

**SUPPLEMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR VILLAGE OF RAINTREE**

SECTION 1-L

THIS SUPPLEMENTARY DECLARATION to the Declaration of Covenants, Conditions and Restrictions for Village of Raintree Sections 1-A through 1-D and 2-A through 2-E is made this 4th day of April, 1973, by THE ERVIN COMPANY, a Delaware corporation, having a principal place of business in said Mecklenburg County, North Carolina (hereinafter referred to as "Developer").

WITNESSETH:

WHEREAS, Developer is the owner of that certain Subdivision in said Mecklenburg County, North Carolina, commonly known and identified as Village of Raintree, plats thereof having been filed of record in the Mecklenburg Public Registry and as to which sections of said Subdivision a Declaration of Covenants, Conditions and Restrictions (hereinafter referred to as the "Declaration") dated March 26, 1971, has been filed of record in the Office of the Register of Deeds for Mecklenburg County in Book 3282 at page 205; and

WHEREAS, Article II, Section Two of said Declaration provides that Developer may extend the declaration (and the covenants and restrictions therein contained) to other property by filing of record a supplementary declaration in respect to the property to be subject to said Declaration in order to extend the scheme of said Declaration to other property to be developed as part of Raintree, and thereby bring such additional property within the jurisdiction of Raintree Homeowners Association, Inc., each supplementary declaration to contain such additions or modifications to said Declaration as may be necessary to reflect the different character of the added property, provided, however, any such supplementary declaration shall not revoke or otherwise amend the provisions of said declaration as pertain to Sections 1-A through 1-D and 2-A through 2-E, or any other section for which supplementary declarations have been filed; and

WHEREAS, Developer now intends to so subject additional property to said Declaration of March 26, 1971, and to place such additional or modified cove-

NOW, THEREFORE, in consideration of the premises, Developer hereby declares that the property hereinbelow described shall be held, sold and conveyed subject to said Declaration of Covenants, Conditions and Restrictions for Village of Raintree, Sections 1-A through 1-D and 2-A through 2-E, to the same extent and degree as if said declaration were herein set out in its entirety, and further subject to such additional covenants, conditions, easements, restrictions and modifications, (hereinafter collectively referred to as "Restrictions") as are herein set forth. The Restrictions shall be construed as covenants running with the land and shall be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors or assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I
PROPERTIES SUBJECT TO THIS
SUPPLEMENTARY DECLARATION**

The additional property which is hereby made subject to said Declaration of March 26, 1971, and which shall be held, transferred, sold, conveyed and occupied subject to said Declaration, is located in Providence Township, Mecklenburg County, North Carolina, and is more particularly described and shown on a plat showing a portion of Raintree, Section 1-L prepared by Charles G. Rust, P. E., which plat is dated March 1973 and a copy thereof recorded in the Mecklenburg Public Registry in Map Book 17 at page 59.

The above described property shall also be held, transferred, sold, conveyed and occupied subject to such additional and modified restrictions as are hereafter provided.

Only the property shown on said subdivision plat of Raintree as described in this Article I is hereby made subject to this Supplementary Declaration and to said Declaration dated March 26, 1971.

**ARTICLE II
MODIFICATIONS TO DECLARATION**

The property identified in Article I above, and made subject to said Declaration of March 26, 1971, is hereby made subject to the following modifications

to the Declaration:

- A. Article I, Definitions, of the Declaration is amended by adding as subparagraphs 12 and 13 the following definitions:

12. "Committee" shall mean a standing committee of the Association composed of all Owners in Section 1-L, which Committee shall administer and control all of the Limited Common Area in Section 1-L and provide for the exterior maintenance of the dwellings in such section as provided in Article III hereafter.

13. "Limited Common Area" shall mean and refer to any and all real property owned by the Association, or such other property to which the Association may hold legal title whether in fee or for a term of years, which is designated as "Limited Common Area" on any plat or survey of Raintree or any part thereof which shall be of public record. Limited Common Area shall be subject to reasonable rules and regulations which may be established from time to time by the Association or the Committee for the benefit and enjoyment of the Owners of Lots within the Section of Raintree which contains such Limited Common Area and further subject to the provisions of this Declaration and the By-Laws of the Association.

- B. Article III, Association Membership and Voting Rights, is amended by adding thereto Sections Three and Four as follows:

Section Three. Committee Membership.

1. Every person or entity who is the Owner of record of a fee interest in any Lot or who is purchasing one or more Lots under a contract or purchase agreement within Section 1-L shall be a member of the Committee, subject to and bound by the Associations Articles of Incorporation, By-Laws and rules and regulations of the Committee adopted by the Committee. The foregoing is not intended to include persons or entities who hold an interest in any Lot in Section 1-L merely as security for the performance of an obligation. Ownership of such Lot shall be the sole qualification for membership. When any Lot is owned of record in joint tenancy or tenancy in common or by some other legal entity, or when two or more persons or other legal entity is purchasing one or more Lots under a contract or agreement of purchase, the membership as to such Lot(s) shall be

joint and the right of such membership (including the voting power arising therefrom) shall be exercised only as stipulated in Section Four herein below.

2. During any period in which a member shall be in default in the payment of any annual, special or other periodic assessment levied by the Committee, the voting rights and right to the use of the Limited Common Areas or any other facilities which the Committee may provide shall be suspended by the Committee until such assessment is paid. In the event of violation by a member of any rules or regulations established by the Committee, such member's voting and use rights may be suspended by the Executive Board of the Committee after a hearing at which the general requirements of due process requirements shall be observed. Such hearing shall only be held by the Executive Board of the Committee after giving member ten (10) days prior written notice specifying each alleged violation and setting the time, place and date of the hearing. Determination of violation shall be made by a majority vote of the Executive Board.

