

LAKESIDE FARMS AT SMITH MOUNTAIN LAKE

DECLARATION OF

PROTECTIVE RESTRICTIONS AND COVENANTS

This Declaration of Protective Restrictions and Covenants made and entered into this 5th day of November, 2020, by Red Barn Developers, LLC, a Virginia Limited Liability Company, herein called "Declarant"

Whereas, Declarant is the owner of certain real property, together with certain rights and reservations in and to the adjoining shoreland, situated along the waters of Smith Mountain Lake and fronting on the south side of Va. Route 670 (Burnt Chimney Road) in the Union Hall Magisterial District, Franklin County, Virginia, hereinafter the "Property", as said Property has been subdivided as shown on plat of survey dated 9/6/2019, by Balzer & Associates, John R. McAden, Land Surveyor, entitled "Lakeside Farms at Smith Mountain Lake" (hereinafter sometimes referred to as "Subdivision") which plat is of record in the Clerk's Office of the Circuit Court of Franklin County, Virginia in Plat Book 1162, Page 2843 *Plat 2851*.

Now, therefore, subject to the foregoing, the Declarant declares that all of the Property described on the Plat shall be held, conveyed, leased, used, encumbered, occupied and improved subject to the following, all of which is declared and agreed to be in furtherance of a plan for the improvement of the Property and is established and agreed upon for the general purpose of enhancing and protecting the value, desirability and attractiveness of the Property.

1. **Permitted Improvements:** Only single-family dwellings shall be erected, altered or permitted to remain on any lot, except as otherwise permitted herein. An attached or detached garage must be a minimum two-car garage size. The garage must be compatible by design and appearance with the dwelling. A lot may have an attached garage and a detached garage. A guest house with a minimum of 800 finished square feet is permitted with the same architectural standards, design and appearance as the dwelling. However, all prior existing structures are "grandfathered in" and exempt from the requirements set forth in this Paragraph.

1.1 The only improvements, other than erosion control structures, which shall be permitted on the Smith Mountain Lake shoreline rights area appurtenant to any lot shall be dock structures which may include one boat house with slips and other appurtenant improvements such as an open deck, screened-in porch, and/or an enclosed room, provided they meet the following criteria; All materials shall be designed to resist rot and the dock shall be constructed in a workmanlike manner. No boathouse or appurtenant improvement shall exceed one story in height and all observation decks shall be open with no roof. All docks must comply with the Shoreline Management Plan (SMP) developed by Appalachian Power Company.

1.2 The minimum setback restrictions (as set forth on the Plat referenced above) are as follows: i) thirty feet (30') from the front of the lot; ii) twelve feet (12') from the sides of the lot;

2020DEC 10 PM 3:09

200010239

iii) thirty feet (30') from the rear of the lot; and, iv) twenty feet (20') from the 800 foot contour line if contiguous to Smith Mountain Lake.

1.3 A dwelling shall not be more than two stories above ground level, excluding a basement (or excluding a piling foundation when permitted).

1.4 Considering topography and required setbacks, detached and accessory structures shall be located so as to not unreasonably interfere with the lake sight-lines of the dwelling or dwelling site on any other lot in the subdivision.

2. **Minimum Square Footage of Dwellings:** The footprint of a single-family dwelling built on any lot shall be a minimum of nine hundred (900) square feet. The waterfront homes must be a minimum of eighteen hundred (1,800) finished square feet of fully enclosed heated living area. ("Living Area" as used in this instrument excludes basements, seasonal porches, breezeways, garage, decks and the like.) The interior lots shall be a minimum of fourteen hundred (1,400) finished square feet of fully enclosed heated living area.

3. **Exterior Structures:** All garages and other permanent structures, such as storage rooms, retaining walls, etc., shall be built of similar or complimentary materials. No cinder block, cement, solite block, vinyl siding, T1-11 or asphalt shingle siding and the like shall be permitted for the finished exterior or any structure except for masonry foundations which must be covered with brick or natural or manufactured stone veneer, or sealed, parged and painted to conceal block joints; however, poured foundations with brick simulation shall be acceptable. All sewage must be disposed of in septic tanks meeting local government standards. All fuel tanks over 100 gallons must be buried. All above ground tanks shall be screened from casual observation from other properties.

3.1 All structures erected on any lot within Subdivision shall be constructed primarily of new material.

3.2 Exterior siding, roofs, architectural features and exterior paint or stain shall be white or subdued or earth tone colors so as to blend with the natural environment. For this purpose, brick, natural stone and prefinished logs shall be acceptable without painting or staining.

