

# LAKE OF THE WOODS HOMEOWNERS ASSOCIATION

April 2026 Newsletter – Part 3 of 6

## A Focus on the Proposed Amended and Restated Declaration

This is the third of a six-part newsletter focusing on different aspects of the process of soliciting membership approval of the proposed revisions of our current Declaration and current Code of Regulations (*i.e.*, “Bylaws”). This installment focuses on the proposed rewrite of the current Association Restrictions and Covenants, now to be known as the “Amended and Restated Declaration of the Restrictions and Covenants (‘the Declaration’).

### Why “Amended and Restated”?

As previously detailed in Part 2 of the April newsletter focusing on the proposed rewrite of the Bylaws, if amendments are isolated to a few parts of an instrument, the amendment(s) usually will be presented in an “amended” or “modified” instrument. Our current Declarations are rewritten, not merely amended. Legally, such a rewrite is labeled as an “amended and restated” instrument.

### Top End View of the New Declaration

Although there are two Ohio statutes that relate to a homeowners’ association’s declaration, the most pertinent is the Ohio Planned Unit Community Act (Chapter 5312 of the Ohio Revised Code) governing planned unit communities like ours.

If you are interested in ready access to Chapter 5312 (16 sections), you can follow this link: <https://codes.ohio.gov/ohio-revised-code/chapter-5312>

Whereas the bylaws of an organization are generally considered to be similar to the U.S. Constitution, the declaration of an association organized under Chapter 5312 will lay out the “laws” or “rules” that are followed by a homeowners’ association. Chapter 5312 specifically allows homeowners’ associations to have specific powers and adopt a wide range of rules. In fact, that statute lists an array of powers and rules that apply to all associations in the state unless an individual association adopts changes tailored to the specific needs and interests of the members of that association. Because many of the Chapter 5312 provisions are more onerous, restrictive, or broad than we need for our Association, the trustees have worked with the Association’s counsel to narrow or shape those provisions in the proposed Amended and Restated Declaration to fit our community’s needs.

Several parts of Chapter 5312 address assessments, costs associated with enforcement of the Declaration, liens, and compliance issues. These topics are not well covered in the 1984 version under which we currently operate. Based on our “Town Hall” meeting, these topics generated significant confusion among the members and prompted many of the comments and questions the trustees received afterward. Accordingly, the Board will address these topics separately in Part 4 of the

April newsletter. Rest assured, however, that the members' concerns have been taken into account.

### This Newsletter Format - What Changes Are in the Offing

The format of this Part 3 will first list the items included in the original 1984 Restrictions and Covenants followed by the corresponding reference (if any) now included for that topic in the proposed Amended and Restated Declarations (typed in *green bold italicized text*). Following that section, a short description of any *new* provisions allowed by Chapter 5312 that appear in the proposed document is included.

References are generally included to identify where in the new document this information can be located. It is recognized that at the time this newsletter is published, the new documents may not yet be available. So, this newsletter will serve as a *preview* of sorts of the draft of the Amended and Restated Declaration the members will be asked to approve. (The latest draft of the Declaration has not yet been approved by the trustees for referral to the Association's counsel for final evaluation and approval, but this newsletter will summarize the principles the trustees are following as this document is finalized.)

Members should note that not all topics from the original Declaration of Restrictions and Covenants are included in this newsletter. Instead, only those topics related to the most pertinent rules are included. Omissions include topics such as Dwelling Requirements, Lot Restrictions, or rules that applied originally to the Developer, but not to the Architectural Review Board.

### Increased Flexibility and Accountability

The trustees are promoting more flexibility and direct accountability to the members under the new Declaration. One example would be in the process of amending the Declaration. Currently, an affirmative vote of majority of the voting power of the Association would be required only through votes cast *at a members' meeting* where at least 43 lots are present in person or by proxy. With the new Declaration, that threshold would remain the same (only requiring a majority approval), but an option would be added to approve amendments by written consent given outside of a meeting: *“Owners entitled to exercise at least a majority of the Association’s total voting power must consent to the amendment in person or by proxy at a meeting of the Members or by means of a writing returned to the Association by regular mail, hand delivery, electronic mail, or other method of delivery provided for or permitted under state law.” Reference: Amendments, Article XI, Section 1.*

### Comparing Select 1984 Restrictions and Covenants With the Proposed Rewrite

The 1984 version provides that the following uses and activities are prohibited under Subpart C of Part 1 of the current Declaration:

1. Industrial or manufacturing uses of any kind;
2. Commercial or agricultural uses;
3. Drilling or operating oil or gas wells; and
4. Mining or extraction of any minerals, including the removal of sand or gravel.

