

Lake of the Pines Association
7257 Ashard Rd
Lake, MI 48632

Subject: Restrictive Covenants Commercial Use Guidance

Date: July 12, 2025

To All Association Members

Summary

As the elected representatives of The Lake of the Pines Association, (LOP), the Board of Directors is tasked with managing member expectations and is committed to ensuring that our community is managed with clear and consistent governance. In response to member feedback through various channels, evolving legal standards, recent case law developments, and the need to maintain a harmonious environment for all Members, the Board has reviewed our governing documents in light of current market conditions. This communication outlines the specific changes being made to our Rules and Regulations to comply with our Restrictive Covenants, the impact they will have on the community and the process by which these changes will be applied.

Key Changes to the Strategic Direction of LOP

1. **The Restrictive Covenants of Lake of the Pines, Article VII, Building and Use Limitations, explicitly states in Section 1. "All lots shall be used for residential purposes only, and no business, commercial or manufacturing enterprises shall be conducted on said premises."** The board hereby signifies that it will instruct current and future residents to comply with this restriction, and that this document serves as notice that all **commercial use of residential properties within Lake of the Pines is prohibited.**
2. **Effective August 1, 2025,** all for-profit businesses including, but not limited to, short term rental properties operating within Lake of the Pines will be deemed to be in violation of Section 1, Article VII of the restrictive covenants, and should immediately cease and desist from all operations based on developing Michigan case law and consultation with legal counsel as to how courts have interpreted similar covenant language. See e.g., *Melvin R. Berlin Revocable Trust v Rubin*, unpublished per curiam opinion of the Court of Appeals, entered July 20, 2023 (Docket No. 359300), 2023 WL 4671407 (Additionally, short-term rentals violate a restrictive covenant barring commercial use of a property. *Eager*, 322 Mich App at 191. The act of renting property to another for short-term use presents a commercial use despite the fact that the activity is residential in nature. *Terrien*, 467 Mich at 63-64.)

3. Going forward, the Board will take various actions to raise awareness of this broadly written restriction via letters, emails, website notices, social media posts, etc. and the Association retains the rights via the covenants to enforce this restriction by any means at its disposal to ensure compliance.

Discussion

Legal guidance provided by LOP retained counsel advises that in the absence of declaration terms defining a business or commercial use in the Restrictive Covenants the “plain meaning” or “literal” rule methodology would be used in a court of law to determine that any business operating to sell a product or provide a service for profit would violate the commercial use restriction outlined in Article VII, Section 1. **Of note, Short Term Rentals (STR) have been defined as businesses operating as commercial enterprises in other recent State of Michigan Appeals Court decisions (*Susan Aldrich v Sugar Springs Property Owners Association*)**

The Board, on behalf of the Association Members as a whole, will investigate complaints, prioritize enforcement, and reserves the right to pursue litigation and recover damages or injunctive relief in the future (Article VIII, Section 3) should there be substantive proof via written complaints and/or egregious ongoing violations of the aforementioned Covenants. **It should be noted that individual Members and/or collections of Members of Lake of the Pines can also bring legal action against offenders (Article VII, Section 4), provided they can demonstrate they have been damaged.** Finally, the Board may opt also to restrict violators’ rights to the Common Properties for a period of thirty (30) days (Article IV, Section 3(c)) should those violators not provide remedy in a timely manner.

Key Changes to the Rules and Regulations

1. **Effective August 1, 2025, the Lake of the Pines Board will remove from the Rules and Regulations document adopted January 1, 2025, all references to Short-Term Rental Properties and their associated caps, fees, and Guest Rules in Section ‘Short-Term Rental Property’, and will publish an updated Rules and Regulations document to that effect.**

This action will align the Rules and Regulations with the Restrictive Covenants, Section VII Section 1, prohibiting commercial use of residential property. **In accordance with this, requests for guest passes for short term rental unit’s owners’ clients or customers will be denied by the office.** This action would also be viewed by the Board as an ongoing violation of the Restrictive Covenants as mentioned in item 1 above, and subject to further Board action.

Should short-term rental Property Owners provide relief by discontinuing banned commercial operations, they will fully retain all Membership Rights and Privileges as outlined in the By-laws, Rules and Regulations, and Covenants.

References:

Restrictive Covenants [All Platted Subdivision Sections] of Lake of the Pines, Inc.

Article IV Property Rights in the Common Properties, Section 3(c):

"The right of the Association, as provided in its Articles and By-laws, to suspend the enjoyment rights [of the Common Properties] of any member ... for any period not to exceed thirty (30) days for any infraction of its published rules and regulations..."

Article VII Building and Use Limitations, Section 1:

"All lots shall be used for residential purposes only, and no business, commercial or manufacturing enterprise shall be conducted on said premises..."

Article VII Building and Use Limitations, Section 4:

"Any owner of real property in said Plat of [All Sections] shall have the right to prosecute any proceedings at law or in equity against any person or persons violating or attempting to violate any covenant contained herein, either to prevent him or them from doing so or to recover damages or other dues for such violations. Invalidation of any one of these covenants by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect."

Article VIII, Section 3 - Enforcement:

"Enforcement of these covenants or restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter."

Freeman Township Ordinance 8 - Zoning:

Article VIII, Section 8.01 (B) (The specific intent of this ordinance is...) "To prohibit business, commercial, and industrial use of the land and to prohibit any other uses which substantially interferes with the development or continuation of single-family dwellings in the district."

Susan Aldrich v Sugar Springs Property Owners Association, State of Michigan Court of Appeals, Decision date January 12, 2023.

We, the Board of Directors of the Lake of the Pines Property Owners Association, affirm and approve the above actions and statements for immediate release and implementation July 12, 2025.

Respectfully submitted,

Lake of the Pines Board of Directors