



## NOTICE REGARDING COVENANTS AND/OR RESTRICTIONS

The following Covenants and/or Restrictions are added as a courtesy only and are NOT WARRANTED by the property owner, their broker or agent as to completeness, accuracy, currency, or enforceability. Any interested buyer prospect is urged as part of their due diligence to contact the relevant Community Association or developer to determine for themselves what covenants and/or restrictions currently apply, how long they may remain in force, and if any changes or amendments may be currently under consideration. Additionally, or alternatively, one may wish to consider hiring an attorney to conduct this search for them and provide advice as needed.



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 Fannin Co. Clerk of Superior Court  
 DANA CHASTAIN Clerk of Courts  
 BK **1231** PG **117-125**

Return to: Irene Rude  
 64 Hyatt Drive  
 Mineral Bluff, GA 30559

**STATE OF GEORGIA**  
  
**COUNTY OF FANNIN**

**Cross Reference: Deed Book 702  
 Page 309-312**

**AMENDED AND RESTATED  
 DECLARATION OF COVENANTS, CONDITIONS  
 AND RESTRICTIONS FOR FARMER'S ESTATES**

WHEREAS, the Declaration of Covenants, conditions and restrictions for Farmer's Estates was recorded in Deed Book 702, page 309 et seq., of the Fannin County, Georgia records on February 28, 2006 (the "Declaration"), as amended; and

WHEREAS, pursuant to Paragraph (15) of the Declaration, the Declaration may be amended by a vote of two-thirds (2/3) of the Lot Owners entitled to cast votes; and

WHEREAS, Danny Farmer and Bill Holt (the "Developer") no longer owns an interest in the property located in Land Lots 129, 130 and 159 (the "Common Area") and thus the approval of the Developer is not required; and

WHEREAS, the Lot Owners have deemed it desirable, for the efficient preservation of the values in Farmer's Estates, to provide for the reactivation of the Farmer's Estates Property Owners Association, Inc., as created in the Declaration (the "Declarant"); and

WHEREAS, The members pf the Declarant holding at least two-thirds (2/3) of the total Declarant vote have approved this amendment and restatement to the Declaration;

NOW, THEREFORE, the Declaration is amended and restated as follows:

**ARTICLE I  
DEFINITIONS**

1.1 "Board of Directors" or "Board" means an executive and administrative body, by whatever name denominated, designated in the Bylaws of the Declarant.

1.2 "Common Area" means all real property known as Land Lots 129, 139 and 159 of the 8<sup>th</sup> District and 2<sup>nd</sup> Section of Fannin County, Georgia.

1.3 "Common Expenses" means all expenditures lawfully made or incurred by or on behalf of the Declarant together with all funds lawfully assessed for the creation and maintenance of reserves pursuant to the provisions of this Declaration.

1.4 "Court" means the Superior Court of Fannin County, Georgia.

1.5 "Declarant" means the Farmers' Estates Property Owners Association, Inc., including all owners of the property who execute this Declaration or on whose behalf the Declaration is executed; provided, however, that the phrase "owner or owners," as used herein, shall not include in his or her capacity as any mortgagee, any lien holder, any person having an equitable interest under any contract for the sale or lease of a lot, or any lessee or tenant of a lot. Any successor-in-title of any owner referred to in this paragraph who comes to stand in the same relation to the property owners' association as his or her predecessor did shall also come within such definition.

1.6 "Declaration" means the recordable instrument creating covenants upon property which covenants are administered by the Declarant in which membership is mandatory for all owners of lots in the Development. Such definition also includes all plats and plans recorded pursuant to this Declaration. Any exhibit, schedule, or certification accompanying an instrument and recorded simultaneously therewith shall be deemed an integral part of that instrument. Any amendment or certification of any instrument shall, from the time of the recordation of such amendment or certification, be deemed an integral part of the affected instrument so long as such amendment or certification was made in accordance with this Declaration.

1.7 "Development" means the lots included in and made a part of those properties known as Farmers Estates.

1.8 "Lot" means any plot or parcel of land, other than the Common Area, designated for separate ownership and occupancy shown on the subdivision plat filed in the Fannin County, Georgia, as Land Lot 130, District 08. Where the context indicates or requires, the term lot includes any structure on the lot.

1.9 "Lot Owner" or "Owner" means one or more persons who are record title owners of a lot.

1.10 "Officer" means an officer of the Declarant.

1.11 "Person" means a natural person, corporation, partnership, association, trust, other entity, or any combination thereof.

1.12 "Property" means any real property and any interest in real property, including, without limitation, parcels of air space.