3. No membership or initiation fee shall be charged, nor shall Members be required to pay at any time any amount to carry on the business of the Committee except to pay when due the charges, assessments and special assessments levied upon each Member's Lot as specified in the Declaration, the By-Laws, this Supplemental Declaration or as the Members of the Committee may from time to time hereafter adopt.

Section Four. Voting and Voting Rights.

1. The voting rights of the membership of the Committee shall be appurtenant to the ownership of the Lot. There shall be two classes of Lots with respect to voting rights:

- (a) Class A. Class A Lots shall be all Lots except Class B Lots as the same are hereinafter defined. Each Lot in Section 1-L which is designated as a Class A Lot shall have one (1) vote per Lot.

When two or more persons hold an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised by one of such persons as proxy and nominee for all persons hold-

ing an interest in a Lot and in no event shall more than one (1) vote be cast with respect to any Lot.

(b) Class B. Class B Lots shall be all Lots owned by Developer which have not been converted to Class A Lots as provided in (1) or (2) below. Developer shall be entitled to three votes for each Class B Lot reserved and designated for the development of a single-family attached dwelling unit (including condominium units). The Class B Lots shall cease to exist and shall be converted to Class A Lots on the happening of either of the following events, whichever first occurs:

(1) When the total number of votes appurtenant to the Class A Lots equals the total number of votes appurtenant to the Class B Lots; or

(2) Ten (10) years from the execution of this Supplemental Declaration. In the case of additional memberships being created by annexation of additional land and the platting of same, the tests of (1) and (2) above shall be applied separately to each portion of the annexed lands and the test under (2) shall be ten (10) years from the time Developer records a supplementary declaration annexing such lands.

2. Any Member who is delinquent in the payment of any charges duly levied by the Committee against a Lot owned by such Member shall not be entitled to vote until all such charges, together with such reasonable penalties as the Committee may impose, have been paid.

3. Members shall vote in person or by proxy executed in writing by the Member. No Proxy shall be valid after eleven (11) months from the date of its execution or upon conveyance by the Member of his Lot. A corporate Member's vote shall be cast by the President or a Vice President of the Member corporation or by any other officer or proxy appointed by the President or designated by the Board of Directors of such corporation.

4. Voting on all matters except the election of the Executive Board shall be by voice vote or by show of hands unless a majority of the Members of each Class present at the meeting shall, prior

to voting on any matter, demand a ballot vote on that particular matter. Where the Executive Board is to be elected by the Members, the solicitation of proxies for such elections may be conducted by mail.

C. Article IV, Common Area Property Rights, is amended by adding after Section One thereof the following and renumbering Sections Two and Three as Three and Four respectively:

Section Two. Every Owner in a Section of the Properties containing Limited Common Area shall have a non-exclusive right and easement of enjoyment in and to the Limited Common Area within that Section which shall be appurtenant to and shall pass with the title for every Lot in that Section subject to the provisions of this Declaration and the Charter and By-Laws of the Association, including but not limited to the following:

1. The right of the Committee to limit the use of the Limited Common Area to Owners within that Section, their families, and guests;

2. The right of the Committee to suspend the voting and enjoyment rights with respect to the Limited Common Area of an Owner for any period during which any assessment against his Lot remains unpaid, or for any infraction of reasonable rules and regulations as adopted by the Committee pursuant to the By-Laws.

3. The right of the Committee to dedicate or transfer all or any part of the Limited Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless the Owners entitled to at least two-thirds (2/3) of the votes appurtenant to Class A Lots and Class B Lots within that Section agree to such dedication or transfer. In such case the Association shall execute and deliver such documents necessary to effectuate such dedication or transfer. This paragraph shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of electrical, telephone, cablevision, water and sewerage, utilities and drainage facilities upon, over, under and across the Limited Common Area without the assent of the membership when such easements are requisite for the convenient use

and enjoyment of the Properties.

- D. Article IV, Common Area Property Rights, Section Two (now Section Three) of the Declaration is amended as follows:

Section Three. The right and easement of enjoyment granted to every Owner in Section One and Two of this Article may be exercised by members of the Owner's family, and an Owner may delegate his rights of enjoyment in the Common Area or Limited Common Area to his tenants or contract purchasers who occupy the residence of the Owner within the Properties.

- E. Article V, Covenant For Maintenance Assessments, of the Declaration is amended by deleting Sections One, Two, Five and Six and substituting therefore the following:

Section One. Annual assessment for maintenance fund.

1. For each Lot owned within the Properties, every Owner covenants, and each subsequent Owner of any such Lot, by acceptance of a deed therefore, whether or not it is so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(a) Annual assessments or charges for the creation and continuation of a maintenance fund for Common Areas in the amount hereinafter set forth, which fund is hereinafter called "Common Area Maintenance Fund".

(b) Special assessments as approved by the members, to be established and collected as hereinafter provided.

