

**DECLARATION OF RESTRICTION  
OF  
SILVER CREEK COMMUNITY**

A SUBDIVISION EITHER FILED OR TO BE FILED IN BURKE COUNTY  
NORTH CAROLINA

The Silver Creek Community Property Owners Association, Inc. (P.O.A.), is to enforce these restrictions.

1. RESIDENTIAL USZ, SINGLE FAMILY

The lots affected by these restrictions in Silver Creek Community including all lots enlarged or recreated by shifting or relocation of said boundary lines are restricted to the use of single family, their household servants and guests. Only one building shall be erected on the lot and only buildings restricted to the use of one family may be erected. Two contiguous lots owned by one entity or person shall be construed and governed by these restrictions as one lot for setback and minimum square footage and only one building shall be erected thereon. A construction shed may be placed on the lot and remain there during the course of active construction of a residence. Otherwise, no portable buildings or trailers may be moved on the lot.

2. NO TRADE, BUSINESS, PROFESSION, ETC.

No trade, business, profession or other type of commercial activity shall be carried on upon any of the land covered by these restrictions without the express written consent of the P.O.A. This shall not prevent an owner of a building from renting said property for residential use.

3. LANDSCAPING

Due to the rustic nature of the land, there shall be no requirement for lawns, shrubbery, foundation planting, and conventional landscaping but instead, property owners are encouraged to maintain the natural appearance of the terrain.

4. APPROVAL OF PLANS, SPECIFICATIONS, AND LOCATION OF BUILDINGS

In order to assure that the building(s) on the aforementioned land will preserve a high standard of construction, no building or other structure shall be erected, placed, or remain on the aforementioned land until a set of the plans of the working drawings and specifications, including a plan showing the location of the building(s), pump houses, or other structures, terraces, patios, walls, driveways, property lines, poles and setbacks is submitted to the P.O.A. and approved by the P.O.A. as meeting the requirements of these restrictions and being in accordance with the building, plumbing and electrical codes in effect at the time construction or

alteration of any building has begun. Construction requirements and specifications may include (but are not limited to) the following: minimum roof pitch three to one, cement, macadam or gravel driveways, outside building colors and driveway colors subject to approval. There shall be a twelve-month time limit for construction of any structure and no building may remain incomplete, especially on the exterior, beyond this allotted period. Said building contractor shall be a regularly employed bona fide building contractor duly licensed by the applicable governmental authorities. Said building contractor may, in addition to the foregoing requirements, be required to post a performance and completion bond for the full amount of the work as shown on the plans and specifications so as to insure against the possibility of partially completed buildings marring the beauty of the above-mentioned land. Aforesaid bond shall be obtained from a recognized institutional bonding company and shall be of a form and wording approved by the P.O.A. The P.O.A. may, at its discretion, bond the construction in lieu of the above said bonding company or waive the bonding requirement.

Refusal of approval of plans, specifications and locations of buildings by the P.O.A. may be based on any grounds, including purely aesthetic grounds which, in the sole and uncontrolled discretion of the P.O.A., seem sufficient. No alterations in the exterior appearance of the above building or structure shall be made without the approval of the P.O.A. in writing. The provisions herein contained shall apply equally to repair, alterations, or modifications made in the above buildings.

#### 5. SETBACK AND MINIMUM SQUARE FOOT AREA

No building with less than 800 square feet of living area on the ground floor shall be erected on any lot without the express written consent of the P.O.A. All buildings erected or constructed on the aforementioned lot(s) shall conform in area and setback limitations to the following table:

##### SETBACK REQUIREMENTS

FRONT-50 feet except on lots of 200 feet or greater depth the setback requirement shall be 75 feet.

BACK-50 feet

SIDES-25 feet

#### 6. METHOD OF DETERMINING SQUARE FOOT AREA

The method of determining the square foot area of proposed buildings and structures or additions and enlargements thereto shall be to multiply the outside horizontal dimensions of the building or structure at ground floor level. Garages, carports, roofed screen porches and the like, shall not be taken into

account in calculating the minimum square foot area as required by this restrictive covenant.

7. CORNER & ODD-SHAPED LOTS

A dwelling may be erected or placed on any lot as shown on the aforementioned plat. Setback lines for corner lots and odd-shaped lots shall be as nearly as possible as set out herein except that variations may be authorized by the P.O.A. at the time plans for building are submitted and a copy of such plans, including the plot plan, will be kept on file by the P.O.A. to establish the setback line as approved.

8. LOCATIONS OF GARAGES & PARKING

No garage or carport shall be created which is separate from the main building unless otherwise authorized by the P.O.A. in writing. Unless otherwise authorized by the P.O.A. in writing, the size, character, placement and form of said buildings must have written approval of the P.O.A. prior to commencement of construction or alterations thereto. No trailers, trucks, boats or motor homes of any kind shall be parked overnight on or adjacent to the above mentioned land without express written consent of the P.O.A. or unless located within a fully enclosed structure in the building located thereon and shielded from view, except that until such time that a home is constructed on an adjacent lot, a lot owner may utilize a fully self-contained travel trailer or motor home on his lot for a period not to exceed sixty days per year.

