

LAKE OF THE WOODS HOMEOWNERS ASSOCIATION

June 2026 Newsletter – Part 5 of 6

Quick Review of Previous and Upcoming Newsletter Topics

So far, we reviewed in **Part 1** how we came to the point where amending the 1984 documents became imperative and what the overall objective of the amendment process is.

In **Part 2**, we focused on the rewrite of the Bylaws to see what changes and improvements are in store if those amendments are approved. That was supplemented by an e-mail blast referencing some relevant online study guides and suggestions for nonprofit organizations.

In **Part 3**, the focus was on the Declaration. In that newsletter, we compared the 1984 version with the new and improved version reflected in the proposed amendment. Each of the current provisions was highlighted and compared with the new document's contents. We also explored new areas added to the mix to bring an outdated 40-year-old document into the 21st century.

In **Part 4**, we addressed the enforcement provisions specifically afforded to homeowners' associations by Ohio law, and how these provisions are being incorporated into our Amended and Restated Declaration. Additional detail was provided to explain why FORECLOSURE, although allowed by Ohio law, is **NOT** a viable remedy for violations, particularly in a planned community such as Lake of the Woods.

In the near future, we plan to address what would happen if members were to disapprove either the Amended and Restated Declaration or the Amended and Restated Bylaws, or both (**Part 6**).

In this **Part 5**, we will focus on benefits of the revised and amended documents.

Why the New Documents Are So Much Better Than What We Have

Amended and Restated Bylaws

The Amended and Restated Bylaws represent the highest-level governing regulations for the Association. In addition to covering the basics, they also clearly describe the procedure for making amendments when needed.

What has been removed from the 1984 bylaws were all the references to the Developer and how the administration of the Association would transition based on the sale of the lots. As all of the Lake of the Woods lots now have homes (dwellings), none of this is relevant.

The proposed Bylaws are intended to complement the proposed Declaration (Restrictions and Covenants) with common terms and definitions. The new Bylaws would provide straightforward overall governance designed to eliminate the need to refer constantly to Ohio law to see what we want to do is permitted, forbidden, or conditioned by some legislative act. Bylaws are required for all homeowners' associations organized, as ours is, as a planned unit community. And the amended version we are proposing takes advantage of latitude granted by the state legislature to tailor our amended Bylaws to fit our individual needs instead of being forced to live with the "default" set of standards built into the law.

As the proposals define the high-level governance provisions, there should be no hesitancy or controversy in voting to approve the Amended and Restated Bylaws. Two thirds (2/3rds) of all property owners must approve the proposed amendments to adopt these Bylaws for them to become effective.

To maintain the relevance of the Bylaws in the future, the Board should review, but not necessarily propose revisions, on an annual basis.

Opinions may differ, but some could point to the additional ways the members could take control of a situation that the Board of Directors might seem to be reluctant to tackle or where board members might be flexing their power too rigorously to suit the tastes of most of the Association's members. The ability to initiate actions in lieu of a meeting, or by calling a special meeting to veto board action, or to remove directors who are not "getting the message," or to initiate measures to address budget issues directly are among the member-friendly rights and privileges designed to serve as a check on potentially wayward board action.

Others might point to the way the annual, special, and enforcement assessment processes are made transparent and so much better regulated than under our present documents. Greater protections against runaway fee increases in limitless increments also are built into the Amended and Restated Bylaws.

A question raised by a member at the Annual Meeting focused on whether the Amended and Restated Bylaws could take effect only if the Amended and Restated Declaration were adopted. The answer is **no**. Each instrument is independent of the other. So, if the Amended and Restated Bylaws were to be approved, but the Amended and Restated Declaration were not to be approved, the amended Bylaws would take effect and govern the Association in the context of the existing Declaration. But it also works *vice versa* ... should the Amended and Restated Declaration pass, but the amended Bylaws would fail, our existing and outdated Code of Regulations would govern.