2. For each Lot owned within Section 1-L in addition to the assessments provided for in subparagraphs 1 (a) and (b) of Section One of this Article V, every Owner of any such Lot covenants, and every subsequent Owner of any such Lot, by acceptance of a deed therefore, whether or not it is so expressed in such deed, is deemed to covenant and agree to pay to the Association for the benefit of the Committee:

(a) Annual assessments or charges for the creation and continuance of a maintenance fund in the amounts hereinafter set forth to provide maintenance of the Limited Common

Area and exterior maintenance of residential dwellings all as set forth in Article III of this Supplemental Declaration, which fund is hereinafter called "Limited Common Area Maintenance Fund".

(b) Special assessments as approved by the Committee, to be established and collected as hereinafter provided.

Section Two. Purpose of Assessments.

1. The assessments levied by the Association shall be used to provide funds for such purposes as the Association may determine are for the benefit of its Members, which purposes may include maintenance, landscaping and beautification of the Common Areas. Funds may also be used to provide other services for the Association Members to promote the health, safety and welfare of the residents of the community and in particular for the acquisition, improvement and maintenance of properties, services and facilities related to the use and enjoyment of the Common Area, including but not limited to, the cost of repair, replacement and additions thereto; the cost of labor, equipment, materials, management and supervision thereof; the payment of taxes assessed against the Common Area; the procurement and maintenance of insurance; the employment of attorneys; accountants and other professionals to represent the Association when necessary or useful; the employment of security personnel to provide any service which is not readily available from any governmental authority; and such other needs as may arise.

2. The assessments levied by the Committee shall be used to establish the Limited Common Area Maintenance Fund which fund shall be used by the Committee only for the purposes of maintaining the Limited Common Area, exterior maintenance of residential dwellings upon each Lot and other purposes as authorized and allowed by the provisions of this Supplemental Declaration.

Section Five. Annual Maintenance Assessment.

1. At the time of the filing hereof, the annual assessment levied by the Association for the Common Area Maintenance Fund (excluding any sum an Owner may be obligated to pay to the operator of Raintree Country Club [whether such

operator is the Association or a lessee from the Association] as provided for in Article IX of this Declaration) is \$120.00 per Lot (subject to the modifications of such rate as set out in Section Seven of this Article).

2. At the date of the filing of this Supplemental Declaration, the maximum annual assessment levied by the Committee for the Limited Common Area Maintenance Fund shall be \$360.00 per Lot for the property identified in Article I hereof, except that the maximum annual assessment for the Limited Common Area Maintenance Fund for each Lot owned by Developer in Section 1-L shall be \$20.00 per Lot.

(a) After the date of filing hereof, the maximum annual assessments levied in accordance with Subsection 1 of this Section Five may be increased or decreased effective January 1 of each year without a vote of the membership in conformance with the rise or decline, if any, of the Consumer Price Index as published by the U. S. Department of Labor for the Charlotte, North Carolina area. The initial index from which adjustments to future assessments shall be computed shall be the index figure published by the Department of Labor nearest January 1, 1971, and thereafter adjustments shall be computed on the basis of the latest index figure nearest to January 1 of each consecutive year. If the publication of the Consumer Price Index is discontinued, the Association shall use comparable statistics on the cost of living in Charlotte as computed and published by an agency of the United States or by a financial periodical of recognized authority then to be selected by the Association Board of Directors. The Consumer Price Index figure to be utilized is the index figure for all items.

(b) After the date of filing hereof, the annual assessment for the Common Area Maintenance Fund may be increased by the Association Board of Directors to an amount which will be sufficient, in the judgment of the Board, to provide funds required by the Association in carrying out its stated purposes and functions for the ensuing calendar year; provided, however, in no event shall the annual assessment as adjusted by the Board exceed 125 percent of the amount of the annual assessment for the immediately preceding calendar year without

the consent and assenting vote of two-thirds of of each class of the Association members.

3. After the date of the filing hereof, the annual assessment for the Common Area Maintenance Fund may be increased above the maximum provided in subparagraphs (a) and (b) above and without limitation upon such increase if approved by no less than two-thirds (2/3) of the votes of each Class of membership cast in person or by proxy, at a meeting duly called for this purpose.

4. From and after the date of this Supplemental Declaration, the annual assessment for the Limited Common Area Maintenance Fund may be increased by the Committee to an amount which will be sufficient, in the judgment of the Committee, to provide funds required by the Committee in carrying out its stated purposes and functions for the ensuing calendar year, as set forth in its budget which shall be approved by a majority of the lot owners in Section 1-L and under procedures set forth in the By-Laws.

Section Six. Special Assessments.

1. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, provided that any such assessment shall have the same assent of the members as provided in Section Five 3. of this Article.

2. In addition to the annual assessments authorized above, the Committee may levy, in any assessment year, special assessments applicable to that year only. The Committee shall have the right to levy special assessments without the consent and assenting vote of the Owners in the event of exterior maintenance or repairs of an extraordinary nature requiring the expenditure of moneys in excess of the Limited Common Area Maintenance Fund then available, provided, however, that such special assessments shall not exceed the amount of such extraordinary expenses.

F. Article V, Section Seven, Assessment Rate, subparagraph 2 of the Declaration shall be amended as follows:

2. Single-family Attached Dwelling Units (including Condominiums). Each Lot designated as

a Lot on which a condominium unit, single-family attached townhouse or patio house is or may be constructed shall be assessed at a rate of seventy-five (75%) percent of any annual or special Common Area Maintenance Fund assessment as may be fixed or levied by the Association and one hundred (100%) percent of any annual or special Limited Common Area Maintenance Fund assessment as may be fixed or levied by the Committee.

