

AMENDED AND RESTATED DECLARATION OF RESTRICTIONS

FOR ESS LAKE ESTATES NO's 2. 3. 4. & 5

WHEREAS, the Ess Lake Estates No's. 2. 3. 4. & 5 were established by plat by the declarants Lynn C. Palmer, and Mary Palmer (the "Declarants"); and

WHEREAS, Declarants were the owners of the real property hereinafter described in Article I hereof and further described and depicted in the Plat; and

Whereas, Declarants desired to subject said property to the following conditions, restrictions and charges, for the benefit of said property and its present and subsequent owners (the "Restrictions"); and

WHEREAS, the power to enforce certain said conditions, restrictions, reservations and charges is to reside in the Ess Lake Estates Owners Association, (the "Association"), whose members are Declarants and all future owners of record of building sites on said property; and

WHEREAS, Declarants established these Restrictions on June 30, 1967, and recorded the amended Restrictions for Ess Lake Estates No's. 2. 3. 4. & 5 on August 30, 1985, in Liber 224, Page 453, Montmorency County Records; and

WHEREAS, the Association may, from time to time, amend the Restrictions by a vote of the members as provided by Article XIV herein; and

WHEREAS, in June 2024 the membership voted to make certain amendments to these Restrictions, to take effect July 1, 2025.

NOW, THEREFORE, BE IT RESOLVED, that the Restrictions are hereby amended and restated in their entirety as set forth herein, which is hereby adopted and approved as the Amended and Restated Declaration of Restrictions for Ess Lake Estates No's. 2. 3. 4. & 5 and, effective as of July 1, 2025.

ARTICLE I

PROPERTY SUBJECT TO THIS DECLARATION

The real property subject to this Declaration is: Ess Lake Estates No. 2 - Part of Gov't Lots 6 & 7 Section 32, T32N, R4E, Montmorency Township, Montmorency County, Michigan.

Ess Lake Estates No. 3 - Part of Gov't Lots 6 & 7 Section 32, T32N, R4E, Montmorency Township, Montmorency County, Michigan.

Ess Lake Estates No. 4 - Part of S.W. 1/4 of S.E. 1/4, Gov't Lot 1, Section 32, T32N, R4E, Montmorency Township, Montmorency County, Michigan.

Ess Lake Estates No. 5 - Part of the East 1/2 of Section 6, T.31N., R.4E., Hillman, Township, Montmorency County, Michigan.

ARTICLE II

DEFINITION OF TERMS

Wherever used in this Declaration, the following terms shall have the following meanings:

- 2.01 "Dwelling house", "garages", or other "out buildings" shall include both the main portion of such structures and all projections therefrom including porches, eaves, steps, or chimneys.
- 2.02 "Lot" means one of the numbered parcels referred to in Schedule A.
- 2.03 "Building Site" means either a "lot" or contiguous portions of more than one lot provided that such parcel has a minimum lake or street frontage of at least 74 feet and an area of at least 13,000 square feet. Parcels which do not include a complete lot shall require written approval from the Association before being approved as building sites.
- 2.04 "Set back" means the minimum distance between the dwelling house or other structure referred to and a given street or line.

ARTICLE III

USES OF PROPERTY

- 3.01 No building site on said property shall be used for any purpose other than residential purposes. Commercial or agricultural activities are specifically prohibited.
- 3.02 No farm or wild animals shall be raised, kept, or permitted on said property. Domestic pets may be kept provided they are not bred or raised for commercial purposes or in unreasonable quantities—not to exceed three dogs.
- 3.03 No noxious or offensive trade or activity shall be carried on upon said property, nor shall anything be done or maintained thereon which may be or become an annoyance or nuisance to the neighboring lot owners.
- 3.04 On undeveloped lots: No house trailers, tents, or other substandard housing shall be erected, maintained or used for living quarters even on a temporary basis. No vehicle or trailer storage is permitted on undeveloped lots. On developed lots with a single-family residential dwelling: A tent, camper, motor home, and/or RV may be used on a temporary basis for up to fourteen (14) days per year. Temporary seasonal cabanas, that are properly maintained, may be used at the water's edge provided that the board is notified. Boat and utility trailers may be stored only on developed lots where

there is a single-family residence. Any vehicles/and or allotted trailers that are unused after two seasons shall be removed from the property.

3.05 After Dec. 31, 1969, no house trailers, tents, commercial vehicles, or other miscellaneous equipment may be kept on said property unless stored in a suitable private garage.