9. WALLS

No wall, hedge or fence shall be constructed along or adjacent to the lot lines on any of the aforementioned property except for decorative fences which must be approved in writing by the P.O.A.

10. ANIMALS, ETC.

No animals, birds or reptiles of any kind shall be raised, bred or kept on any of the aforementioned property except that dogs, cats, and other household pets may be kept, bred or maintained for any commercial purpose. No animals, bird or reptile shall be kept in such a manner as to constitute a nuisance.

11. DRILLING OIL, ETC.

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in the aforementioned lands, nor shall oil wells, tanks, mineral excavations or shafts be permitted upon or in the aforementioned lands. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any of the aforementioned lands.

## 12. NUISANCES

No activity or business or any act shall be done upon the property covered by these restrictions which may be or may become an annoyance or nuisance to the neighborhood.

## 13. GARBAGE CONTAINERS

All garbage or trash containers, oil tanks or bottle- gas tanks must be underground or placed in walled-in areas so that they shall not be visible from the adjoining properties.

14. If clothes are to be dried outdoors, it must be done in such a manner as not to be readily visible from the street or adjoining property.

## 15. SIGNS AND DISPLAYS

No signs shall be erected or displayed on this property or any structure, except that the P.D.A. may allow a sign be erected at its discretion, if the placement and character, form and size of such sign be first approved in writing by the P.O.A. This provision shall not apply to "For Sale" or "For Rent" signs which may be displayed; there shall not be, however, more than one "For Sale" sign on any property under contiguous ownership, and no "For Sale" or "For Rent" sign shall be in excess of 6" by 8" in size. No "For Sale" or "For Rent" sign shall be placed within (15) feet of the front lot line.

## 16. EASEMENTS

There are hereby reserved unto the P.O.A. easements of seven and one-half feet (7 1/2') in width along the side lot lines of the above-mentioned lots and ten feet (10') along the front and rear lot lines of the above-mentioned lots for purposes of utilities, surface drainage, and for any purpose having to do with development of this property including improvements that the P.O.A. may not have the obligation to install. Where more than one of the above described lots are intended by the P.O.A. as a building site or where more than one lot is actually used as a building site, the outside boundaries of said building site shall carry the said easement and the said easement shall in such case be abandoned on the interior lot lines. The P.O.A. may abandon any of these easements at any time in the future by recording an appropriate instrument.

The P.O.A. hereby reserves the right to dedicate the roads, streets, and avenues, and necessary easements abutting the aforescribed lands to public use without consent of the Grantee.

## 17. MAINTENANCE

The above-described building(s) and other structures when completed shall be maintained in a like-new condition and shall be kept freshly painted including sidewalks, driveways and

roofs. The color of paint shall not be changed without the written consent of the P.O.A.

No weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon the premises on the aforescribed land, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon; and, in addition, all of the landscaping shall be kept as befitting a high-quality neighborhood. Any plants, grass, shrubs, etc. that might die or become other than luxuriant and well-formed shall be promptly replaced and should the owner fail to keep the premises in the aforescribed condition, then the P.O.A. may enter upon the land and repair, replace, install or maintain the offending portion and such entry shall not be deemed a trespass and a lien shall arise in favor of the P.O.A. to the extent of the expenses to accomplish the aforesaid.

#### 18. NO TEMPORARY BUILDING

No tents and no temporary building or structure shall be erected without written consent of the P.O.A.

#### 19. WAIVER OF RESTRICTIONS

The failure of the P.O.A. to enforce any building restrictions, covenant, condition, obligation, right or power herein contained, however long continued shall in no event be deemed a waiver of the right to enforce thereafter these rights as to the same violation or as to a breach or violation occurring prior or subsequent thereto.

#### 20. SEWERS

Use of property is dependent upon satisfying regulations governing individual sewage disposal facilities. However, upon installation of a sewage collection system, should said system ever be installed for the benefit of the aforescribed lands by the P.O.A., its successors or assigns, or by governmental authority, the applicant, purchaser, optionee, lessee or grantee, whichever the case may be, shall subscribe for the use of said sewer collection system and that upon installation of said sewer collection system the purchaser shall pay a reasonable initial service availability charge or fee at an earlier time pursuant to appropriate action of the State or its governmental subdivisions. Upon the payment of the above service availability charge or fee, the applicant, purchaser, optionee, lessee or grantee or his assigns or successors in title shall be vested with the right to use said sewerage system subject to the payment of the periodic use rates as approved and charged by the utilities operating company or the applicable governmental authority. It is further covenanted that the aforesaid obligation for the payment of the initial availability charge and fee shall be secured by and constitute a lien against the lot or lots being purchased or leased by the applicant,

purchaser, optionee, lessee or grantee, until the same shall be paid as herein provided. This lien shall be enforceable in the manner provided by the laws of the State including but not limited to, the Mechanics Lien Law. The aforesaid restriction and covenant shall be a covenant running with the land.