- G. The following shall be added to Article V of the Declaration as Section Twelve:

Section Twelve. Powers of Committee. The rights, powers, duties and obligations contained in Sections Nine, Ten and Eleven hereof shall be exercised by the Association for the benefit of the Committee as they relate to the assessments levied or fixed by the Committee under authority contained herein or in the By-Laws.

- H. Article VI, Section Four, subparagraph 3 of the Declaration is hereby modified as it applies to each Lot upon which a party wall as hereinafter defined is located by eliminating the minimum square footage area of any dwelling constructed thereon, regardless of the number of floor levels in the dwelling.

- I. Article VI, Section Five, Maintenance, subparagraph 1 of the Declaration shall not apply to the property described in Article I of this Supplemental Declaration.

ARTICLE III ADDITIONAL RESTRICTIONS

The property identified in Article I above and made subject to said Declaration of March 26, 1971, is hereby made subject to the following additional covenants, conditions, easements, restrictions and modifications as follows:

1. PARTY WALLS

Section One. Declaration.

Each wall which is built as a part of the original construction of the improvements made on those certain residential Lots (defined in said Declara-

tion of March 26, 1971) shown and described on the recorded plat of portion of Raintree identified in Article I above and which is placed on the dividing line between any two Lots shall be deemed a party wall for the benefit of the Owner(s) (defined in said Declaration of March 26, 1971) of said Lots and shall be used for the joint purpose of the buildings separated thereby.

Section Two. Ownership and Maintenance.

The conveyance of each Lot separated wholly or partially from any other Lot by a party wall shall include an undivided interest in so much of the width of the entire length of said party wall separating such Lot from the adjoining Lot as is located on said lot together with a grant of easement of lateral support for such part of said wall as is situated on the adjoining Lot; and there shall be reserved in the conveyance of each of such Lots a like easement of lateral support. The cost of reasonable repair and maintenance of the party wall shall be shared by the Owners who make use of the wall in proportion to such use. Whenever a party wall or any part thereof shall be rebuilt, it shall be constructed on the same site and shall be of the same size and of the same or similar materials of like quality as the party wall prior to such repair or reconstruction.

Section Three. Destruction by Fire or Other Casualty.

If a party wall is destroyed or damaged by fire or other casualty, each Owner who has used the wall shall contribute to the cost of restoration thereof in proportion to such use.

Section Four. Weatherproofing.

Notwithstanding any other provision of these restrictions, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section Five. Right of Contribution Runs with the Land.

The party walls constructed on the above described Lot(s) shall be and shall remain party walls for the perpetual use and benefit of the Owners of the Lots burdened by such party walls

and said Lots shall be conveyed subject to the covenants, restrictions, reservations and servitudes set forth herein. The right of any Owner to contribution from any other Owner under these restrictions shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section Six. Applicable Law.

The Law of the State of North Carolina regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply.

2. USE OF LOT; ACCESS

Section One. Declaration.

Each Owner of a Lot upon which a party wall is located shall be entitled to the exclusive ownership and possession of his Lot as shown and described on the recorded plat of the property identified in Article I above, provided Owner shall not do any work which would jeopardize the soundness or safety of the party-wall, reduce the value of the adjoining attached dwelling or impair any easement or other right of the adjoining Lot Owner(s) without in every such case the prior approval and consent of the adjoining Lot Owner affected by such work.

Owner shall also enjoy a non-exclusive easement and the right to the use and benefit of Limited Common Areas including cul-de-sacs and parking areas providing access to Owner's Lot from the nearest dedicated public street, provided, however, Owner's use thereof shall be in accordance with the purpose for which such Limited Common Area improvements were intended - to provide ingress and egress to Owner's Lot - without hindering or encroaching upon the lawful rights of other Owners of the property described in Article I above and the common driveway(s) and cul-de-sacs between Owner's Lot and such dedicated public street shall be used only by Owners of Lots served by such connecting driveway(s) and cul-de-sacs.

Section Two. Maintenance.

In addition to the maintenance of the Limited Common Areas, the Committee shall provide, subject to assessments hereunder, exterior maintenance to the main residential dwelling

upon each Lot as follows: paint, repair damage caused by ordinary wear and tear of the elements, stain, varnish, replace and care for roof surfaces, gutters and downspouts (if any) exterior building surfaces and other exterior improvements. The Committee shall further provide garbage pick-up service and grass cutting of all grassed areas whether within Owners Lot lines or in Limited Common Areas. Exterior maintenance shall not include glass surfaces, doors (except paint or stain), screen doors and other screens.

Water and sewer service to Section 1-L is currently provided through a master meter and the Committee shall pay for such water and sewer service from the Limited Common Area Maintenance Fund. If, in the future, water and sewer service should be individually metered to each lot, the Owner of each Lot shall bear the cost of his individual charge for water and sewer service and the Limited Common Area Maintenance Assessment shall be reduced by an amount equal to the cost of water and sewer service previously allocated to each Lot as a part of the Limited Common Area Maintenance Assessment.

The Committee shall have the irrevocable right, to be exercised by the members thereof, their agents, employees and designees, to have access to each lot and the improvements thereon from time to time during reasonable hours as may be necessary for the maintenance, repair and replacement herein provided for, or for making emergency repairs therein necessary to prevent damage to the Limited Common Area or to another residential dwelling.

In the event that a majority of the Committee shall determine that the need for maintenance or repairs by the Committee is caused through the willful or negligent act of an Owner, his family, guests or invitees, then the costs, both direct and indirect of such maintenance and repairs shall be added to and become a part of the Limited Common area assessment to which such Lot is subject.