3.3 Roofing on all buildings shall be either natural slate, wood shake, asphalt or fiberglass shingle, with standing seam coated steel (tin roof), or concrete shingles. The roof of any dwelling and any detached garage shall have a minimum 5/12 roof pitch. All dwellings shall include a minimum of three (3) elevations and/or opposing roof lines, at least two of which must be on the front elevation, which may not include a pediment but may include dormers or an attached garage, each of which must be visually substantial and which may be step down or opposing roof angles, excluding detached garages. The roof pitch of detached garages and accessory buildings must be similar to the dwelling.

4. **Material Deliveries:** Prior to the beginning of clearing or construction on a lot, and prior to the delivery of materials for such construction, an entrance driveway shall be constructed to afford access to said lot. All materials shall be stored on the lot and not on any street, drainage ditch, road or, highway. Property owners shall be responsible for any damages to roads and ditches caused by them or anyone they hire for building or delivery of materials to their lot.

4.1 All construction vehicles and heavy equipment must be parked on the lot and not on the community roadways. Excavation and heavy equipment must be unloaded on the lot and substantial care must be exercised when such equipment is being unloaded adjacent to the surfaced road edge. No such equipment shall be moved using a subdivision road or the ditches or shoulders.

5. **Construction Time Frame:** Construction of improvements on the lots must be done in a workmanlike manner. There is no timeframe to begin construction; however, once construction has commenced all exterior work shall be completed within twelve (12) months of starting construction. Construction of guest home may begin prior to main dwelling; however, construction of main dwelling must be started within eighteen (18) months of starting construction on guest home.

6. **Allowed Fencing and Shrubbery:** No chain link, wire or stockade fences shall be erected on any lot. No fences or plantings exceeding 4' in height are to be placed on any lot that would unreasonably obstruct the view of Smith Mountain Lake from neighboring lots. No invasive species such as kudzu or bamboo shall be allowed.

7. **Activities Not Allowed:** No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood or injure the value of the neighboring property. Commercial activity, including the use or operation of a convalescent home, nursery, or child care center, is specifically prohibited. A home office or similar activity that does not involve customer visits to the premises shall be allowed.

7.1 No fowl, swine, goats, cattle, or mules shall be allowed or kept on any lot, and no dog or cat kennels, rabbit hutches, or pigeon lofts, temporary or permanent, shall be erected or placed. All household pets including dogs and cats shall be inside pets and not left outside overnight and shall not be kept, bred or maintained for any commercial purpose. No outside pet houses shall be permitted.

7.2 One horse or pony shall be allowed per acre of fenced pasture. Any stable erected for the care of said horse(s) must be compatible by design, appearance and color scheme with the dwelling.

7.3 No basement, tent, shack, garage, barn or other outbuilding shall be used or erected for use as a temporary residence on any lot, and no trailer shall be placed on a lot as a temporary or permanent residence.

7.4 No bottles, cans, trash, garbage, stumps, waste, refuse, dirt, or any other material of any kind or description shall be thrown or dumped in any ditches or on any lots or roadways.

7.5 All lots shall be maintained so that junk and debris are not allowed to accumulate. Any vehicle that is not road worthy or does not have displayed a current license plate and current inspection sticker must be stored in a fully enclosed garage.

7.6 No signs may be placed on any lot, unless approved by the Declarant, except a sign displaying the property address or identification, prohibited signage is including but not limited to a sign offering the property for rent or sale.

7.7 Whenever the grass on a lot or adjoining shoreline exceeds twelve inches (12") in height, the Association shall have the option to proceed without notice to cut and/or rake and/or bag the grass and to bill the lot owner for the expense thereof. Bills for such lawn maintenance shall be due and payable upon receipt and such bill shall constitute a lawful assessment against the applicable lot and shall be enforceable as such.

7.8 No dishes over 18" or antennas, only small satellite dishes and small residential wire/tube TV antennas shall be permitted.

7.9 Hunting and/or the repeated or regular discharge of any firearm or weapon (such as for target practice) is strictly prohibited in Subdivision.

7.10 No camping shall be allowed, provided that this prohibition shall not preclude occasional camping up to seven days twice per calendar year by property owners.

7.11 Except as otherwise set forth herein, no lots within Subdivision shall be used except for residential purposes. No commercial or business enterprises shall be allowed on any lot, other than arts, crafts, or professions operated and conducted solely by family members occupying the residence, and only when such product or service is not distributed to customers at the operators' residence or within Subdivision. Anything to the contrary notwithstanding, model homes and sales centers approved by the Declarant are permitted in Subdivision on any lot, which approval the Declarant shall not be obligated to grant.