*Similar wording: Lot Restrictions, Section 2(s) for all four of these topics.*

5. The keeping, raising, and harboring of cattle, swine, fowl, livestock, other farm animals, or any other animals not normally kept as household pets; provided, however, that nothing in this restriction shall prohibit the keeping of household pets provided they are not kept, bred or maintained for commercial purposes, or kept in a manner as to constitute a nuisance;

*Similar wording: Restrictions on Property Use, Section 3(a).*

6. Temporary structures including but not limited to trailers, basement or incomplete houses, tents, shacks, garages or other outbuildings of any kind;

*Similar wording: Lot Restrictions, Section 2(aa).*

7. Erection or maintenance of any signs, billboards or advertising devices of any kind except
  - (a) signs not larger than ten (10) square feet for offering premises for sale shall be permitted on the premises to be sold; (one per lot)
  - (b) Home Builders and General Contractor signs, not larger than ten (10) square feet and only during construction (one per lot).

*Less restrictive wording, but now also allowing limited political and school signs: Signs, Section 2(x).*

8. Nuisances and noxious or offensive activities of any kind;

*Similar wording: Lot Restrictions, Section 2(o).*

9. Storage of mobile homes, trailers, commercial trucks and trailers, machinery, equipment, boats and unworking vehicles, unless such is not in view from any street or adjacent residence. Nothing herein contained shall limit use of trucks, trailers or equipment during construction;

*Similar wording: Restrictions on Property Use, Section 3(cc).*

10. Hanging of laundry in the front portion of any lot;

*Similar wording: Restrictions on Property Use, Section 3(j).*

11. No fences, exceeding the height of three (3) feet may be erected or placed or permitted on any lot from the house to the street. In the rear lot, fences exceeding three (3) feet may be permitted only if allowed by the applicable zoning code and the Architectural Review Board for decorative and aesthetic value. Wire mesh type fences are strictly prohibited in all instances;

*Similar and clarified wording: Restrictions on Property Use, Section 3(d). The 1984 restriction on wire mesh fence was generally considered to be “chain link” fence at that time. Section 3(d) of the Amended and Restated Declaration clarifies this. Note: The Amended and Restated Declaration would not permit new front yard fences.*

12. Site lighting which interferes with the comfort, privacy or general welfare of adjacent lot or other lot owners is prohibited.

*Clarified and expanded to make the standards objective and uniform: Restrictions on Property Use, Section 3(l).*

13. All garbage or trash containers, oil tanks, gas meters, and bottled gas tanks shall be placed under-ground or placed in screened areas so that they shall not be visible from the adjoining properties.

*Similar wording: Restrictions on Property Use, Section 3(bb).*

*Note: The restriction on visible gas meters has been removed based on currently existing dwellings.*

14. No unsightly growth shall be permitted to grow or remain upon any lot and no refuse, pipe or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon.

*Similar wording: Restrictions on Property Use, Article IV, Sections 3(o) and 3(m); Article VII, Section 1(h).*

15. Any and all lake structures, including but not limited to piers, decks, floats and docks shall be strictly prohibited upon or over any lakes, ponds or streams. Furthermore, there shall be no swimming or boating upon any lake or pond hereinafter created.

*Similar wording, clarified and expanded: Restrictions on Property Use, Article IV, Section 3(h). Note: Homeowners are permitted to install a bridge over a stream running through their property if approved by the Architectural Review Board. Homeowner assumes all liability for any such bridge. Current restriction prohibit bridges over lakes and ponds and the Amended and Restated Declaration continues this.*

The following are *additional* restrictions, covenants, and requirements imposed on each lot under Subpart D of Part 1 of the 1984 Declaration:

1. No buildings, or structures, or any additions thereto or alterations thereof, shall be erected, altered, reconstructed, placed or suffered to remain upon any lot unless and until the size, location, type, shape, height, use, material of construction thereof, the color scheme there for, the grading plan of the lot, including the grade elevations of said buildings and structures, a plot plan showing the proposed locations of said buildings or structures upon said premises and the plans, specifications and details of said buildings or structures, shall have been approved in writing by ... Architectural Review Board and a

true copy of said plans, specifications and details shall have been lodged permanently with Board. No buildings or structures, or any additions thereto or alterations, thereof, except such as conform to said plans, specifications and details shall be erected, altered, reconstructed, placed or suffered to remain on said premises.