Such maintenance, upkeep and repairs, if any, as may be performed by the Committee, hereunder shall be without liability to the Association or the Committee, or their respective officers, directors, agents or employees.

3. ENCROACHMENT

Section One. Declaration.

Each Owner of a Lot upon which a party wall is located shall acquire title to such Lot subject to the right and reciprocal easement of the adjoining Lot Owner(s) to have the building or any part thereof as originally constructed by Developer on the adjoining Lot to remain standing. Owner shall be deemed to consent, grant and to secure unto the adjoining Lot Owner(s) the right to have any part of the improvements built as part of the original construction on the adjoining Lot to overlap and extend beyond the lot line of Owner as shown on the recorded map thereof and to encroach under, over and above Owner's Lot to the same extent and in the same manner as the improvements overlap and encroach upon Owner's Lot upon completion of initial construction by Developer.

If any portion of the Common Area now encroaches upon any Lot subject hereto, or if any building improvement upon a Lot now encroaches upon any other Lot or upon any portion of the Limited Common Area, or if any such encroachment shall occur hereafter as a result of (1) repair, alteration or reconstruction of the Limited Common Area made by or with the consent of the Committee; (2) repair or reconstruction of a residential dwelling or dwellings upon one or more Lots following damage by fire or other casualty; or (3) condemnation or eminent domain proceedings, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Committee shall approve of same and the property described in Article I above shall remain subject hereto.

Section Two. Non-Disturbance.

Each Owner of a Lot over which the adjoining Lot Owner's building encroaches covenants and agrees for himself, his heirs, executors, administrators and assigns that Owner will not break, cut, disturb, destroy or remove any part of the improvement overlapping and encroaching upon or over his Lot so long as the improvement remains standing and is similar in materials and appearance to the original construction of improvements made by Developer. Owner further covenants that the provisions hereof shall operate as covenants running with the Lot and the

covenants herein contained shall remain in force as long as improvements upon the adjoining Lot are substantially the same as originally constructed by Developer.

4. USE OF COMMON AREAS ADJOINING LOT

No planting or gardening shall be done upon any Limited Common Area adjoining a Lot upon which a dwelling having a party wall as part of the original construction of the improvements made by Developer upon such Lot except as may be approved and permitted by the Committee. It is Developer's intent that the use and enjoyment of all Limited Common Area shall inure to the mutual benefit of all Owners within the property described in Article I above and shall be subject to the Committee's control.

5. UTILITY EASEMENT(S)

Each Owner of a Lot upon which a party wall as hereinabove defined is located shall have an easement in common with the adjoining Lot Owner(s) to use all pipes, wires, ducts, flues, cables, conduits, and similar public utility lines, if any, located on such adjoining lot and serving Owner's residential dwelling. Each such Lot shall also be subject to an easement in favor of the Owner of any other Lot to use the pipes, wires, ducts, flues, cables, conduits, and similar public utility lines, if any, serving such other Owner's dwelling and located on such Lot.

Each Owner of such Lot upon which a party wall as above described is located shall also have and enjoy the benefit of an easement appurtenant to said Lot through and under that portion or strip of land within the Limited Common Area shown on the recorded map of the property subject hereto to any other recorded map of the subdivision, said easement for the installation and maintenance of storm drainage system and utility lines and laterals serving Owner's Lot. Developer hereby modifies or extinguishes the utility and drainage easements along Owner's Lot lines reserved in said Declaration of March 28, 1971, to the extent that adequate reserved easements are otherwise herein available to Owner. Provided, however, maintenance of all utility lines and laterals serving Owner's Lot shall be at Owner's sole cost and expense whether located on Owner's Lot or within the Limited Common Area.

6. RIGHT OF ACCESS

Owner of each Lot upon which a party wall is located shall acquire title to such property subject to the irrevocable right of the Committee to have access to such Lot and the dwelling thereon, said right of access solely for the purpose of making emergency repairs or taking such action as may be necessary and required to prevent damage to the Limited Common Area or to another Owner's Lot or dwelling.

7. HAZARD INSURANCE

Each Owner of a Lot upon which a party wall as hereinabove defined is located covenants to secure and maintain in full force and effect at Owner's expense one or more insurance policies. Such policy shall contain waivers of subrogation and any endorsements waiving any defense based on co-insurance or of invalidity arising from any act(s) of the insured. Such policy shall insure Owner's Lot and the improvements thereon for the full replacement cost thereof, exclusive of excavation and foundation costs, against loss or damage from all hazards and risks normally covered by a standard "extended coverage" policy, including fire and lightning, vandalism and malicious mischief.

Owner shall provide the Committee with satisfactory evidence that such insurance as herein required is in full force and effect and that the Committee will be given thirty (30) days notice prior to the expiration or cancellation of Owner's insurance coverage. In the event Owner fails or refuses to maintain such insurance coverage as herein required, the Committee may, but shall not be obligated to, through its agent or representative, secure and maintain such insurance coverage hereinabove described for Owner's benefit, and the cost or expense thereof shall be deemed a special assessment levied by the Committee against Owner in accordance with Article V, Section Six of this Supplemental Declaration and Owner covenants and agrees to pay to the Committee such special assessment upon demand.