1.13 "Property Owner's Association" or "Declarant" means the Farmer's Estates Property Owners Association, Inc., a non-profit corporation organized and existing under the laws of the State of Georgia.

## ARTICLE II CREATION AND REAFFIRMATION

2.1 **Creation of the Declarant.** The Declarant came into existence upon the recordation of the Declaration of Covenants, Conditions and Restrictions for Farmer's Estates made as of January 31, 2006 and recorded in the Superior Court of Fannin County, Georgia in Deed Book 702, page 309 et seq.

2.2 **Reaffirmation of the Declarant.** By the recording of this Amendment and Restatement to the Declaration of Covenants, Conditions and Restrictions for Farmer's Estates made as of October 1, 2017, and as executed by the Lot Owners in accordance with the terms of the original Declaration cited above such Lot Owners affirm their election to be so governed.

## ARTICLE III COMPLIANCE WITH THE DECLARATION, RULES AND REGULATIONS

3.1 **Compliance with Provisions of the Declaration.** Every Lot Owner and all those entitled to occupy a Lot shall comply with all lawful provisions of this Declaration.

3.2 **Compliance with Rules and Regulations.** In addition, any Lot Owner and all those entitled to occupy a Lot shall comply with all reasonable rules or regulations adopted by the Declarant pursuant to this Declaration which has been provided to the Lot Owners and with the lawful provisions of the Bylaws of the Declarant.

3.3 **Penalties for Noncompliance.** Any lack of compliance shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Declarant or, in any proper case, by one or more aggrieved Lot Owners on their own behalf or as a class action. If and to the extent provided in this Declaration, the Declarant shall be empowered to impose and assess fines and suspend temporarily voting rights and the right of use of certain of the Common Area paid for as a Common Expense in order to enforce such compliance; provided, however, that no such suspension shall deny any Lot Owner or occupants access to the Lot owned or occupied.

**ARTICLE IV  
MEMBERSHIP**

4.1 **Membership.** In accordance with this Declaration, every Owner of a Lot which is subject to this Declaration shall be a member of the Declarant. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to this Declaration and shall pass automatically to a Lot Owner's successor-in-title to the Lot.

4.2 **Voting Rights.** Lot Owners shall have one vote per Lot owned to vote on any matter to come before the Membership.

4.3 **Voting at Declarant Meetings.**

(a) ***By Multiple Owners.*** Since a Lot Owner may be more than one person, if only one of those persons is present at a meeting of the Declarant, or is voting by proxy, ballot, or written consent, that person shall be entitled to cast the votes pertaining to that Lot. However, if more than one of those persons is present, or executes a proxy, ballot, or written consent, the vote pertaining to that Lot shall be cast only in accordance with their unanimous agreement unless the instrument expressly provides otherwise; and such consent shall be conclusively presumed if any one of them purports to cast the votes pertaining to that Lot without protest being made immediately by any of the others to the person presiding over the meeting or vote.

(b) ***By Proxy.*** The votes pertaining to any Lot may, and, in the case of any Lot Owner not a natural person or persons, shall, be cast pursuant to a proxy or proxies duly executed by or on behalf of the Lot Owner or, in cases where the Lot Owner is more than one person, by or on behalf of the joint owners of the Lot. No such proxy shall be revocable except by written notice delivered to the Declarant by the Lot Owner or by any joint owners of a Lot. Any proxy shall be void if it is not dated or if it purports to be revocable without such notice.

**ARTICLE V  
ASSESSMENTS**

5.1 **Purpose.** The assessments levied by the Declarant shall be used exclusively for promoting the health, safety, pleasure and welfare of the Lot Owners and the costs and expenses incident to the operation of the Declarant.

5.2 **Creation of the Lien and Personal Obligation of Assessments.** Each Lot Owner, other than any builder building for the purpose of resale, of any Lot by acceptance of a deed therefor, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay the Declarant: (a) the annual assessment and (b) any special assessment for capital improvements, such assessment to be established and collected as hereinafter provided. The annual assessment and any special assessment,

together with interest, costs, and reasonable attorney's fees, shall be charged on the land and shall be a continuing lien upon the Lot against which each such assessment is made.

5.3 **Annual Assessment.** The annual assessment shall be set by the Board and shall be dependent upon whether or not the Lot has been improved by the construction of a home. The annual assessment as set by the Board shall be approved by a two-thirds vote of the Lot Owners attending the annual meeting in person or by proxy and shall remain in force until such annual meeting as the Board sets a different assessment duly approved by two-thirds of the Lot Owners attending the annual meeting in person or by proxy. Notice of intent to set the annual assessment will be included in the required notice of annual meeting.

