

After Recording Return To:
The Lueder Law Firm, LLC
2050 Marconi Drive, Suite 300
Alpharetta, Georgia 30005
Attn: MRC

Cross Reference:
Deed Book 14048, Page 5681

STATE OF GEORGIA

COUNTY OF COBB

**AMENDMENT TO THE DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS FOR SILVERGATE**

This Amendment to the Declaration of Covenants, Restrictions and Easements for Silvergate (hereinafter referred to as "Amendment") is made on the date first set below.

WITNESSETH:

WHEREAS, McCar Development Corp., a Georgia corporation (hereinafter referred to as "Declarant"), executed certain Declaration of Covenants, Restrictions, and Easements for Silvergate, dated August 5, 2004, and recorded on September 29, 2004, in Deed Book 14048, Page 5681 of the Cobb County, Georgia property records (hereinafter referred to as "Declaration");

WHEREAS, Silvergate is the community of residential homes created by the Declaration;

WHEREAS, Silvergate Homeowners Association, Inc. (hereinafter referred to as "Association") is the homeowners association identified in the Declaration and operating in Silvergate;

WHEREAS, pursuant to Article XI of the Declaration, the Declaration may be amended by the affirmative vote or written consent, or any combination thereof, of 2/3 of the Lot Owners (other than the Declarant) and approval of such amendment by the Declarant, so long as the Declarant owns any property for development and/or sale in the community;

WHEREAS, this Amendment has been approved by 2/3 of the Lot Owners as evidenced by the written consent forms which are on file with the Secretary of the Association and are incorporated into this Amendment by reference;

WHEREAS, Declarant no longer owns any property for development and/or sale in the community; and

NOW, THEREFORE, the Declaration is hereby amended as follows:

1.

The Preamble of the Declaration is amended by adding the following thereto:

THIS DECLARATION DOES CREATE PROPERTY SUBJECT TO THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. SECTION 44-3-220, ET SEQ.

2.

Article 1 is amended by adding the following thereto:

“Georgia Property Owners’ Association Act” or “Act” shall mean the Georgia Property Owners’ Association Act, O.C.G.A. § 44-3-220, et seq., as the same may be supplemented, amended or modified. Silvergate is a residential property owners development which is hereby submitted to the Act. The Declaration and all property subject to the Declaration are accordingly submitted to the Act, and any provision in the Declaration to the contrary shall be null and void.

3.

Article VIII, Section 5 of the Declaration is hereby amended by striking the same in its entirety and substituting the following therefor:

Section 5. Antennas; Aerials; Satellite Dishes. The Owner of each Lot shall have the right to install, maintain, and use on such Lot one antenna, aerial, or satellite dish to receive video programming that is (i) not larger than one meter in diameter, and (ii) blends with the color of the roof or wall where it is installed. No other exterior antennas, aerials, satellite dishes or other reception device shall be constructed, installed, placed or affixed unless approved in accordance with the Architectural Control provisions if reasonably necessary to permit the reception of an acceptable quality signal. External antennae for HAM radios, two way radios and other hobby or professional radio communication transmission equipment are prohibited.

4.

Article VIII, Section 7 of the Declaration is hereby amended by striking the same in its entirety and substituting the following therefor:

Section 7. Outbuildings. Any outbuilding or storage building must be approved by the Board of Directors. Any such building may be used for storage and home hobby activities, provided those activities are not visible from outside said structure, and those activities do not violate the provisions of this Declaration, including but, not limited to, Article VII, Section 2. Such buildings are to be built of similar material as the house on the Lot and painted the same color. Approved storage buildings or outbuildings are to be sited at the rear of the house, may not be sited beyond rear building set back line and may not be over eight feet in height. If any area under a deck attached to a house is used for storage (such as for garden equipments, etc.), such area and storage must be screened from view of other Lots and any street, as approved herein.

5.

Article VIII, Section 15 of the Declaration is hereby amended by adding the following thereto:

Section 15. Leasing. In order to protect the equity of the individual Owners within Silvergate, to carry out the purpose for which Silvergate was formed by preserving the character of the community as a residential property of predominantly Owner-occupied homes, to prevent Silvergate from assuming the character of a renter-occupied complex, and to comply with any eligibility criteria for mortgages, including mortgages on the secondary mortgage market, insofar as such criteria provide that Silvergate be substantially Owner-occupied, leasing of Lots shall be governed by the restrictions imposed by this Section.

(a) Prohibition. Except as provided herein, the leasing of Lots shall be prohibited.