Amended and Restated Declaration (Restrictions and Covenants)

The proposed Amended and Restated Declaration also would constitute a significantly improved document providing the substantive "rules" relevant to Lake of the Woods homeowners. Just as in the Bylaws, all references to the original Developer have been eliminated. This offers clear guidelines such that all homeowners can readily understand what is permitted, and not permitted, or conditionally permitted, within the Lake of the Woods community. A quick reading of the current Declaration shows that our current "rules" have far too many gaps and uncertain clauses to suit homeowners and prospective buyers in understanding what can and cannot be done or built.

These amended provisions offer clear guidance for all property owners and the Board as well as pertinent information for prospective buyers. With the added clarity comes predictability and confidence in planning for improvements or modified uses of our homesites.

The provision for these “rules” is granted to homeowners’ associations for planned unit communities under Chapter 5312 of the Ohio Revised Code. By clearly defining these “rules” within the Amended and Restated Declaration, any interested party would not need to refer to the Ohio law or hire a lawyer to figure out what can and cannot be done ... it’s all pretty much contained in the amended terms (unlike under the 1984 version of the Declaration).

Part 3 of our April newsletter compared the original restrictions and covenants with the appropriate clauses of the proposed Amended and Restated Declaration, and highlighted the NEW provisions consistent with current law and generally accepted planned community standards. Many of these reflect advances in technology since 1984. In particular, allowing for electronic communication is a significant benefit to homeowners and Board members as well. For example, the existing 1984 documents required the “notice of meetings” to be either mailed (at a significant cost and administrative burden to provide envelopes and individually addressing 83 of them) or “hand delivering” which was just completed by Board members in hanging plastic bags with the notice of the Annual Meeting on mailbox flags or front doors. This is inconvenient, wasteful, and unattractive. The permissible electronic communication is certainly the preferred approach – but **ONLY** if the new Amended and Restated Declaration is approved by a majority of homeowners.

Part 4 of our six-part newsletter on the new documents focused entirely on enforcement procedures. As was documented, the authorization for enforcement by all homeowners’ associations is granted under Chapter 5312 of the Ohio Revised Code. Equally important, however, is that Ohio law literally prescribes the obligations of an association to provide proper notice to a homeowner for a violation and the ability for a homeowner to request a hearing. Further, an association must notify all homeowners of the “rules” and potential remedies if a violation is not corrected. The goal of all of this in the Amended and Restated Declaration is to **PREVENT** any enforcement actions. Clear communication of responsibilities for homeowners, for neighbors, and for the Board can prevent any nonconforming conduct from becoming the subject of an enforcement action. Unlike our 1984 version of the Declaration, the proposed Amended and Restated Declaration clearly describe these procedures and options. The 1984 version is virtually silent on these issues. Your trustees prefer transparency and clear guidance over springing surprises on the members or forcing members to hire lawyers to interpret the “rules.”

So, to those who question why the amendments are so much longer than the 1984 version of the Declaration, the answer is that your trustees propose to plug the gaps in the current Declaration in the interests of full transparency and accountability for the members.

And finally, the other great benefit of the proposed Amended and Restated Declaration is the clear procedure for amending any of the rules provided or permitted in this document. If members have concerns about a stated rule, or the lack of a rule on a given topic, changes can be authorized by a simple majority of the members – either at a meeting or by electronic communication – but again, this option will be available **ONLY** if the proposed Amended and Restated Declaration is approved.

The proposed amendments to the existing Declaration were created in tandem with the proposed amendments to the Bylaws. Terms, definitions, and content found in each document therefore will be complimentary and coordinated with the adoption of those amendments.

Both of the proposed amended documents make a significant improvement over the existing 1984 vintage documents. With the provisions for members to make amendments if needed, there is little justification NOT to approve *both*, as together they offer an opportunity to move Lake of the Woods forward in a unified manner consistent with a majority of local homeowners' associations for planned unit communities in Ohio.

The Board of Trustees urges members to vote FOR the proposed amendments to both the Declaration and the Bylaws.

For the Board of Trustees:

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