*Similar wording: Restrictions on Property Use, Article IV, Section 3(o), and Article V, Section 1.*

2. No lot in this subdivision shall be subdivided or divided, unless or until the plat showing proposed subdivision shall have been submitted to the Architectural Review Board and the written consent of said has been obtained.

*Note: As all 83 lots have been platted and sold, this restriction is no longer relevant for all practical purposes, but to the extent any owner would try to create two lots out of one, Article XIV, Section 3, of the Amended and Restated Declaration would prohibit such an attempt.*

3. Developer reserves the right to establish grades and slopes .... so that the same may conform to a general plan wherein the established grade and slope of each lot, as the improvement thereon is completed, will correspond to the grade of the lots on either side; having due regard for natural contours and drainage of the land.

*Similar wording: Restrictions on Property Use, Article IV, Section 3(g). In general, through out the entire Amended and Restated Declaration, references to the “Developer” either have been removed or such powers have been assigned to the Board of Directors or to the Architectural Review Board.*

4. Prior to the removal of any trees or natural growth on any lot, each lot owner shall submit to the architectural review board a site plan which specifies the area where trees and natural growth are to be removed in addition to the other information required hereunder. No removal, excavation or construction shall commence until said site plan is approved.

*Unchanged. Note: Article XIV, Section 3, would incorporate this original restriction into the Amended and Restated Declaration.*

5. The size, course and flow of streams, ponds and lakes, and the banks of streams, ponds and lakes, as part the approved Storm Water Management plan for The Lake of the Woods Development shall not be altered, modified or tampered with, without the written approval of the Developer and governing authorities, including the City of Akron, Director of Public Service.

*Similar wording: Restrictions on Property Use, Article IV, Section 3(h)(10).*

6. The responsibility for removal of debris or other blockage from streams, ponds and lakes, and the maintenance of the banks of streams, ponds and lakes, is the responsibility of each respective lot owner whose lot contains or is bounded by that portion of the stream, lake or pond requiring debris removed or maintenance of its banks.

*Similar wording: Restrictions on Property Use, Article IV, Section 3(h)(10).*

In the event of a failure of any lot owner to properly remove debris or other blockage from the streams, ponds and lakes, or to maintain the streams, the association shall have the right to perform that work and charge back the appropriate lot owner for all costs incurred.

In the event of a failure of any lot owner and the Association, to properly remove debris or other blockage from the streams, ponds and lakes, or to maintain the streams, the City of Akron shall have the right to perform that work and charge back the appropriate lot owner or the Association for all costs incurred.

*Similar wording: Restrictions on Property Use, Article IV, Section 3(h)(10).*

## New Topics

The following areas are included in the proposed Amended and Restated Declarations, but are not found in 1984 version of the Restrictions and Covenants:

### *Solar Energy Collection Devices*

*Restrictions on Property Use, Article IV, Section 3(y). Reference: Section 5312.16 of the Ohio Revised Code.*

### *Short Term Rentals*

*Restrictions on Property Use, Article IV, Section 3(k). This section consists of 13 clauses with particular attention to the requirement under Subsection 1 requiring leases and licenses to be in writing and to have a duration of not less than 12 months (i.e., no short-term rentals or B&B businesses) and the other provisions generally requiring the Owner to include in any such lease or license an express acknowledgment by the tenant or licensee that he or she will honor the Declaration and the rules established by the Board.*

### *Home Schooling*

*Restrictions on Property Use, Article IV, Section 3(r)(2) (providing that the definition of "school" shall not be construed to disallow teaching and/or learning-related activities in service of the efforts of an Owner or Occupant to home-school his or her children or wards).*

### *Fireworks*

*Restrictions on Property Use, Article IV, Section 3 (b). Refer also to the Codified Ordinances of the City of Akron.*

## Drones

*Restrictions on Property Use, Article IV, Section 3(c) (focusing on protecting the privacy rights and expectations of neighboring property owners when drones are deployed).*

## Garage Sales

*Restrictions on Property Use, Article IV, Section 3 (e) (leaving it to the Board to develop rules principally aimed at preventing Owners and Occupants from operating flea markets and similar businesses from their driveways and garages). Refer also to Chapter 97 of the Codified Ordinances of the City of Akron.*

## Office and Studio Use

*Restrictions on Property Use, Article IV, Section 3(r) (avoiding business uses of residences except under the limitations outlined). This section consists of seven clauses, all of which are in accordance with the original Restrictions and Covenants (see Part I covering Deed Restrictions): “All lots conveyed shall be used exclusively for single family residence purposes, and only one such residence shall be permitted on each lot.”*