(b) Definition. "Leasing," for purposes of the Declaration, is defined as the regular, exclusive occupancy of a Lot by any person or persons other than the Owner; provided, however, leasing shall not include occupancy by the spouse, child or parent of an Owner and shall not include the occupancy by a roommate of an Owner who occupies the Lot as such Owner's primary residence.

(c) General. Any Owner who desires to lease such Owner's Lot may do so only if the Owner has applied for and received from the Board of Directors either a "Leasing Permit" or a "Hardship Leasing Permit." Such a permit, upon its issuance, will allow an Owner to lease his or her Lot provided that such leasing is in strict accordance with the terms of the permit and this Section. The Board of Directors shall have the authority to establish conditions as to the duration and use of such permits consistent with this Section. All permits shall be valid only as to a specific Lot Owner and Lot and shall not be transferable between either Lots or Lot Owners.

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(d) Leasing Permits. An Owner's request for a Leasing Permit shall be approved if current, outstanding Leasing Permits have not been issued for more than ten percent (10%) of the total number of Lots. A Leasing Permit shall be automatically revoked upon the happening of any of the following events: (1) the sale or transfer of the Lot to a third party (excluding sales or transfers to an Owner's spouse, a person cohabitating with the Owner, or a corporation, partnership, company, or legal entity in which the Owner is a principal); (2) the failure of a Lot Owner to lease his or her Lot within ninety (90) days of the Leasing Permit having been issued; (3) the failure of a Lot Owner to have his or her Lot leased for any consecutive ninety (90) day period thereafter; or (4) the occurrence of the date referenced in a written notification by the Owner to the Association that the Owner will, as of said date, no longer need the Leasing Permit.

If current Leasing Permits have been issued for ten percent (10%) of the total number of Lots, no additional Leasing Permits shall be issued (except for Hardship Leasing Permits, as set forth below) until the number of outstanding current Leasing Permits falls below ten percent (10%) of the total number of Lots. Owners who have been denied a Leasing Permit shall automatically be placed on a waiting list for a Leasing Permit and shall be issued a Leasing Permit if they so desire when the number of current outstanding Leasing Permits issued falls to less than ten percent (10%) of the total number of Lots. The issuance of a Hardship Leasing Permit to an Owner shall not cause the Owner to be removed from the waiting list for a Leasing Permit.

(e) Undue Hardship. The Board shall be empowered to allow additional leasing of Lots, upon written application, to avoid undue hardship to an Owner. An Owner's request for a Hardship Leasing Permit shall be approved if current, outstanding Hardship Leasing Permits have not been issued for more than five percent (5%) of the total number of Lots. By way of illustration, and not by limitation, examples of circumstances which would constitute "undue hardship" are those in which (1) an Owner must relocate his or her residence for employment purposes and cannot, within ninety (90) days from the date the Lot was placed on the market, sell the Lot for a price no greater than the current appraised market value, after having made reasonable efforts to do so; (2) where the Owner dies and the Lot is being administered by his or her estate; and (3) where the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Lot, in which case the Lot Owner must reapply every six (6) months for renewal of the hardship exception. Those Owners who have demonstrated that the inability to lease their Lot would result in undue hardship and have obtained the requisite approval of the Board may lease their Lots as provided herein.

Any Owner who believes that he or she must lease his or her Lot to avoid undue hardship shall submit a written application to the Board setting forth the circumstances necessitating the leasing and such other information as the Board may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Board's written approval of the Owner's application.

The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and Bylaws, in order to enforce the provisions of this Section. Any transaction which does not comply with this Section shall be voidable at the option of the Board of Directors, and the Board of Directors shall be empowered to bring an eviction proceeding against any person who has leased a Lot in violation of this Section.

(f) Leasing Provisions. Such leasing, as permitted herein, shall be governed by the following provisions:

(1) Notice. At least seven (7) days prior to entering into the lease of a Lot, the Owner shall provide the Board of Directors with a copy of the proposed lease form and such other information as the Board may reasonably require. The Board shall approve or disapprove the form of said lease. In the event a lease form is disapproved, the Board shall notify the Owner of the requisite action to be taken to obtain approval of the lease form. Within ten (10) days from the execution of the approved lease form by both parties, a copy of the lease, signed by the lessor and lessee, shall be submitted to the Board. All leases must be signed by the Owner (the lessor) and the tenant (the lessee).

(2) General. Lots may be leased only in their entirety; no fraction or portion may be rented. There shall be no subleasing of Lots or assignment of leases unless approved in writing by the Board. The Lot Owner must provide the tenant copies of the Declaration, Bylaws, and the rules and regulations. Additionally, the Owner must sign a verification form which is to be executed by the Owner and tenant verifying the tenant has received a copy of the Declaration, Bylaws, and the rules and regulations from the Owner, this document should be included as part of the lease.

