

Draft 6 Provisions by Bucket

Version 3 — cross-checked against the full primary text of ORC Chapter 5312.

The master rule: ORC 5312.15

Before any bucket analysis, one sentence from ORC 5312.15 frames everything that follows:

"This chapter shall be construed to establish a uniform framework for the operation and management of planned communities in this state and to **supplement** any planned community governing document that is in existence on the effective date of this chapter. In the event of a specific conflict between this chapter and express requirements or restrictions in such a governing document, **the governing document shall control**. This chapter shall control if any governing document is silent with respect to any provision of this chapter."

The practical consequence: the 1984 Lake of the Woods Declaration and Bylaws **control** over Chapter 5312 where they specifically speak. Chapter 5312 fills gaps where the 1984 documents are silent. A second provision, ORC 5312.02(C), adds that nothing in the chapter "invalidates any provision" of a document recorded before September 10, 2010. Together, these rules mean Chapter 5312 generally *adds* to what the 1984 documents say rather than replacing them.

A "Bucket 1" item below is therefore one that the Association owes to owners under state law even if the 1984 documents are silent. A "Bucket 2" item is a statutory default that kicks in to fill a 1984 gap. A "Bucket 3" item is a power Chapter 5312 explicitly conditions on the declaration providing for it — so without a declaration amendment, the Board does not have it.

Legend

Bucket 1	Statutorily required. Applies regardless of what the declaration says (or does not say). Restating in Draft 6 adds no new legal obligation, but may improve clarity.
Bucket 2	Statutory default / gap-filler. ORC 5312 supplies a rule unless the declaration or bylaws provide otherwise. The 1984 documents control in a specific conflict (5312.15).
Bucket 3	Power requires declaration. Chapter 5312 grants the Board the power only if the declaration or bylaws provide for it. Adopting Draft 6 would be a genuine expansion of Board authority.

Method: every row below has been cross-read against the full primary text of ORC Chapter 5312 (sections 5312.01 through 5312.16 — there is no 5312.17, .18, or .19). Draft 6 citations refer to the 22 March 2026 clean version. Where the statute conditions a Board power on the declaration (phrases like "in accordance with the declaration" or "as the declaration provides"), the row is placed in Bucket 3.

Each of these duties applies to the Association today under Chapter 5312 regardless of what the 1984 documents say. Restating them in Draft 6 changes nothing in legal effect; the only difference is readability.

Provision	Draft 6 Cite	ORC 5312 Cite	Practical Effect
Organize as a nonprofit corporation under ORC Chapter 1702	(Articles of Incorporation)	5312.03(B)	Corporate form is fixed by statute. Director fiduciary duties flow from 1702, incorporated by reference.
Annual meeting of Owners; notice requirements	Bylaws Art. II	5312.04(C)	Board must call at least one meeting of Owners each year. Special-meeting thresholds also default-set by statute.
Annual estimated budget with reserves adequate to replace capital items (unless majority waives reserves in writing each year)	Bylaws Art. V	5312.06(A)(1)	Reserves requirement is the default; waiver requires an annual written majority vote.
Maintain property insurance, liability insurance, directors-and-officers insurance, and fidelity/crime coverage for persons handling funds	(Association practice)	5312.06(B)	All four coverages are mandatory; the statute specifies fidelity-coverage amount and terms.
Keep correct books and records, records of assessment collection, meeting minutes, and Owner name/address list	Bylaws Art. VIII	5312.06(C)	Mandatory records retention; forms the basis of the owner-inspection right below.
Owner right to examine and copy books, records, and minutes under reasonable standards	Bylaws Art. VIII §3	5312.07	Right is statutory. The declaration/bylaws may set reasonable procedures (times, locations, fees) but cannot eliminate access. Statutory exclusions: >5 years old, personnel, attorney-client, pending contracts, enforcement against other Owners, legally protected info.
Annual Board assessment of common expense liability based on an annual budget	Decl. Art. VIII	5312.10(A)(3)	Board must levy the annual assessment at least once a year.
Charge interest on past-due assessments at a rate the Board establishes (not exceeding any legal maximum)	Decl. Art. VIII §5	5312.10(B)	Mandatory ("The board <i>shall</i> charge interest"); rate is set by the Board within legal limits.