7.12 All construction sites, driveways and subdivision roads must be kept reasonably clear of mud and construction debris during construction.

7.13 Burning of debris, brush, leaves and other trash shall be done in accordance with State law and in consideration of other lot occupants. All garbage and trash must be regularly removed and stored in covered containers placed where they are not visible to casual observation from Smith Mountain Lake or any roadway or lot.

7.14 Any disturbance, including but not limited to clearing, grubbing, disturbing or redistribution of material within the streams, wetlands or other U.S. Army Corps of Engineers

jurisdictional waters without prior approval from the Corps of Engineers or Virginia Department of Environmental Quality.

8. Easements: In addition to any easements reserved or shown on the recorded subdivision plat, Red Barn Developers, LLC, and its assigns reserves the right to establish and grant utility easements within an area fifteen feet wide along Va. Route 670 and all subdivision roads, and ten feet wide along all property lines other than the shoreline of any lot (the ten foot wide easement on common lot lines shall be centered on the lot line), provided that no easement shall be located so as to interfere with the location or operation of any drainfield. No compensation shall be required for any easement.

8.1 Except to another lot owner, no owner of any lot in Subdivision shall convey an easement or grant the right of passage or in any way give anyone the right to traverse any lot in said subdivision for the purpose of entering upon the shoreline or waters of Smith Mountain Lake or to provide access to any other property. Nothing herein shall be construed as prohibiting the granting of normal residential utility easements.

8.2 Declarant has granted or will grant to AEP a utility easement to serve lots within Subdivision. In addition Declarant has reserved residential utility easements on the plat which shall be for the benefit of Declarant and lot owners.

8.3 Drainage easements for the natural flow of surface water and/or for channeled surface water are hereby reserved over all lots where necessary for the flow of surface water within Subdivision, regardless whether said drainage easements are shown on plat.

8.4 The aforesaid easements on each lot and all improvements thereon shall be maintained continuously by the owner of the lot except for those improvements for which a public authority or utility company is responsible. Stormwater Management areas shall be maintained by the Association as set forth below in paragraph 12.7.

9. Subdivision of Lots: No lot may be subdivided or re-subdivided or easements (other than normal residential utility easements) granted without the express written approval of Declarant, or its successors or assigns provided, however, that Declarant, reserves the right to resubdivide or reconfigure any of its unsold lots, or enlarge by merger or by adding additional land outside of Subdivision to any of its unsold lots, or to add additional lots to Subdivision, provided that any such action by Declarant is consistent with the existing caliber of the community and is in accordance with applicable County ordinances. If two or more adjoining lots are acquired by the same owner no part or parts of said lots shall be conveyed by said owner unless each lot being

conveyed and each lot being retained is in compliance with all of these restrictions and covenants and approved by appropriate governmental authority. Declarant further reserves the right to create or to grant to others the right to create and otherwise establish a realignment, extension or relocation of any road within. Subdivision to provide access to adjoining or nearby property, provided such action does not reduce the road frontage or boundary line of any lot not owned by Declarant at the time of such action.

10. **Equipment Storage Restrictions:** Lawn maintenance equipment or other tools, paraphernalia and the like shall not be stored on any lot unless stored out of sight or in an enclosed garage. Only boats, boat trailers and similar recreational equipment belonging to the lot owner or to a member of the lot owner's immediate family may be stored on any lot in accordance with such rules and regulations as the Association may from time to time adopt. No vehicle not licensed to travel on the public highway of the Commonwealth of Virginia shall be used within Subdivision except electric golf carts or other electric vehicles.

11. **Common Area (Boat Dock Area):** All members of the association shall be entitled to the reasonable use of the common area for recreational purposes, subject to such reasonable rules and regulations as the association or its directors may from time to time adopt. The common area shall be for exclusive use of the members of the association as herein provided. Such exclusive use of the common area is hereby restricted to (1) members of the association; (2) bona fide tenants of a dwelling house located on any member's lot; (3) the immediate family of a member of the association (or immediate family of a bona fide tenant); (4) a reasonable number of guest of a member of the association (or a bona fide tenant) when accompanied by the member of the association (or by the bona fide tenant) or accompanied by an immediate family member of the member of the association (or by an immediate family member of the bona fide tenant). A member of the association, and those having the right of use arising from said member, may be denied use of the common area if the member of the association's dues and assessments owed to the association are more than sixty (60) days in arrears. Members of the association and bona fide tenants shall be responsible for any and all of their guests brought onto the common area.

11.1 Those persons entitled to use the common area shall do so in accordance with such rules and regulations as the Declarant or the Association may from time to time adopt, provided that no rules or regulation shall be adopted that is contrary to the interest of the Declarant or adversely affects the rights reserved by the Declarant.