## Satellite Dishes, Antennae, Radio Towers

*Restrictions on Property Use, Article IV, Section 3(v).*

## Owner Information

*Restrictions on Property Use, Article IV, Section 3(u) (referencing use of “Authorized Communications Equipment”).*

## Occupancy Restriction Respecting Sex Offenders and Child-Victim Offenders

*Restrictions on Property Use, Article IV, Section 3(q) (not even on anyone’s radar in 1984, but now covered by various provisions of state law, including authority of homeowners’ associations to prescribe rules to address these risks).*

## Occupancy Limitation

*Restrictions on Property Use, Article IV, Section 3(p).*

## Final Thoughts

What happens if the Amended and Restated Declaration does not pass? The Association would miss a genuine opportunity to correct deficiencies and fill gaps in a 40-plus-year-old document that predates

several statutory changes designed to address new developments and challenges in the management of a planned unit development like Lake of the Woods.

The proposed amendments are carefully and meticulously crafted to protect all owners' interests in maintaining a first-class residential subdivision that is the envy of many Summit County citizens. The trustees have been keen to protect property owners against uses and maintenance deficiencies that would adversely affect property values and enjoyment of the amenities of a community that shares common interests in a top-quality lifestyle. Additionally, the proposed refinements of the current Declaration now include extra protections to aid in the interpretation and application of standards in a clear and objective fashion when it comes to compliance and enforcement (to be addressed in greater detail in Part 4 of the April newsletter). The Amended and Restated Declaration also will keep the Association square with the post-2010 changes in state law.

The trustees thank everyone who offered comments and posed questions about the proposed new Declaration. Not every one of those could be specifically addressed in the newsletters, but each was taken into account. And the best effort has been made to share as much information as we can without inundating members with details better left to the task of trusting members to compare the existing Declaration with the proposal for a new one for themselves.

### **A Seventh Newsletter in This Series in Your Future?**

Your trustees have tried to remain positive and forward-thinking in their approach, preferring to focus on the advantages of approving the amendments to the two organizational documents. We have consciously chosen to work up refined terms that are meant to benefit everyone and strike the right balance between order and disorder.

Even so, because many of the questions and comments received during and since the "Town Hall" meeting can be synthesized and addressed in short-answer essay fashion, the trustees are considering a *seventh* newsletter at the end of this six-part series to share what they have learned from their exchanges with the members and how those concerns and questions have been addressed in the proposed amendments.

One thing is for sure ... the drafts that members will be asked to approve will bear a resemblance to the Draft 6 versions received before the "Town Hall" meeting, but will include several refinements that truly incorporate or clarify much of what came in by way of suggestions and reactions to those earlier drafts.

Indeed, the trustees probably will be working on Draft 9 of the documents as members read this newsletter. By any objective measure, the drafts that the membership will have a chance to approve will be remarkably better than the 1984 versions drafted by the developer without the input of a single lot owner.

A comprehensive review of the 1984 version of the Declaration is now complete. Policy differences have been examined and reconciled. A new instrument, more modern and forward-looking in approach, is now ready for the members' approval. On balance, the Amended and Restated Declaration, if approved, will deliver for the homeowners of Lake of the Woods. The changes not only are

long overdue ... they are part and parcel of a necessary evolution as we all look forward to the future.

One member relayed the following analogy in discussing the proposed changes with us ... when you consider buying a house, you look at the roof, the basement, the décor, the appliances, and all of the other components ... you look at the school system ... you look for proximity to shopping, church, and parks ... and you look at how the neighbors keep up their properties. This homeowners' association benefits from owners who care enough to honor the commitments they make to each other through instruments that "run with the land." Why wouldn't we want our Declaration and Bylaws to present in the same first-class fashion as we aspire for our community in general?

The 1984 version of the organizational documents cry out for updating and modernization. And with the Amended and Restated Declaration, if approved, every owner will be able to present professionally crafted rules for a planned unit development that will be accepted by buyers as reflective of neighbors who really care about one another and the environment in which they choose to live. And that cannot be bad for propping up property values.

**Board members recommend APPROVAL of the proposed Amended and Restated Declarations of Restrictions and Covenants and the proposed Amended and Restated Bylaws.**

*For the Board of Trustees:*

Gary Himmel, *President*  
Dale Freygang, *Vice President and Treasurer*  
S. David Worhatch, *Secretary*