Provision	Draft 6 Cite	ORC 5312 Cite	Practical Effect
Mandatory due-process procedure before any enforcement assessment or damage charge	Decl. Art. IX; Bylaws Art. VII	5312.11(C)-(D)	Pre-notice must state violation, amount, right to hearing, procedures, cure date. Owner has 10 days to request hearing. Board must give 7 days' notice of hearing. Board may not levy before a requested hearing. Written result within 30 days. Applies to all enforcement charges under this chapter.
Assessment lien on the Lot for any amount unpaid more than 10 days; certificate of lien filed with county recorder; 5-year duration; foreclosable like a mortgage	Decl. Art. VIII §4	5312.12	Lien attaches, records, and is priority-enforced by operation of law. Priority: after real-estate taxes and first mortgages recorded earlier; before all other subsequent encumbrances.
Every Owner, resident, and tenant must comply with recorded covenants, bylaws, and rules. Association OR any Owner may sue for damages, injunctive relief, and reasonable attorney's fees	(not typically restated)	5312.13	Creates a statutory cause of action for <i>individual Owners</i> (not just the Association) to enforce the documents.
Solar-energy-device baseline: Owner may install unless specifically prohibited by the declaration, subject to reasonable size/place/manner rules and the due-process procedure	(not in Draft 6)	5312.16	Statutory baseline. Even without Draft 6, an Owner generally has a right to install solar on their own dwelling subject to reasonable regulation.
Compliance with state and federal anti-discrimination laws (Ohio R.C. 4112, Fair Housing Act)	Decl. Art. IV	5312.04(G); 5312.05(C)	Independent legal requirement. 5312.05(C) lets the Board remove void discriminatory covenants by majority board vote alone.

These rules apply when the 1984 documents are silent. Where the 1984 documents specifically provide something different, the 1984 documents control under ORC 5312.15. Draft 6 generally adopts these defaults expressly.

Provision	Draft 6 Cite	ORC 5312 Cite	Practical Effect
75% Owner consent required to amend declaration or bylaws — unless the documents specify a different threshold	Decl. Art. XIII; Bylaws Art. X	5312.05(A)	Statutory default only. Where the 1984 documents already specify an amendment threshold, that threshold controls.
Unanimous consent required to terminate the planned community and dissolve	Decl. Art. XIII	5312.05(B)	Mandatory floor — cannot be lowered by declaration.
Amendments are not effective until filed with the county recorder	Decl. Art. XIII	5312.05(D)	Procedural requirement; declaration cannot waive recording.
Default delegation of powers to the Board: hire/fire professionals; sue, defend, settle litigation; contract; enforce governing documents; acquire, hold, convey, encumber property; grant easements over common elements; impose reasonable document-preparation charges; authorize emergency entry; invest excess funds	Bylaws Art. V	5312.06(D)(1)-(9); (11)-(14); (16)-(18)	These are default Board powers granted by statute. The declaration may limit or expand them.
Suspension of voting privileges and use of recreational facilities for Owner delinquent more than 30 days on assessments	Bylaws Art. III; Decl. Art. IX	5312.06(D)(15)	Directly authorized by statute as a default power. No declaration amendment needed for delinquency-based suspension; but limited to delinquency, not other violations.
Assessments for willful or negligent damage caused by Owner/occupant/family/tenants/guests, including attorney's fees and court costs	Decl. Art. VIII §3	5312.11(A)(2)	Damage-cost assessments are directly authorized by statute; do not require declaration language (unlike violation-based enforcement assessments — see Bucket 3).
Recovery of enforcement costs, attorney's fees, and court costs against an Owner who violates the documents	Decl. Art. IX	5312.11(A)(3); 5312.13	Collectible under the statute independent of any declaration provision.