All such hazard insurance policies covering such Lot (and the dwelling thereon) separated from an adjoining Lot by a party wall built as part of the original construction of improvements made thereon by Developer shall be written in the name of Owner with endorsement naming the Committee

as additional insured and Trustee for Owner with stipulation that proceeds from such policies for loss or damage to the property be payable to said Committee, its successor or other designee, and such proceeds shall be held for the use and benefit of Owner and adjoining Lot Owners, their respective mortgagees, and the Committee, as their interests may appear, such proceeds to be applied or distributed in accordance with the provision hereinafter set forth. Provided, however, no mortgagee of any such Lot(s) or any dwelling located upon such Lot(s), shall have any right to determine or participate in the determination as to whether or not such Lot and the improvements thereon shall be repaired, replaced or reconstructed.

The Committee may cause a copy of this Article to be delivered to any mortgagee of record of a Lot subject hereto.

Nothing herein contained shall be construed to prohibit Owner(s) of such Lot(s) from carrying other insurance for Owners' benefit provided such policies contain waivers of subrogation and further provided that the liability of the insurance carriers under policies procured by any other Lot Owner(s) shall not be affected or diminished by reason of Owners' other insurance.

8. REPAIR AND RESTORATION

In the event of fire or other disaster to a Lot upon which a party wall as hereinabove defined is located, the proceeds from any insurance obtained by Owner, the Committee, its successor or other designee, or such other Trustee as may come into possession of such proceeds in accordance with the provisions herein or By-Laws of the Association, shall, except as may otherwise be provided herein be applied to the repair, replacement or reconstruction, as the case may be, of the improvements built as part of the original construction of the dwelling on the Lot by Developer. If insurance proceeds are in excess of the cost of repair, replacement or reconstruction, then such excess proceeds shall be paid and distributed by Trustee to Owner and to Owner's mortgagee or mortgagees, as their respective interests may appear. If such proceeds covering the loss or damage are not sufficient to pay for the repair, replacement or reconstruction of the improvements upon such Lot, the uncovered portion of the rebuilding costs shall be paid by

Owner. In case of fire or other disaster to the improvements on any such Lot, Owner shall cooperate with the Committee and shall join in the execution of any document reasonably required to obtain insurance proceeds from Owner's insurer and cause same to be applied to the rebuilding of the dwelling upon Owner's Lot.

9. ADDITIONAL PROPERTY

Developer hereby reserves the right, exercisable at any time, to subject other real property to the restrictions set forth herein in order to extend the scheme of this Supplementary Declaration to other property to be developed as part of Village of Raintree provided that the annexation of such additional property is in accord with applicable zoning ordinances and Developer's general plan of development pursuant thereto.

10. MISCELLANEOUS

A. Severability.

The provisions of this Supplementary Declaration are severable and the invalidity of one or more provisions hereof shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder hereof.

B. Compliance.

Each Owner shall comply strictly with the Association By-Laws and the rules and regulations adopted pursuant thereto, and the rules and regulations of the Committee, as any of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth herein or in the deed to the Lot of such Owner. Failure to comply with any of the same shall be ground for an action to recover sums due, or damages or injunctive relief, or both, maintainable by the Association on behalf of the Committee, their successor or designee, or in a proper case, by an aggrieved Owner.

ARTICLE IV RATIFICATION OF DECLARATION

Except with respect to the property described in Article I hereof which is hereby made subject to said Declaration of March 28, 1971, and the modifications and additions herein contained, Developer hereby ratifies and confirms said Declaration, and the Decla-

ration shall continue in full force and effect.

ARTICLE V BINDING EFFECT

This Supplementary Declaration shall be binding upon and inure to the benefit of the respective heirs, executors, successors and assigns of Developer and all persons, firms, or corporations claiming by, through or under Developer.

IN WITNESS WHEREOF, Developer has caused this Supplementary Declaration to be duly signed, this 4th day of April, 1973.

THE ERVIN COMPANY

/s/ William H. Cannon
Vice President

Attest:

/s/ R. Worth Mangum
Assistant Secretary

STATE OF NORTH CAROLINA COUNTY OF MECKLENBURG

This 4th day of April, 1973, personally came before me William H. Cannon who, being by me duly sworn, says he is the Vice President of The Ervin Company and that the seal affixed to the foregoing instrument in writing is the corporate seal of the Company, and that said writing was signed and sealed by him, in behalf of said Corporation, by its authority duly given. And the said Vice President acknowledged the said writing to be the act and deed of said Corporation.

WITNESS my hand and notarial seal, this 4th day of April, 1973.

/s/ Sue H. Edwards
Notary Public

My commission expires November 16, 1975

Recorded in Book 3557, Page ⁶⁵ 64, Office of the Register of Deeds, Mecklenburg County, North Carolina.

April 5, 1973

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

PRESENTED 107
FOR
REGISTRATION

APR 5 3 08 PM '73

SUPPLEMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

W. S. E. CROWDER
REGISTER OF DEEDS
MECKLENBURG CO. N.C.

FOR

VILLAGE OF RAINTREE

SECTION 1-L

THIS SUPPLEMENTARY DECLARATION to the Declaration of Covenants, Conditions and Restrictions for Village of Raintree Sections 1-A through 1-D and 2-A through 2-E is made this 5th day of April, 1973, by THE ERVIN COMPANY, a Delaware corporation, having a principal place of business in said Mecklenburg County, North Carolina (hereinafter referred to as "Developer").

