative lights may not be removed, relocated, painted or otherwise modified without the prior written consent of the Building Control Committee. All such lights shall be maintained operational by the Unit Owner at all times to assure safety and visibility in the Subdivision. The Declarant reserves from each Unit an easement for the Association and/or its agents or employees to enter onto each Unit for the purpose of replacing light bulbs or repairing the dusk to dawn lights which such right may be exercised by the Association, at the cost of the Unit Owner, upon not less than five (5) days written notice. Declarant may, at Declarant's option, install Common Element lighting in Patio-Home Phases in lieu of a requirement that Patio-Home Units maintain on-Unit lights pursuant to this provision. Prior requirements that lights be part of a mailbox mounting system are no longer applicable due to changes in United States Postal Service regulations.
20. No Unit may contain any attached garage which accommodates more than three passenger vehicles and no detached garage may accommodate more than two passenger vehicles. The maximum foot print of the foundation of any detached garage shall not be greater than 700 total square feet in area.
24. Declarant shall provide public natural gas service to each Unit. No Unit may be serviced by any fuel tank or similar fuel storage receptacle. The fuel used in the dwelling or other structures shall be of the smokeless-type; however, so-called fireplaces and/or wood stoves, in which wood is used as a fuel shall be excepted from this provision. No such fire-place or wood stove may, however, produce any fume, smoke or affluent which is an unreasonable nuisance or annoyance to the Subdivision. Wood stoves, fire-places, fire-pits, barbecue pits and wood burning appliances and/or devices are not permitted on the exterior of any Unit absent prior

written consent of the BCC.

25. Above-ground swimming pools are not permitted in the Subdivision. In-ground or below-ground swimming pools must be properly fenced and secured at all times. All lots containing swimming pools must carry additional liability insurance in an amount deemed adequate by the Association.
28. In order to maintain the rural and wooded character of the Subdivision, no tree may be removed from any Unit or common element without the prior written consent of the BCC. Trees which measure ten (10") inches or greater in diameter at the base, which stand beyond a fifteen (15') foot perimeter of any structure or proposed structure shall remain, unless they create a hazard or potential hazard to any one or any property within the Subdivision or adjoining lands. For the purpose of this paragraph, driveways, decks, walkways, patios and porches are to be considered as structures.
33. All Unit Owners who construct a dwelling on any of the Units of the Subdivision after the paving of the streets of said Subdivision has commenced, shall deposit with the Association a construction bond in an amount equal to the sum of **One Thousand Dollars (\$1,000.00)** or cash equivalency (as calculated on a U. S. Dollar value basis for the year 2009) to pay for the cost of any damage that might be done to the streets, flora or utilities by the owners or their contractor in the process of constructing and landscaping the Units. In the event that any damage is caused to the streets by said Unit Owners or their contractor, then the Association shall repair said damage deducting the cost of such repair from said deposit and shall refund the balance thereof to Unit Owners, if any. The Association may make reasonable concessions to the construction bond requirement with regard to any individual or entity constructing multiple Patio-Homes on multiple Patio-Home Units. For the purpose of this provision, no land is subject to the construction bond requirement until after the land is dedicated as a Unit by this document or an amendment to this document, and if construction commences prior to such dedication, no construction bond may thereafter be required with regard to construction which commenced prior to dedication. ***The Declarant has expressly reserved the right to approve any and all builders who construct dwellings in the Subdivision. All Units are conveyed by Declarant subject to this right of approval which applies only to the initial construction of any dwelling. Declarant's approval right is predicated on Declarant's desire to maintain character and quality of construction and to assure compliance with the Declaration. In the event that Declarant, for any legitimate business purpose should deny approval of any Builder, the Unit Owner shall have the option to proceed to utilize the services of such Builder after posting a Bond with Declarant in the amount of ten (10%) per cent of the construction value of the Unit to assure compliance with the Declaration, BCG and Rules and Regulations of the Association.***
35. If approved by the BCC, Fences are permitted in the Subdivision subject to the following limitations:
- a Stone fences, wood fences and synthetic fences which have the appearance of

wood or stone are permitted but hurricane, non-ornamental metal fences, chicken-wire, hardware cloth and other metal fences are not permitted;

- b No portion of any fence may be constructed more than six (6) feet in height from grade;
  - c Fences must be located on the rear or side of the dwelling and no fence may be located nearer to the front of the Unit than the center of the dwelling thereon;
  - d No fence more than three (3) feet in height may be located within any set-back without prior written consent of the owner of the Unit which abuts said set-back;
  - e No fence may deny the Association or Declarant access to the easements and rights-of-way reserved to the Association and/or Declarant and neither Declarant nor Association shall be liable for any damage, cost or injury incurred in the removal of all or any portion of an approved or unapproved fence in the event that the same is located on, over or across any right-of-way or easement reserved to Association or Declarant herein.
  - f The owner of the Unit on which the fence is constructed shall be liable for the proper maintenance, upkeep, construction and placement of the fence at all times.
36. No deck shall be constructed on the front of any dwelling, nor higher than the main floor of the dwelling and under no circumstance shall any deck be built more than fourteen (14) above ground.
38. Declarant and BCC each reserve the right to designate the position and facing of any dwelling constructed on any Unit. With regard to any Unit which is contiguous to more than one street in the Subdivision, BCC and Declarant may designate which street the dwelling faces and which street the driveway servicing the dwelling intersects. Each the dwellings shall face the direction specified below, and the driveway servicing each Unit intersect only the roadway specified below:

Phase I Unit	Front of dwelling shall face the following road	Driveway shall intersect/connect to the following road
1	Horseman's Trail	Irving Court
2-5	Irving Court	Irving Court
6	Horseman's Trail	Van Tassel Court or Irving Court but not both
7-14	Van Tassel Court	Van Tassel Court

Phase III Unit	Front of dwelling shall face the following road	Driveway shall intersect/connect to the following road
All	Kingsland Circle	Kingsland Circle

## **XV ASSOCIATION FINANCIAL MATTERS, BUDGET AND RECORDS:**

2. Financial Needs/Basis for Budget: The Annual Budget shall be based on the actual anticipated financial needs of the Association. Matters which may be included in the Association's annual budget include, but are not limited to the costs of: (1) property taxes for the Common Elements; (2) Association business licensing and registration fees and the cost of other governmental filings; (3) insurance; (4) snow removal; (5) preventative maintenance, repair and upkeep of the roadways, drainage systems and Common Elements; (6) legal fees, accounting fees and auditor fees; (7) improvements to Common Elements specifically including the Sewage Treatment Facility (both with regard to annual operation and long-term maintenance, upkeep and replacement costs; (8) operational expenses such as mailings, notices, record keeping and maintenance of accounts; (9) periodic inspection of drainage systems and utility systems by qualified professionals; (10) mowing and trimming of vegetation in and on the Common Elements; and (11) budget preparation expenses.

3. Association Accounts: The Association shall maintain the following bank or investment accounts which said accounts shall not be co-mingled and all such accounts shall require signatures of not less than two Officers or Directors for any disbursement or withdrawal:

A. Operating Account: The operating account is the fiscal account from which the Association shall pay its daily expenses. The Operating Account is funded with revenue including Annual Assessments and interest accrued thereon, and receipts from fines and penalties. Any excess funds remaining in the Operating Account at the end of a fiscal year shall be transferred, within four (4) months after the end of the operating year to the Capital Account. The four (4) month delay is intended to permit the Operating Account to be funded by payment of subsequent year's Annual Assessments.

B. Capital Account: The capital account is a the fiscal account from which the Association shall accumulate funds for, and when appropriate pay for, long term capital expenses such as future paving, drainage system repairs and other reasonably certain significant expenses such as replacement of improvements to the Common Elements and Limited Common Elements (e.g. future repair, replacement and maintenance and upkeep of the Sewage Treatment Facility). All monies held in the Capital Account are held on account of individual Units as a credit for future reasonably certain expenses. Funds held in the Capital Account may be transferred to the Operating Account as a credit to the individual Units and in lieu of a Special Assessment in the event of unforeseen operating expenses which exceed the sums budgeted by Association during any fiscal year. The Capital Account is funded with: (1) excess sums remaining in the Operating Account at the end of any fiscal year; (2) Special Assessments for capital expenses; (3) Annual Assessments for capital expenses; (4) Initial Membership Deposits; and (5) Voluntary Capital Contributions by Declarant. Nothing herein shall be deemed to limit or prohibit investment of the Association's capital funds in reliable

sources which are reasonably certain to generate revenue greater than interest paid on bank accounts.

**XVI ASSOCIATION - ASSESSMENTS, FINES, AND FEES:**

1. Annual Assessment for Common Expenses:

G. Minimum Annual Assessment: The minimum Annual Assessment for Common Expenses is, at the execution hereof, is Three Hundred Dollars (\$300.00) and the minimum Annual Assessment shall never be less than the original amount. The minimum Annual Assessment for the Limited Common Expense for operation of the Sewage Treatment Facility is \_\_\_\_\_, and shall never be less than the original amount. Unless specifically increased during any given year by the Association Board of Directors, the minimum Annual Assessment shall increase each year by a percentage equal to the increase in the average variation in the Consumer Price Index for All Items in the Pittsburgh, Pennsylvania, region as computed and reported by the U.S. Department of Labor or its successor, but under no circumstance shall the annual increase be less than two and one-half (2.5%) percent. During the period of Declarant Control, the Annual Assessment for Common Expenses may not exceed **Three Hundred Dollars (\$300.00) per year** absent Declarant's prior written consent.

**XVII ASSOCIATION LIENS:**

3. Limitation on Liens: A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the assessments becomes due. This limitation shall, however, only apply to the lien against real property and shall in no manner restrict the limitations period applicable to the underlying obligation. Notwithstanding anything herein to the contrary, the Association may not perfect a lien against any Unit owned by Declarant for any actual or perceived breach of obligation by Declarant as a declarant. Association may perfect liens against Declarant owned Unit for any breach of duty by Declarant as a Unit Owner rather than as a declarant.

Witness this 5th day of May, 2010:

Declarant: Sleepy Hollow Properties, LLC, a West Virginia limited liability company,

By: Suzanne M Riddle

Its: Member

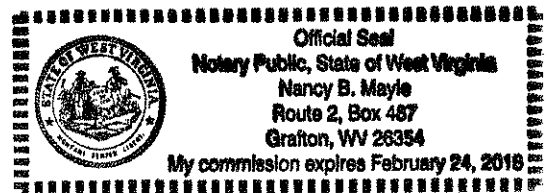
STATE OF WEST VIRGINIA,

COUNTY OF MONONGALIA, to-wit:

This instrument was acknowledged before me, the undersigned Notary Public, this 5th day of May, 2010, by Susan M. Riddle, in her capacity as Member of Sleepy Hollow Properties, LLC, a West Virginia limited liability company.

My Commission Expires: 2/24/2018

Nancy B. Mayle  
Notary Public



This instrument prepared by Steven M. Prunty  
Bowles Rice McDavid Graff & Love, LLP  
7000 Hampton Center Suite K  
Morgantown, WV 26505