3.06 Use of firearms or bows and arrows for hunting or other purposes is prohibited within the subdivision.

ARTICLE IV

CHARACTER AND SIZE OF BUILDINGS

4.01 No building may be erected or maintained on any building site on said property except one single family dwelling house designed for occupation by not more than one family, together with the garages or outbuildings hereinafter permitted. Buildings shall not contain more than three stories including the basement level, if any, and no structure shall exceed 32 feet in height, including chimneys. T.V. antennas shall not exceed 45 feet in height from the ground.

4.02 All buildings erected after August 30, 1985, shall conform to the following minimum living requirements: All dwellings shall have a minimum of 750 square feet of interior living floor space.

4.03 Interior living floor space shall consist of the floor area on the main and upper levels inside of the exterior walls exclusive of patios, basements, cellars, garages, or unheated porches.

4.04 Garages or other outbuildings, such as boathouses, workshops, or storage sheds may be erected and maintained for the use of the owners, either as part of the main building or as a separate structure, provided that separate structures have a minimum of 100 and a maximum of 936 square feet (26 x 36) of floor area and do not exceed two story or 22 feet in height.

b) Outbuildings or garages shall conform generally in architectural design and exterior material and finish to the main dwelling house. Plans for all such structures must be approved by the Association prior to the construction.

c) No outhouse of any kind shall be erected. No garage, shed, tent, camper, motorhome, or trailer shall be used for living purposes at any time.

4.05 No building shall be occupied while in the course of original construction until it complies the area and health requirements applicable thereto. The construction of any building or structure shall be prosecuted with reasonable diligence from the time of commencement until the exterior (including ~~painting or finishing~~) and plumbing have been completed. Such construction to be completed within 15 months at the most.

4.06 Every building, fence, wall or other structure placed on any part of said property shall be constructed from new materials, unless use of other materials is approved by the "Association".

4.07 All fuel oil or bottle gas tanks shall be submerged, enclosed in a suitable cabinet or screened from view by an appropriate wall or fence.

The following restrictive deed covenants (restrictions) are added to "Article IV Character and size of buildings" as it applies to the Plat of Ess Lake Estates No 5 only, as prescribed by the subdivision control act of 1967. These restrictions shall remain in effect permanently and are not subject to the provisions of Article XIII Duration, Modification and Annulment of Conditions, Restrictions and Charges," which specifies procedures by which all other restrictions may be renewed, altered modified, cancelled or changed.

4.08 All buildings in the Plat of Ess Lake Estates No. 5 constructed or use for residential purposes within or adjacent to the flood plan area as set at an elevation of 817.8 by the Water Resources Commission of the Department of Natural Resources, and as shown on the plat, shall meet the following prescribed minimum standards:

- a) Have lower floors, excluding basements, a minimum elevation of 818.8 feet or one foot higher than the 817.8 elevation of the contour defining the flood plain limits.
- b) Have openings into the basement not lower than 817.8 feet, the elevation of the contour defining the flood plain limits.
- c) Have basement walls and floors that are below 817.8 feet, the elevation of the contour defining the flood plain limits, watertight and reinforced to withstand hydrostatic pressures from a water level equal to the elevation of the contour defining the flood plain limits.
- d) Be equipped with a positive means of preventing sewer backup from sewer lines and drains which serve the building.
- e) Be properly anchored to prevent flotation.

4.09 The finish grade around all buildings, septic tanks, and tile fields, shall be four feet above the high ground water level, or at least 821.8 feet in elevation as required by the current District Health Department No. 4 Sanitary Code if such buildings are used for residential purposes and constructed in the plat of Ess Lake Estates No. 5

ARTICLE V

APPROVAL OF PLANS

5.01 No building, fence, wall or other structure shall be erected, constructed, altered or maintained upon said property unless a complete set of plans and specifications, including the exterior color scheme and materials together with a plan indicating the exact location on the building site of the building, water well, septic tank and tile field, shall have been submitted to and approved in writing by the Association. A copy of such plans as finally approved shall be kept by the Association for its records. The Association may withhold approval of said plans not only for noncompliance with any specific conditions in the Declaration of Restrictions, but also by reason of the reasonable dissatisfaction of the Association with the style, color scheme, materials, finish, architecture, location or appropriateness of the proposed structure or alteration. The Association shall judge the proposed structure in relation to the general plan for improvement of said property and in relation to the structures in the immediate vicinity of the proposed structure.

5.02 The style and architecture of proposed structures shall be in keeping with the vacation or recreational character of the development. Either traditional (log, 1/2 log, paneled) or modern (A-Frame, Swiss Chalet, etc.) styles will be acceptable subject to approval of specific plans, color schemes, etc.

5.03 While under construction, an agent or officer of the Association may, from time to time, at a reasonable hour enter and inspect any property subject to the jurisdiction of the Association as to its improvement or maintenance with the provisions hereof. The agent or officers and/or Association shall not thereby be deemed guilty of any manner of trespass for such entry of inspection.