W I T N E S S E T H :

WHEREAS, Developer is the owner of that certain Subdivision in said Mecklenburg County, North Carolina, commonly known and identified as Village of Raintree, plats thereof having been filed of record in the Mecklenburg Public Registry and as to which sections of said Subdivision a Declaration of Covenants, Conditions and Restrictions (hereinafter referred to as the "Declaration") dated March 26, 1971, has been filed of record in the Office of the Register of Deeds for Mecklenburg County in Book 3282 at page 205; and

WHEREAS, Article II, Section Two of said Declaration provides that Developer may extend the declaration (and the covenants and restrictions therein contained) to other property by filing of record a supplementary declaration in respect to the property to be subject to said Declaration in order to extend the scheme of said Declaration to other property to be developed as part of Raintree, and thereby bring such additional property within the jurisdiction of Raintree Homeowners Association, Inc., each supplementary declaration to contain such additions or modifications to said Declaration as may be necessary to reflect the different character of the added property, provided, however, any such supplementary declaration shall not revoke or otherwise amend the provisions of said declaration as pertain to Sections 1-A through 1-D and 2-A through 2-E, or any other section for which supplementary declarations have been filed; and

WHEREAS, Developer now intends to so subject additional property to said Declaration of March 26, 1971, and to place such additional or modified covenants, conditions, easements and restrictions thereon as may be necessary to reflect the different character of the properties;

NOW, THEREFORE, in consideration of the premises, Developer hereby declares that the property hereinbelow described shall be held, sold and conveyed subject to said Declaration of Covenants, Conditions and Restrictions for Village of Raintree, Sections 1-A through 1-D and 2-A through 2-E, to the same extent and degree as if said declaration were herein set out in its entirety, and further subject to such additional covenants, conditions, easements, restrictions and modifications (hereinafter collectively referred to as "Restrictions") as are herein set forth. The Restrictions shall be construed as covenants running with the land and shall be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors or assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

PROPERTIES SUBJECT TO THIS SUPPLEMENTARY DECLARATION

The additional property which is hereby made subject to said Declaration of March 26, 1971, and which shall be held, transferred, sold, conveyed and occupied subject to said Declaration, is located in Providence Township, Mecklenburg County, North Carolina, and is more particularly described and shown on a plat showing a portion of Raintree, Section 1-L prepared by Charles G. Rust, P. E., which plat is dated March 1973 and a copy thereof recorded in the Mecklenburg Public Registry in Map Book 17 at page 59.

The above described property shall also be held, transferred, sold, conveyed and occupied subject to such additional and modified restrictions as are hereafter provided.

Only the property shown on said subdivision plat of Raintree as described in this Article I is hereby made subject to this Supplementary Declaration and to said Declaration dated March 26, 1971.

ARTICLE II

MODIFICATIONS TO DECLARATION

The property identified in Article I above, and made subject to said Declaration of March 26, 1971, is hereby made subject to the following modifications to the Declaration:

- A. Article I, Definitions, of the Declaration is amended by adding as subparagraphs 12 and 13 the following definitions:

12. "Committee" shall mean a standing committee of the Association composed of all Owners in Section 1-L, which Committee shall administer and control all of the Limited Common Area in Section 1-L and provide for the exterior maintenance of the dwellings in such section as provided in Article III hereafter.

13. "Limited Common Area" shall mean and refer to any and all real property owned by the Association, or such other property to which the Association may hold legal title whether in fee or for a term of years, which is designated as "Limited Common Area" on any plat or survey of Raintree or any part thereof which shall be of public record. Limited Common Area shall be subject to reasonable rules and regulations which may be established from time to time by the Association or the Committee for the benefit and enjoyment of the Owners of Lots within the Section of Raintree which contains such Limited Common Area and further subject to the provisions of this Declaration and the By-Laws of the Association.

- B. Article III, Association Membership and Voting Rights, is amended by adding thereto Sections Three and Four as follows:

Section Three. Committee Membership.

1. Every person or entity who is the Owner of record of a fee interest in any Lot or who is purchasing one or more Lots under a contract or purchase agreement within Section 1-L shall be a member of the Committee, subject to and bound by the Associations Articles of Incorporation, By-Laws and rules and regulations of the Committee adopted by the Committee. The foregoing is not intended to include persons or entities who hold an interest in any Lot in Section 1-L merely as security for the performance of an obligation. Ownership of such Lot shall be the sole qualification for membership. When any Lot is owned of record in joint tenancy or tenancy in common or by some other legal entity, or when two or more persons or other legal entity is purchasing one or more Lots under a contract or agreement of purchase, the membership as to such Lot(s) shall be joint and the right of such membership (including the voting power arising therefrom) shall be exercised only as stipulated in Section Four hereinbelow.

2. During any period in which a member shall be in default in the payment of any annual, special or other periodic assessment levied by the Committee, the voting rights and right to the use of the Limited Common Areas or any other facilities which the Committee may provide shall be suspended by the Committee until such assessment is paid. In the event of violation by a member of any rules or regulations established by the Committee, such member's

voting and use rights may be suspended by the Executive Board of the Committee after a hearing at which the general requirements of due process requirements shall be observed. Such hearing shall only be held by the Executive Board of the Committee after giving member ten (10) days prior written notice specifying each alleged violation and setting the time, place and date of the hearing. Determination of violation shall be made by a majority vote of the Executive Board.

3. No membership or initiation fee shall be charged, nor shall Members be required to pay at any time any amount to carry on the business of the Committee except to pay when due the charges, assessments and special assessments levied upon each Member's Lot as specified in the Declaration, the By-Laws, this Supplemental Declaration or as the Members of the Committee may from time to time hereafter adopt.