Provision	Draft 6 Cite	ORC 5312 Cite	Practical Effect
Payment-application order for delinquent accounts: interest, then admin/enforcement assessments, then collection costs and attorney's fees, then oldest principal	Decl. Art. VIII	5312.11(B)	Statutory default; declaration, bylaws, or rules may specify a different order.
Common-element maintenance: Association is responsible for common elements; Owner for their lot, dwelling, and serving utility lines	Decl. Art. VII	5312.08	Default allocation unless declaration provides otherwise. Owner must allow access for Association work.
Equal allocation of common-expense liability across Lots if the declaration does not specify a formula	Decl. Art. VIII	5312.10(A)(2)	Gap-filler only. Any declaration-specified allocation controls.
75% voting-power approval required to convey a fee or security interest in a common element (unless the declaration specifically provides otherwise)	(not in Draft 6 generally)	5312.09(A)	Statutory default floor. A limited common element conveyance requires unanimous consent of affected Lot owners.
Interest rate on past-due assessments set by the Board within any legal maximum	Decl. Art. VIII §5	5312.10(B)	Board sets the rate (the charging-interest duty itself is mandatory — see Bucket 1).

These are powers the Board does **not** currently have under the 1984 documents and that Chapter 5312 conditions on the declaration providing for them. Each would be a real expansion of Board authority.

Provision	Draft 6 Cite	ORC 5312 Cite	Practical Effect
Power to levy common-expense assessments at all	Decl. Art. VIII §§1-3	5312.10(C)(1)	Statute: "The board may not charge assessments for common expenses <i>unless the declaration provides for or contemplates the charging of such assessments.</i> " The authority to assess is not a default power — the declaration must provide it. If the 1984 declaration caps assessments, increasing the cap requires a 5312.05(A) amendment vote.
Power to levy enforcement assessments for violations of declaration, bylaws, or rules	Decl. Art. IX §2	5312.06(D)(10)(c); 5312.11(A)(1)	Statute: enforcement assessments must be "imposed or levied <i>in accordance with the declaration.</i> " The declaration must authorize the category, the amount(s), and the triggering violations. Without express declaration authority, the Board cannot fine for violations.
Power to adopt rules beyond maintenance/appearance of common elements	Decl. Art. IV §5	5312.06(D)(5)	Statute gives the Board authority to adopt rules about common-element maintenance, and " <i>any other rules as the declaration provides.</i> " Broader rule-making (conduct, nuisance, lifestyle, etc.) requires declaration authorization.
Suspension of voting rights or amenity privileges for non-dues reasons (violations, pending enforcement, "Good Standing" conditions broader than delinquency)	Bylaws Art. I §1(m); Art. III	5312.06(D)(15) (limited to delinquency only)	The statutory suspension power is limited on its face to assessment delinquency exceeding 30 days. Broader suspension requires the declaration to create the power.
Architectural review — 30-day default reversed (silence = denial)	Decl. Art. V §3	Not addressed by ORC	Chapter 5312 is silent on architectural review. Defaults are entirely a creature of the declaration. 1984 used silence = approval; Draft 6 reverses it.
Broader "nuisance" and conduct standards (embarrassment, annoyance, discomfort)	Decl. Art. IV §3(o)	Not addressed by ORC	Subjective conduct standards live entirely in the declaration.
Leasing restrictions (minimum term, owner-occupancy, lease filing, tenant conduct)	Decl. Art. IV §3	Not addressed by ORC	Enforceable only if adopted in the declaration; some restrictions may also interact with individual deed rights.