11.2 No parking, activity or function shall be permitted within the common areas/facilities between 10:30 PM – 6:00 AM.

11.3 The bathroom facilities located at the common area shall only be used by members of the association that are currently utilizing the day dock area.

11.4 The Association shall maintain, at its expense, property, casualty and liability insurance on the common areas/facilities on such terms and with such coverages as are customary for similar common access and recreational facilities.

11.5 Contractors, sub-contractors, laborers, materialmen, and maintenance personnel are not permitted to use the Common Areas for recreational purposes at any time.

12. Lakeside Farms Property Owners Association: All lot owners in Subdivision shall be required to become members of the Lakeside Farms Property Owners Association ("Association"). The Association shall operate in accordance with the Virginia Property Owners Association Act, provided that no dues or assessments or charges of any kind may be levied against or collected from the Declarant or the Declarant's affiliate entities now or in the future. The amount of said charges shall be determined by the Association after considering the needs for maintenance and repairs and future needs and requirements of the Association, provided that for the year 2020, the annual assessment shall be \$600.00 per lot. Annual dues shall be payable by calendar year and shall be due and payable on or before February 1st of each year. Under normal circumstances any increase in the annual charge shall not exceed ten percent (10%) of the charge for the preceding year. Any increase made beyond said limitation may be made only with the approval of a majority of the members of the Association voting on the increase. Pro rata dues shall be collected on sales by the Declarant and the purchaser shall pay one-fourth of the annual amount due for the quarter in which closing occurs plus the remaining quarters of the calendar year, if any.

12.1 The Association is empowered to assess members, other than the Declarant or the Declarant's affiliate entities (whether as an original owner or as a subsequent owner) such sums of money as may be necessary to conduct its business, to impose a lien on any lot within Subdivision owned by a member who is delinquent in payment of any such assessment and to enforce such lien, in accordance with the Virginia Property Owners Association Act, without limiting any other rights which it may have.

12.2 The Association shall be responsible for the repair, maintenance and/or replacement of the Entrance Signs, common areas/facilities, including but not limited to all improvements located thereon. The Association shall have the option to cut grass on lots and shoreline as previously provided in paragraph 7.7.

12.3 The failure to inform or exercise any right, restriction, reservation or condition contained in this declaration, however long continued, shall not be deemed to be a waiver of the rights to do so thereafter, and shall not bar or affect its enforcement. Further, nothing herein is to be construed so as to prevent Declarant from placing further restrictions or easements on any unsold lots.

12.4 The grantee of any lot subject to the coverage of this declaration, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from Declarant or any subsequent owner of such lot, shall for himself and his successors or assigns,

accept such deed or contract upon and shall be subject to each and all of these restrictions and the agreements herein contained. A lot owner shall be deemed a member of the Association by virtue of the ownership of the lot.

12.5 Property owners who are entitled to use the Common area and who are in good standing shall have the right to vote on matters pertinent thereto, one vote to be cast per property.

12.6 Property owners who own two lots are only responsible for one set of property owners' yearly dues. Property owners which own three lots are responsible for one and a half set of property owners' yearly dues.

12.7 Upon the release of any bonds securing their completion, the Association, subject to the rights of the owners set forth in this Declaration, shall be responsible for the taxes, insurance, maintenance, management, operation and control of the common areas, roads, stormwater management areas, storm drainage areas and all other improvements and utility easements thereon to the extent maintained by the Association, and shall keep the same in good, clean and attractive condition, order and repair.

12.8 After initial construction of the roads by the Declarant, the Association shall maintain and be financially responsible for (including but not limited to, posting an additional bond with Franklin County) all roads in Lakeside Farms other than roads both dedicated and accepted into the public road system, including all repair, improvements, snow removal and other work as necessary to properly maintain the roads in good condition. Cost of construction, maintenance, or upkeep or replacement of the private roads will not be borne by the County, the Commonwealth of Virginia, or any other public agency, unless and until said private roads are accepted into the state road system.

13. Wetlands, Rivers, Water Bodies and Protected Areas. If wetlands, streams, or buffers existing on a Lot, as more specifically described on a recorded plat, the Owner of such Lot may not install structures of any kind, including but not limited to fences, play structures, and sheds within this area. No clearing, grubbing, disturbing or redistribution of material within the preserved wetland area is permitted. Any violation related to wetlands is the sole responsibility of the Lot Owner. The Lot Owner shall comply with Army Corps of engineers requirements, as promulgated from time to time.

