



## BIRKDALE COMMUNITY ASSOCIATION

### “Draft” Amendment - Frequently Asked Questions (FAQ)

#### Purpose of this document:

This document explains why the Birkdale Board of Directors is asking Owners to consider a *draft amendment* to the Governing Documents: “Master Protections, A Declaration of Covenants, Easements, and Restrictions.” This amendment does not approve a pool, spending, or borrowing. It only gives the Association legal authority to study and consider future community assets, subject to additional Owner votes.

#### Key points to know:

- **The amendment does not approve a pool purchase.**
- **If the amendment passes, no money can be borrowed or spent on new property without additional Owner votes.**
- **The upcoming Town Hall is discussion only — no votes will occur.**

#### 1. Why are Birkdale Owners now discussing a “draft” amendment?

Prior to November 2024, a group of concerned Birkdale Owners began sharing information about the potential for the Birkdale Community Association to purchase the Birkdale Golf Club pool and tennis court areas.

- **November 2024:** Board formed ad hoc Pool Committee.
- **February 2025:** Committee reported findings to the Board.
- **Spring 2025:** Non-binding survey planned to gauge Owner interest.
- **August 2025:** Pool Interest Questionnaire distributed.

The discussion evolved gradually over time, revealing legal limitations in the Governing Documents. The Board paused all activity until legal authority could be clarified.

#### 2. Didn't Birkdale Owners already vote on the pool with the questionnaire/survey?

The Birkdale Board of Directors conducted a survey questionnaire (not a binding vote) to gauge Owner support for a proposed swimming pool acquisition and whether the Board should continue to explore the idea.

Owners responded to two questions:

- 1) **Based on initial estimates the BCA Board has received, the purchase of the pool and tennis court property, the necessary repairs/upgrades to the pool, and the annual operating costs would increase each homeowner’s dues by up to \$450 annually.**

Select only one:

- a. **Not willing to pay any increase for the pool.**
- b. **Willing to pay the additional dues.**

- 2) **Should the Birkdale Community Association Board continue to pursue the pool and tennis court purchase?**

Of Birkdale’s 657 Owners, 415 responded to the questionnaire.

<b><u>Response</u></b>	<b><u>Number</u></b>
<b><u>Yes</u></b>	<b><u>215</u></b>
<b><u>No</u></b>	<b><u>200</u></b>
<b><u>No response</u></b>	<b><u>242</u></b>

A substantial number of respondents, in both the positive and negative counts, indicated they wanted more information about the proposal. These questionnaire results did not authorize any action and did not grant the Board spending or purchasing authority.

### **3. Did the Board continue pursuing the pool proposal after the survey?**

At their meeting on November 20, 2025, the Board determined that additional legal advice was required to determine if the Board has the authority to undertake this project. The Board consulted legal counsel to ensure compliance with Virginia law and Birkdale’s Governing Documents. Counsel advised that the Board could not spend funds on any new property— including a feasibility study— without first amending the Declaration. The Board voted to ask counsel to draft a proposed amendment allowing “assessments to be used to purchase, operate, and maintain additional assets.”

The Board has not pursued the purchase of the pool property since Birkdale’s Governing Documents currently do not give the Board any authority to purchase, operate and maintain additional Common Area assets.

### **4. Why is an amendment needed?**

Current Governing Documents allow assessments to be spent only on existing Common Area assets or services. They do not authorize purchasing new property, funding loans,

operating, or maintaining new assets. The proposed amendment would grant that authority.

The full “draft” amendment is available at [www.birkdaleonline.com](http://www.birkdaleonline.com) and in each Owner’s **VANTACA** portal, provided by Birkdale’s Community Manager, ACS West, Inc.

**5. Does this amendment require the Board to buy property or raise assessments?**

No. The amendment only provides the legal authority. Any decision to purchase property, or take on associated debt, would require additional Board action and, where applicable, further Owner approval. Without amending the Governing Documents, the Board has no authority to spend any funds on additional assets.

The Board understands that this is a significant concern, especially for Owners who may never use a future amenity.

- **Amending the Declaration requires a two-thirds (2/3) affirmative vote of all 657 Owners.**
- **Any loan or debt would require a second two-thirds (2/3) affirmative vote of all 657 Owners.**

**6. Is the amendment specific to the Birkdale Golf Club pool?**

No. The proposed amendment is not site-specific to any property. The Board understands that this concern is significant for many Owners and is a key reason no specific project is being proposed currently.

**7. What will the amendment allow?**

It would authorize the Board to use assessments to purchase, operate, and maintain additional assets. No specific asset is identified. As explained in Question 5, any loan or debt obligation would still require a separate two-thirds (2/3) affirmative vote of all 657 Owners.

**8. Will Owners be able to vote on purchasing additional assets?**

As explained in Question 5, any loan or debt obligation would still require a separate two-thirds (2/3) affirmative vote of all 657 Owners.

**9. Why should Owners pay for an asset they may not use?**

All Birkdale Owners pay equal assessments and have equal opportunity to use, or not use, Association facilities. The Board recognizes that not every Owner will use every amenity. However, like landscaping or lighting, Association assets are shared investments.

**10. If the amendment passes, when and how might our assessment increase?**

If approved, the Board would decide whether to pursue purchasing additional property. The Board would need to consider future steps including funding additional legal costs and strategic studies initially. If the Board decided to proceed with a project, the revenue source would need to be in place prior to commencement of the project to ensure repayment capability. As explained in Question 5, any loan or debt obligation would still require a separate two-thirds (2/3) affirmative vote of all 657 Owners.

**11. How much has Birkdale spent on legal work?**

Legal costs associated with this issue from August 2024 through March 2026 exceed \$17,000. The charges include multi-year consultations, document drafting, review of Governing Documents, additional costs ensuring compliance with Virginia law, and avoiding unauthorized use of Association funds. Additional costs will be incurred if the Board moves forward with an Owner vote. Financial details are reported monthly in the “Birkdale Bulletin.”

**12. What are the Board’s next steps?**

The Board of Directors will host a **Special Birkdale Board of Directors “Town Hall” Meeting** for all Birkdale Owners to discuss draft language for an amendment to the Declaration.

**Date:** April 23, 2026

**Time:** 6:30 PM

**Location:** Spring Run Elementary School Cafetorium

**Purpose:** This Town Hall is intended to provide information, answer questions, and hear Owner feedback. No votes will be taken at this meeting.

The Board encourages all Owners to attend the Town Hall, review the draft amendment, and share their perspectives before any decision is made. You may submit your questions in advance on the Birkdale Community Association website, speak, or write out your comments/questions at the meeting.

**13. What happens after the Town Hall?**

Following the Town Hall, the Board will consider Owner feedback and determine whether to move forward with a proposed amendment vote. Any future vote would be conducted in accordance with the Governing Documents and applicable law.