5.4 **Notice and Payment of Assessment.** Written notice of the annual assessment shall be sent to all Lot Owners within 45 days of the annual meeting. Such annual assessment shall be due by December 31 of the year of assessment. Payment may be made on a quarterly, semi-annual or annual basis.

5.5 **Effect of Nonpayment of Assessments.** Any assessments not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of the maximum legal rate per annum. Other actions may be available to the Declarant under Georgia law for payments of amounts due to the Declarant.

5.6 **Exceptions to Annual Assessment.** No Lot Owner shall be exempted from any liability for any assessment under any instrument for any reason whatsoever, including, without limitation, abandonment, nonuse, or waiver of the use or enjoyment of his or her Lot except to the extent that any Lot, upon request by the Owner of the Lot, expressly may be made exempt from assessments and thus denied voting rights of the Lot until a certificate of occupancy is issued by Fannin County, Georgia.

5.7 **Liability for Assessment.** Unless otherwise provided in this Declaration, the grantee in a conveyance of a Lot shall be jointly and severally liable with the grantor thereof for all unpaid assessments against the latter up to the time of the conveyance without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee; provided, however, that if the grantor or grantee shall request a statement from the Declarant, such grantee and his or her successors, successors-in-title, and assigns shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments against such grantor in excess of any amount set forth in the statement.

5.8 **Special Assessments.** Any Common Expenses benefitting less than all of the Lots shall be specially assessed equitably among all of the Lots so benefitted, as determined by the Board.

5.9 **Road Easement.** It is expressly understood that the upkeep and maintenance of the road system shall be the duty of the Declarant. Any repair or maintenance shall be paid for from the annual or special assessments of the Declarant. Should additional sums become necessary to maintain

the road system of the subdivision or the repaving of any street, then such additional sums shall be determined and collected by the Declarant.

## ARTICLE VI MEETINGS

6.1 **Frequency of Meetings.** Meetings of the Members of the Declarant shall be held in accordance with the provisions of the Declarant's Bylaws and in any event shall be called not less frequently than annually.

6.2 **Notice.** Notice shall be given to each Lot Owner at least 21 days in advance of any annual or regularly scheduled meeting and at least seven days in advance of any other meeting and shall state the time, place, and, for any annual meeting to determine the annual assessment or special meeting, purpose of such meeting. Such notice shall be delivered personally or sent by United States mail, postage prepaid, statutory overnight delivery, or issued electronically in accordance with Chapter 12 of Title 10, the "Uniform Electronic Transactions Act," to all Lot Owners of record at such address or addresses as designated by such Lot Owners or, if no other address has been designated, at the address of their respective Lots. At the annual meeting, comprehensive reports of the affairs, finances, and budget projections of the Declarant shall be made to the Lot Owners.

6.3 **Quorums at Meetings.** Unless the Bylaws provide otherwise, a quorum shall be deemed present throughout any meeting of the Members of the Declarant if persons entitled to cast more than one-third of the votes are present or represented by proxy at the beginning of the meeting. Unless the Bylaws specify a larger percentage, the presence in person or by proxy of persons entitled to cast one-half of the votes of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board.

## ARTICLE VII POWERS AND DUTIES OF THE DECLARANT

7.1 **Amendment of Documents.** The Board shall have the power to amend this Declaration, the Articles of Incorporation, and the Bylaws of the Declarant in such respects as may be required to conform to mandatory provisions any applicable law without a vote of the Lot Owners.

7.2 **Duties and Responsibilities.** In addition to any other duties and responsibilities as this Declaration may impose, the Declarant shall keep:

- (a) Detailed minutes of all meetings of the members of the Declarant and of the Board of Directors;
- (b) Detailed and accurate financial records; including itemized records of all receipts and expenditures; and
- (c) Any books and records as may be required by law or be necessary to reflect accurately the affairs and activities of the Declarant.

True and correct copies of the Articles of Incorporation and Bylaws of the Declarant and all amendments thereto shall be maintained by the Declarant and copies thereof shall be furnished to any Lot Owner on request upon payment of a reasonable charge therefor.

7.3 **Board Action Without Consent.** Except to the extent otherwise expressly required by this Declaration, by the Articles of Incorporation, or by the Bylaws of the Declarant, the powers inherent in or expressly granted to the Declarant may be exercised by the Board of Directors, acting through the officers, without any further consent or action on the part of the Lot Owners.

#### **ARTICLE VIII AMENDMENT OF DECLARATION**

8.1 **Provision for Amendment.** Except to the extent expressly permitted or required by other provisions of the Code, this Declaration shall be amended only by the agreement of Lot Owners of Lots to which two-thirds of the Votes in the Declarant pertain.