Provision	Draft 6 Cite	ORC 5312 Cite	Practical Effect
Mandatory Owner/Occupant disclosure (30-day occupant reporting duty)	Decl. Art. IV §3(u)	Not statutory	New informational duty on Owners; no corollary in 1984 documents.
Self-help entry outside imminent-risk emergencies	Decl. Art. VII	5312.06(D)(13) (imminent risk only)	Statute authorizes entry only when "conditions exist that involve an imminent risk of damage or harm." Routine or enforcement self-help requires the declaration to grant it.
Post-completion architectural inspection rights	Decl. Art. V §4	Not statutory	Enforceable only through the declaration.
Reduced minimum dwelling size (1,800 sq. ft.) vs 1984 (2,200-2,400)	Decl. Art. IV §2	Not statutory	A pure use-restriction change; entirely a creature of the declaration.
Broad Board power to set assessment amounts without a declaration cap	Decl. Art. VIII §§1-3	5312.10(C)(1)-(2)	The statute says the declaration controls both the authority to assess and any cap. If the 1984 declaration caps assessments, removing the cap requires an amendment under 5312.05(A). Draft 6 attempts this.
Special assessments without a member-approval threshold	Decl. Art. VIII §2	5312.10 (declaration-dependent)	Special-assessment procedure is whatever the declaration says it is. Draft 6 would be the declaration that says it.
Covenant term and automatic-renewal mechanics	Decl. Art. XIII	5312 does not address; ORC 5301.49	Term-and-renewal language is a pure declaration choice.

How to use this at the meeting or ballot

When any Draft 6 provision is described as "required by Ohio law" or "standard practice," three diagnostic questions separate the buckets:

1. If Draft 6 is rejected, does the rule still apply tomorrow under ORC 5312? If yes, and the 1984 documents are silent on the point, it is **Bucket 1**. Adoption adds nothing in legal effect.
2. Does ORC 5312 supply a default version of this rule that fills a 1984 gap? If yes, it is **Bucket 2**. The question is whether Draft 6's version is better or worse than the statutory default.
3. Does the statute condition the power on the declaration providing for it ("in accordance with the declaration," "as the declaration provides," "unless the declaration specifically provides")? If yes, it is **Bucket 3**, and adopting Draft 6 is a genuine new grant of Board authority.

Cautions and limits

- ORC 5312.15 is the controlling interpretive rule: where the 1984 documents specifically conflict with the chapter, the 1984 documents win. This analysis is intended to preserve that principle.
- Some provisions sit between buckets. Each row is placed where its dominant effect lies and the note column explains nuance.
- Chapter 5312 occasionally interacts with other Ohio statutes (ORC 1702 nonprofit corporations, ORC 5301 recording, ORC 4112 civil rights, ORC 5311 condominiums by analogy). A few Bucket-3 items also have independent legal limits after adoption.
- Draft 6 citations refer to the 22 March 2026 clean version.
- This document is prepared by neighbors, not attorneys. It is informational only and should not be relied on as legal advice. A homeowner weighing a specific provision should consult Ohio HOA counsel.

v3 changes from v2: (1) primary-source text of Chapter 5312 obtained and cross-read; (2) ORC 5312.15 added as the master interpretive rule (1984 documents control over the statute in specific conflicts); (3) Bucket 1 expanded to include mandatory insurance (5312.06(B)), mandatory interest on past-due assessments (5312.10(B)), the individual-Owner enforcement cause of action (5312.13), and the solar-energy baseline (5312.16); (4) 5312.07 corrected — it is about Owner examination of books and records, not director duties (director duties come from ORC Chapter 1702, incorporated by 5312.03(B)); (5) key Bucket 3 finding surfaced: under 5312.10(C)(1) the Board cannot charge assessments at all unless the declaration authorizes it, and under 5312.11(A)(1) enforcement assessments must be "in accordance with the declaration" — so both the power to assess and the power to fine require declaration adoption; (6) removed the erroneous "attorney's fee cap" Bucket 3 item (not supported by the documents we have); (7) Chapter ends at 5312.16 — there is no 5312.17-.19.

Sources: ORC Chapter 5312, sections 5312.01 through 5312.16 (full text); 1984 Declaration of Restrictions and Covenants; 1984 Bylaws; Draft 6 (22 March 2026 clean) Declaration and Bylaws.

Prepared by neighbors for Lake of the Woods homeowners • Akron, Ohio