(3) Liability for Assessments and Compliance with Declaration, Bylaws, and Rules and Regulations. Any lease of a Lot shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner covenants and agrees that any lease of a Lot shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into a lease by existence of this Section. Any lessee, by occupancy of a Lot, agrees to the applicability of this Section and incorporation of the following language into the lease:

(A) Liability for Assessments. Lessee agrees to be personally obligated for the payment of all assessments and all other charges against the Lot which become due during the term of the lease and any other period of occupancy by the lessee or which become due as a consequence of lessee's activities, including, but not limited to, activities which violate provisions of the Declaration, the Bylaws, or the rules and regulations adopted pursuant thereto. The above provision shall not be construed to release the Lot Owner from any obligation, including the obligation for assessments, for which the Owner would otherwise be responsible.

When a Lot Owner who is leasing his or her Lot fails to pay any assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Lot Owner hereby consents to the assignment of any rental payments from the lessee during the period of delinquency, and, upon demand by the Board of Directors to the lessee, the lessee shall pay to the Association all unpaid annual and special assessments and other charges; provided, however, except for the additional amounts provided in this Subsection due to lessee's failure to pay the Association, lessee shall not be obligated to pay more than the monthly rental payments. All such payments made by lessee to the Association shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's demand to pay assessments or other charges to the Association, lessee shall (i) be personally liable (jointly and severally with the Owner), from the date of the demand for payment from the Board, for all costs of

collection, including reasonable attorney's fees actually incurred, and (ii) be personally liable to the Association for all rental payments made to the lessor following the date of the demand for payment from the Board.

(B) Compliance with Declaration, Bylaws, and Rules and Regulations. Lessee shall abide by and comply with all provisions of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto and shall control the conduct of all other occupants and guests in order to insure compliance with the foregoing. Lessee acknowledges that the violation by lessee or any occupant living with lessee of any provision of the Declaration, Bylaws, or the rules and regulations adopted thereunder shall constitute a default under the lease. Owner shall cause all occupants of his or her Lot to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and is responsible for all violations and losses caused by such occupants, notwithstanding the fact that such occupants of the Lot are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto. If the lessee, or a person living with the lessee, violates the Declaration, Bylaws, or the rules and regulations for which a fine is imposed, such fine may be assessed against the lessee and/or the Owner; provided, however, if a fine is not paid by the lessee within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Board of the lessee's failure to do so. Unpaid fines shall constitute a lien against the Lot. Any lessee charged with a violation of the Declaration, Bylaws, or the rules and regulations adopted pursuant thereto is entitled to the same procedure to which an Owner is entitled prior to the imposition of a fine or other sanction.

Any violation of the Declaration, Bylaws, or the rules and regulations by lessee, any occupant, or any person living with lessee is deemed to be a violation of the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of Declaration, Bylaws, or the rules and regulations, including the power and authority to evict the lessee on behalf and for the benefit of the Owner, in accordance with the terms hereof, or to require the Owner to do so. In the event the Association proceeds to evict the tenant, any costs, including attorney's fees and court costs, associated with the eviction shall be specially assessed against the Lot and the Owner thereof, such being deemed hereby as an expense which benefits the leased Lot and the Owner thereof. In addition to the above, the Board may choose to assess fines, as determined proper by the Board.

6.

Article VIII, Section 16 of the Declaration is hereby amended by adding the following thereto:

Section 16. Swimming Pools. No permanent above ground swimming pool structures shall be permitted on any Lot in the community. Temporary pools or seasonal pools shall be allowed so long as said temporary pool or seasonal pool is enclosed by a fence that cannot be viewed from the street. A temporary pool or a seasonal pool shall mean any type of pool that can be taken down within twenty-four (24) hours. Temporary pools or seasonal pools shall be used between Memorial Day and Labor Day each year.

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IN WITNESS WHEREOF, the President and the Secretary of Silvergate Homeowners Association, Inc., have executed this instrument evidencing this Amendment was approved by 2/3 of the Lot Owners as evidenced by the written consent forms which are on file with the Secretary of the Association and are incorporated into this Amendment by reference, and that all such agreements were lawfully obtained and that any notices required by law have been properly given.

Dated this the ____ day of _____, 200__.

Signature of President

Print Name: _____

Sworn to and subscribed before me
this ____ day of _____, 200__.

Witness: _____

Notary Public

Signature of Secretary

Print Name: _____

Sworn to and subscribed before me
this ____ day of _____, 200__.

Witness: _____

Notary Public