8.2 **Evidence of Agreement to Amend.** Agreement of the required majority of Lot Owners to any amendment of this Declaration shall be evidenced by their execution of the amendment. In the alternative, provided that the Declarant does not then have the right to control the Declarant pursuant to this Declaration, the sworn statement of the president, of any vice president, or of the secretary of the Declarant attached to or incorporated in an amendment executed by the Declarant, which sworn statement states unequivocally that agreement of the required majority was otherwise lawfully obtained and that all required notices were properly given, shall be sufficient to evidence the required agreement. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the amendment itself.

8.3 **Challenge to Validity.** In any court suit or action where the validity of the adoption of an amendment to this Declaration is at issue, the adoption of the amendment shall be presumed valid if the suit is commenced more than one year after the recording of the amendment on the public record. In such cases, the burden of proof shall be upon the party challenging the validity of the adoption of the amendment.

#### **ARTICLE IX GENERAL COVENANTS, CONDITIONS AND RESTRICTIONS**

9.1 **Restriction of Use.** All building sites shall be restricted exclusively for the construction of single-family dwellings. No Lot or building site, or any portion thereof, shall at any time be used for any commercial, business or professional purpose; provided, however, that nothing herein shall be construed to prohibit or prevent any building of residences from using any Lot owned by such builder for the purpose of carrying on business related to the development, improvement and sale of Lots and/or new homes.

9.2 **Nuisances.** No unlawful, noxious or offensive activities shall be carried on in any lot. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of an Owner's Lot so as to render the same unsanitary, unsightly or offensive. No junk cars or junk vehicles



of any kind shall be allowed to remain on any Lot. All vehicles on any Lot must have a current and valid license tag.

9.3 **Solid Waste.** Except during approved construction and in accordance with all laws and ordinances, no person shall burn rubbish, garbage, or any other solid waste on any building site or on the Common Area.

9.4 **Recreational Equipment.** All recreational and playground equipment shall be placed or installed in the rear of the house.

9.5 **Outbuildings.** These structures are allowed so long as they are in good condition, well maintained, and attractive. They may not be unsightly nor adversely affect the value of other Lots in the subdivision.

9.6 **Improvement of Lots.** All construction of dwellings, accessory structures and all other improvements in the Development shall be undertaken and completed in accordance with the following conditions:

- (a) All construction shall be carried out in compliance with the laws, code rules, regulations and orders of all applicable governmental agencies and authorities. No single-family residential structure shall be located on any Lot unless said structure shall have at least 1,500 square feet of heated living space. All dwellings completed prior to December 31, 2017 are exempt from the square footage requirement.
- (b) Containers for garbage and other refuse shall be stored at rear of house except for date of pickup (no incinerators for garbage, trash, or other refuse shall be used).
- (c) Pre-fabricated, factory built structures or mobile homes shall not be permitted within the Development.
- (d) All materials used in construction of any house in the Development shall promote a quality appearance consistent with the other houses in the Development.

9.7 **Animals.** No animals, including birds, insects and reptiles, may be kept on any Lot unless kept thereon solely as household pets and not for commercial purposes. No animal typically considered a farm animal shall be permitted on any Lot (including, but not limited to, equestrian family, bovine family, swine or sheep). No animal shall be allowed to become a nuisance. Chickens for personal family use are permitted.

9.8 **Severability.** If any provision of the Declaration, or any paragraph, subparagraph, article, section, sentence, clause, phrase, word or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and the application of any such provision, paragraph, subparagraph, article, section, sentence, clause or word in any other circumstances shall not

be affected thereby and the remainder of this Declaration shall be construed as if such invalid part was never included therein.

9.9 **Headings.** The headings of articles and sections in this Declaration are for convenience of reference only and shall not in any way limit or define the content or substance of such articles and sections.

9.10 **Duration.** The provisions of these covenants shall run with and bind the land and shall be and remain in effect perpetually to the extent permitted by law.

**IN WITNESS WHEREOF**, the undersigned acting officers of the Farmer's Estates Property Owners Association, Inc., hereby certify that the above Amended and Restated of the Declaration of Covenants, Conditions and Restrictions for Farmer's Estates was duly adopted by the required percentage of the Declarant's membership, with any required notices given.

As of the 1st day of October, 2017.

FARMER'S ESTATES PROPERTY OWNERS ASSOCIATION, INC.

By: Charlotte Dickinson  
President

Attest: Evelyn Elliott  
Secretary

Sworn to and subscribed before me  
this 4<sup>th</sup> day of NOVEMBER, 2017.

Gene H. Rude  
Witness

R. S. Porter  
Notary Public