14. Severability: Every one of the covenants is hereby declared to be independent of and severable from the rest of the covenants and of and from every other one of the covenants and of and from every combination of the covenants. Therefore, if any of the covenants shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect on the validity, enforceability or "running" quality of any other one of the covenants.

15. Term: The aforementioned restrictions shall remain covenants that shall run with the land and shall be binding on all parties and all persons claiming under or through them for a period of

twenty-five (25) years from the date this declaration is recorded, after which these covenants shall be automatically extended for successive periods of Ten (10) years unless an instrument is signed by the then owners of two-thirds (2/3) of the lots within Subdivision and recorded in the Clerk's Office of the Circuit Court of Franklin County, Virginia, changing these covenants in whole or in part, provided, however, no right, privilege or reservation in favor of Declarant may be changed without the written consent of Declarant.

16. Waiver or Modification: Any of the foregoing covenants, conditions and restrictions may be waived, modified or released by written instrument executed by Declarant, or by its duly authorized representative, and by the owner of the lot or lots as to which the covenants, conditions and restrictions are waived, modified or released and by the owners of the lots immediately abutting said lot or lots; but no such waiver, modification or release shall affect any other covenants, conditions or restrictions which may adversely affect the lot or lots.

17. Amendment: At any time during the period of the 25 years from the date this declaration is recorded, the then recorded owners of 2/3 of the lots within Subdivision shall have the power to amend these covenants (except that any right, privilege or reservation in favor of Declarant is excluded) in any way by duly recorded instrument in writing. Provided, however, Declarant for so long as or whenever it is the owner of any lot within Subdivision, further reserves the right to grant by appropriate written instrument, exceptions to the restrictive covenants herein contained when the soils, size, shape or topography of any particular lot indicates the need thereof, and to veto any amendment hereto by said lot owners as set forth hereinabove.

Notwithstanding any other provision contained herein, Declarant further reserves the right to amend, modify, revoke, alter, expand and update the contents of these restrictions and covenants, or to add any real estate to the scope of this Declaration, or amendments thereto, without the permission of any party as long as it owns any Lot.

18. Enforcement: The Association and/or any owner of a lot in Subdivision shall have the right to prosecute any proceedings at law or in equity against any person, firm, or corporation violating or attempting to violate any restrictions herein contained for the purpose of such proceedings or preventing such violation or recovering damages for such violation. The failure of the Association, or an owner of a lot to bring any such proceedings shall not be considered as a waiver of any rights at law or in equity that any such party may have for past or future violation of any restriction herein contained.

19. Action Taken by Agent: Any action taken by the duly authorized agent, representative or assignee of Declarant with respect to the foregoing covenants, conditions and restrictions shall have the same effect as if taken by Declarant.

20. Short Term/Long Term Rentals. Short term/long term rentals of homes in Lakeside Farms are expressly permitted subject to the lot owner complying with local rules and regulations.

21. **Ordinances:** All covenants, conditions and restrictions and permitted uses hereunder are subject to such further more restrictive lawful limitations as may be imposed by Franklin County Ordinance.

22. **Purchasers' Acceptance:** The purchaser of any lot within Subdivision agrees to keep, observe, comply with and perform all covenants contained in this declaration. This acceptance applies to the purchaser, his heirs, personal representatives, successors and assigns.

23. **Captions:** The captions preceding the various paragraphs and sub-paragraphs of these covenants are for convenience of reference only and none of them shall be used as an aid to the construction of any provision of the covenants. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

IN WITNESS WHEREOF, Red Barn Developers, LLC has caused the foregoing Covenants, Conditions and Restrictions to be executed in its name this 5 day of November, 2020.

Red Barn Developers, LLC

By: 

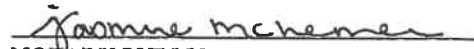
Jason C. Shott, Manager

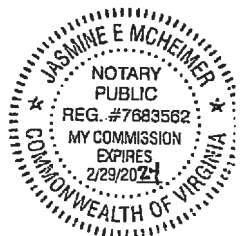
STATE OF Virginia

COUNTY/CITY OF FRANKLIN, to-wit:

The foregoing instrument was acknowledged before me this 5 day of November, 2020, by Jason C. Shott, Manager of Red Barn Developers, LLC, a Virginia Limited Liability Company, on behalf of said company.

My commission expires: 2-29-2024


NOTARY PUBLIC



OK 1152 PG 02871

INSTRUMENT 200010239
RECORDED IN THE CLERK'S OFFICE OF
FRANKLIN COUNTY CIRCUIT ON
DECEMBER 10, 2020 AT 03:09 PM
TERESA J. BROWN, CLERK
RECORDED BY: JFL