5.04 A stamp of approval is required from the Association before obtaining a building permit from the county.

5.05 In the event of any unauthorized improvements that violate the provisions of this Declaration of Restrictions, or in the event of noncompletion of proposed improvements, the Association may execute the record in the office of the County Recorder of Montmorency County, Michigan, notice of such noncompliance and/or noncompletion. The Association may also institute legal proceedings to enforce completion and/or compliance.

ARTICLE VI

HEALTH AND SANITATION STANDARDS

6.01 a) Said property shall be subject to the Sanitation Regulations for District No. 4 Health Department

6.02 All garbage shall be kept in covered appropriate containers, secured from wildlife, and screened from public view. Such garbage shall be taken to the township dump periodically. Garbage shall not be burned out of doors and shall not be buried on said property. Under no circumstances will open garbage pits be permitted. Members may secure and pay for their own garbage removal services.

ARTICLE VII

SETBACK AND LOCATION OF BUILDINGS

7.01 Dwelling houses, garages, or other structures shall have the following setback requirements:

a) No such structure shall be located within 75 feet of the high-water line of Ess Lake, Long Lake, or Ess Lake Channel except lots 114 & 115 which shall have a 25 foot setback from Ess Lake Channel

b) No structure shall be located within 7 feet of the sideline of the building site.

c) No structure shall be located within 30 feet from the right of way of any public road or within 30 feet of the center of any private road.

d) All structures must conform with township restrictions.

ARTICLE VIII

TREES

8.01 No normal, reasonably healthy pine, oak, maple, or birch tree of greater than 6 inches in diameter may be removed, damaged, or otherwise destroyed from said property unless it is within 8 feet of an approved structure, driveway, or septic system, or unless written permission is obtained from the Association.

ARTICLE IX

DOCKS AND MOORING OF BOATS

9.01 All lakefront lots extend to the water's edge. Control of waters adjoining said property with respect to stationary docks, floating docks and the mooring of boats shall reside in the Association.

9.02 To preserve the natural appearance of Ess Lake on waterfront lots, a single stationary dock shall extend no more than sixty (60) feet from the water's edge into the lake. One stationary dock is permitted per lot. Docks shall be no more than 12 feet wide and their decks shall not be more than 12 inches above the normal water level. Docks on Long Lake shall not impede boat traffic. No structure shall be built above the deck of the dock without the written permission of the board.

9.03 The Association shall reserve the right to build, maintain, and place a limited number of floating docks (swimming rafts) in front of outlots for the use of lake front and back lot owners. No property owner may build, place, or maintain such a dock unless granted written permission of the Association.

9.04 No boat shall be moored other than at an acceptable stationary dock without the written permission of the Association.

ARTICLE X

OUTLOTS

10.01 Outlots shall be dedicated to the Association by the Declarants, for the use of the lot owners. The Association shall maintain, pay taxes on, and regulate the use of these lots. All lot owners shall have swimming and boating privileges at the Long Lake Outlot. Non Ess Lake lake-front owners shall have swimming privileges at the lakefront Ess Lake outlots. No boats/watercraft shall be moored or launched from Ess Lake outlots. The only exception is that kayaks and canoes may be hand-launched from an outlot but not moored or stored on any outlot. These outlots shall not be open to the general public, and guests of property owners must be accompanied by the property owners.

ARTICLE XI

THE ASSOCIATION, MEMBERSHIP, DUES AND DUTIES

11.01 The purchaser of each building site in Ess Lake Estates automatically becomes a member of the Ess Lake Owners Association, Inc. with one vote per lot or building site in the affairs of the Association. The purposes of the Association are detailed in the articles of incorporation of the Association, and the methods of operation in the by-laws of the Association.

11.02 The Directors of the Association may levy dues in an amount set forth in the bylaws per year per lot or per building site on portions of said property as they are sold by Declarants. Declarants shall retain the right to vote unsold lots but shall pay dues only on improved sites.

11.03 Purchase of portions of said property by the acceptance of deeds or by the signing of purchase agreements or land contracts, whether from Declarants or subsequent owners, shall become personally liable to pay such dues including penalties for late payment and legal fees required to enforce payment. Such obligations shall run with the land so the successor purchasers in turn become liable for the payment of such charges or assessments and penalties which shall have become a lien thereon during their ownership thereof.