21. RIGHT OF PROPERTY OWNERS ASSOCIATION, INC.

The P.O.A. reserves the right to itself, its agents, employees or any contractor or subcontractor, dealing with the P.O.A., to enter upon the land covered by these restrictions, for the purpose of carrying out and completing the development of the property covered by these restrictions, including but not limited to completing any grading, or installation of drainage, water lines or sewer or other underground or aboveground utility lines.

These reserved rights in the P.O.A. shall also apply to any additional improvements which the P.O.A. has the right but not the duty to install, including but not limited to any streets, sidewalks, curbs, gutters, beautifications or any other improvements. In this respect the P.O.A. agrees to restore said property to its condition at the time of said entry and shall have no further obligation-to the applicant, purchaser, optionee, lessee or grantee in connection therewith. The work performed under the above provision shall in no way constitute a lien or personal liability on the applicant, purchaser, optionee, lessee, or grantee, whichever the case may be.

22. COMMON AREA

Pedestrian walkways, common areas or strategically located easements shall hereinafter be described as COMMON AREA. It is understood and agreed that the owner of an interest in each of the lots according to the plat of Subdivision as amended of record shall have an equal undivided interest in all the Common Area as labeled on the aforesaid plat. It is understood that these restrictions prohibit the further subdivision of this common area and is hereby declared to be appurtenant to each lot and such undivided interest shall not be conveyed, devised, encumbered or otherwise dealt with separately from the lot. Such interest shall be deemed conveyed, devised, encumbered or otherwise included with the lot, even though such an interest is not expressly mentioned or described in the conveyance or other instrument. The P.O.A. hereby and each subsequent owner of any interest in a lot or in the Common Area described above by acceptance of a conveyance or any instrument transferring an interest, waives the right of a partition of any interest in the Common Area under the laws of the State. Any owner may freely convey an interest in a lot together with an undivided interest in the aforementioned Common Area subject to the provisions of these restrictive covenants subject, however, to P.O.A. rights contained later in this paragraph dealing with Common Area. All

owners of lots have as an appurtenance to their lot a perpetual easement for ingress and egress from their lots over and through the Common Area in common with all persons owning an interest in any lot.

It is the intent of the P.O.A. that the Common Area be a private area for the exclusive enjoyment of all persons owning an interest in a lot and their guests, subject to the rights reserved by the P.O.A. and subject to the following restrictions:

- a. Automobiles, trucks and motorcycles of every description shall be prohibited access to or progress over the Common Area. Transportation devices, in addition to walking, shall be limited to bicycles approved by the P.O.A. or any association subsequently formed to undertake maintenance of the Common Area and such other means of transportation as may be approved by the P.O.A. or the said association.
- b. There shall be no additions, removal or cutting of trees and plants by individual lot owners nor shall individual lot owners be permitted to place on the Common Area any permanent fixtures such as buildings, benches, barbecue pits or structures of any type.
- c. Pets shall not be allowed to be destructive within the Common Area.
- d. Excepted from the above restrictions will be the equipment and vehicles necessary to maintain the Common Area and the actions of the maintenance personnel appropriate to the development and maintenance of the Common Area.

Anything to the contrary aforestated notwithstanding, the P.O.A. reserves unto myself, its successors, assigns or nominees the right and privilege to dredge, fill, grade, install drainage, dig wells, lakes, streams, install waterlines, and other underground utilities, pathways, benches, and other structures deemed by the P.O.A., its successors, or assigns to be desirable; landscaping or to make any other improvements necessary to complete development of and within the Common Area and to maintain the same utilizing the appropriate equipment to do so.

### 23. REMEDIES FOR VIOLATIONS

Violations or breach of any condition, restriction or covenant herein contained by any person or concern claiming under the P.O.A., or by virtue of any judicial proceeding, shall give the P.O.A., in addition to all other remedies, the right to

proceed at law or in equity to compel a compliance with the terms of said conditions, restrictions or covenants and to prevent the violation or breach of any of them. In addition to the foregoing, the P.O.A. shall have the right, wherever there shall have been built on any lot any structure which is in violation of these restrictions, to enter upon the property where such violation of these restrictions exist and summarily abate or remove the same at the expense of the applicant, purchaser, optionee, lessee, or grantee, and such entry and abatement or removal shall not be deemed a trespass.

24. INVALIDITY CLAUSE

Invalidity of any of these covenants by a court of competent jurisdiction shall in no wise affect any of the other covenants which shall remain in full force and effect.