11.04 Dues notices, noting lot numbers, will be sent out January of each year. Dues amounts, set forth in the bylaws, shall be due June 30th of each year. The dues collected by June 30th each year shall be stipulated for use for the fiscal year from July 1 to June 30 each year. Such dues shall be delinquent and subject to penalty, equal to the dues amount, if not paid in full by June 30th each year. The board shall develop a budget for each fiscal year. A late penalty, of an amount set forth in the bylaws, per lot or building site, will be assessed on July 1 for unpaid dues. Such delinquent dues and penalties shall become a lien on the property from the date of notice of delinquency and may be recorded against the title of such. The property owner shall pay all costs of recording and, in the case of foreclosure, all other fees and expenses including reasonable attorney's fees.

11.05 All dues and penalties collected by the Association shall be used for the following:

- a) Expenses if any incident to enforcement of restrictions, conditions, covenants, charges or agreements in this Declaration; and collection of dues provided for in this Article.
- b) Taxes and assessments on outlots turned over to the Association.
- c) Constructing, maintaining, cleaning docks, rafts, picnic tables, signs, and other improvements for the use of the property owners on or adjoining the outlets.

11.06 The association shall not have any control over the sale or purchase of individual lots or building sites and, therefore, over its membership and shall not be used as a vehicle to discriminate on the basis of race, color, or creed, or any other protected classification as defined by United States Federal or State of Michigan law or interpretation of the same by the judiciary against its members or prospective property purchasers.

ARTICLE XII

CONSTRUCTION OF CONDITIONS AND RESTRICTIONS

12.01 In constructing this Declaration, or any part thereof, stipulations which are necessary to make this Declaration of Restrictions, or any of its terms or provisions, reasonable are implied.

12.02 The determination by any court that any of the provisions of this Declaration are unlawful or void shall not affect the validity of any of the other provisions hereof.

12.03 Damages are declared not to be adequate compensation for any breach of the provisions of this Declaration, Declarant contemplating the enforcement of such restrictions as part of the general plan of improvement and not damages for the breach of such restrictions.

12.04 Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarants or their agents of structures or signs for the conduct of their business in connection with said property.

ARTICLE XIII

DURATION, MODIFICATION OR ANNULMENT OF CONDITIONS, RESTRICTIONS & CHARGES

13.01 These conditions, restrictions and charges shall run with the land for the benefit of the owners thereof as a part of a general plan of development, improvement and maintenance for a period of five (5) years, from July 1, 2025 to June 30, 2030, at which time they shall be renewed automatically for successive periods of five (5) years, unless within six months prior to the date of any renewal a written agreement altering modifying, or cancelling said conditions, restrictions and charges in whole or in part is executed by more than two-thirds (66%) the land owners then of record.

13.02 Said conditions, restrictions, and charges may be changed, modified, or annulled in whole or in part by a written agreement signed by more than seventy-five per cent (75%) of the lot owners of record at the time of the agreement.

13.03 Exceptions to specific conditions, restrictions, and charges may be made by unanimous vote of the directors of the Association where such conditions might work an undue hardship upon a specific property owner and where such an exception would not be detrimental to the overall general plan of development.

ARTICLE XIV

VIOLATION OF CONDITIONS AND RESTRICTIONS AND ENFORCEMENT

14.01 Violation of any of the conditions or restrictions herein contained shall give to Declarant and/or the Association the right to enter upon the property upon which such violation exists, and to summarily abate and remove, at the expense of the owner thereof, any erection, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof; and Declarant and/or the Association shall not thereby be deemed guilty of any manner or trespass for such entry, abatement or removal.

14.02 The provisions contained in this Declaration shall bind and inure to the benefit of and be enforceable by Declarant, the Association, or the owner or owners of any portion of said property, or their and each of their legal representatives, heirs, successors and assigns; and failure by Declarant, or by the Association, or by any other property owner, or their legal representatives, heirs, successors or assigns, to enforce any of such conditions, restrictions or charges herein contained shall in no event be deemed a waiver of the right to do so hereafter.

[SIGNATURE AND ACKNOWLEDGEMENT APPEAR ON THE FOLLOWING PAGE]

Ess Lake Owners Association, Incorporated, a Michigan Nonprofit Corporation

By: Cheryl M. Leach

Name: Cheryl M. Leach

Title: President

STATE OF MICHIGAN

COUNTY OF Montmorency

The foregoing instrument was acknowledged before me this 22 day of May, 2025 by Cheryl M. Leach, the President of Ess Lake Owners Association, Incorporated, a Michigan Nonprofit Corporation, on behalf of the Corporation.

Laken Neff
Notary Public

Montmorency County, Michigan

Acting in Montmorency County, Michigan

My Commission Expires: 2/24/29

LAKEN NEFF
Notary Public, State of Michigan
County of Montmorency
My Comm. Expires on 2/24/29

Prepared by:

Cheryl M. Leach, President

Ess Lake Owners Association, Inc.

P.O. Box 388

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