Section Four. Voting and Voting Rights.

1. The voting rights of the membership of the Committee shall be appurtenant to the ownership of the Lot. There shall be two classes of Lots with respect to voting rights:

(a) Class A. Class A Lots shall be all Lots except Class B Lots as the same are hereinafter defined. Each Lot in Section 1-L which is designated as a Class A Lot shall have one (1) vote per Lot.

When two or more persons hold an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised by one of such persons as proxy and nominee for all persons holding an interest in a Lot and in no event shall more than one (1) vote be cast with respect to any Lot.

(b) Class B. Class B Lots shall be all Lots owned by Developer which have not been converted to Class A Lots as provided in (1) or (2) below. Developer shall be entitled to three (3) votes for each Class B Lot reserved and designated for the development of a single-family attached dwelling unit (including condominium units). The Class B Lots shall cease to exist and shall be converted to Class A Lots on the happening of either of the following events, whichever first occurs:

(1) When the total number of votes appurtenant to the Class A Lots equals the total number of votes appurtenant to the Class B Lots; or

(2) Ten (10) years from the execution of this Supplemental Declaration. In the case of additional memberships being created by annexation of additional land and the platting of same, the tests of (1) and (2) above shall be applied separately to each portion of the annexed lands and the test under (2) shall be ten (10) years from the time Developer records a supplementary declaration annexing such lands.

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2. Any Member who is delinquent in the payment of any charges duly levied by the Committee against a Lot owned by such Member shall not be entitled to vote until all such charges, together with such reasonable penalties as the Committee may impose, have been paid.

3. Members shall vote in person or by proxy executed in writing by the Member. No proxy shall be valid after eleven (11) months from the date of its execution or upon conveyance by the Member of his Lot. A corporate Member's vote shall be cast by the President or a Vice President of the Member corporation or by any other officer or proxy appointed by the President or designated by the Board of Directors of such corporation.

4. Voting on all matters except the election of the Executive Board shall be by voice vote or by show of hands unless a majority of the Members of each Class present at the meeting shall, prior to voting on any matter, demand a ballot vote on that particular matter. Where the Executive Board is to be elected by the Members, the solicitation of proxies for such elections may be conducted by mail.

- C. Article IV, Common Area Property Rights, is amended by adding after Section One thereof the following and renumbering Sections Two and Three as Three and Four respectively:

Section Two. Every Owner in a Section of the Properties containing Limited Common Area shall have a non-exclusive right and easement of enjoyment in and to the Limited Common Area within that Section which shall be appurtenant to and shall pass with the title for every Lot in that Section subject to the provisions of this Declaration and the Charter and By-Laws of the Association, including but not limited to the following:

1. The right of the Committee to limit the use of the Limited Common Area to Owners within that Section, their families, and guests;

2. The right of the Committee to suspend the voting and enjoyment rights with respect to the Limited Common Area of an Owner for any period during which any assessment against his Lot remains unpaid, or for any infraction of reasonable rules and regulations as adopted by the Committee pursuant to the By-Laws.

3. The right of the Committee to dedicate or transfer all or any part of the Limited Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless the Owners entitled to at least two-thirds (2/3) of the votes appurtenant to Class A Lots and Class B Lots within that Section agree to such dedication or transfer. In such case the Association shall execute and deliver such documents necessary to effectuate such dedication or transfer. This paragraph shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of electrical, telephone, cablevision, water and sewerage, utilities and drainage facilities upon, over, under and across the Limited Common Area without the assent of the membership when such easements are requisite for the convenient use and enjoyment of the Properties.

- D. Article IV, Common Area Property Rights, Section Two (now Section Three) of the Declaration is amended as follows:

Section Three. The right and easement of enjoyment granted to every Owner in Section One and Two of this Article may be exercised by members of the Owner's family, and an Owner may delegate his rights of enjoyment in the Common Area or Limited Common Area to his tenants or contract purchasers who occupy the residence of the Owner within the Properties.

- E. Article V, Covenant For Maintenance Assessments, of the Declaration is amended by deleting Sections One, Two, Five and Six and substituting therefore the following:

Section One. Annual assessment for maintenance fund.

1. For each Lot owned within the Properties, every Owner covenants, and each subsequent Owner of any such Lot, by acceptance of a deed therefore, whether or not it is so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(a) Annual assessments or charges for the creation and continuation of a maintenance fund for Common Areas in the amount hereinafter set forth, which fund is hereinafter called "Common Area Maintenance Fund".

(b) Special assessments as approved by the members, to be established and collected as hereinafter provided.

2. For each Lot owned within Section 1-L in addition to the assessments provided for in subparagraphs 1 (a) and (b) of Section One of this Article V, every Owner of any such Lot covenants, and every subsequent Owner of any such Lot, by acceptance of a deed therefore, whether or not it is so expressed in such deed, is deemed to covenant and agree to pay to the Association for the benefit of the Committee:

(a) Annual assessments or charges for the creation and continuance of a maintenance fund in the amounts hereinafter set forth to provide maintenance of the Limited Common Area and exterior maintenance of residential dwellings all as set forth in Article III of this Supplemental Declaration, which fund is hereinafter called "Limited Common Area Maintenance Fund".

(b) Special assessments as approved by the Committee, to be established and collected as hereinafter provided.

Section Two. Purpose of Assessments.

1. The assessments levied by the Association shall be used to provide funds for such purposes as the Association may determine are for the benefit of its Members, which purposes may include maintenance, landscaping and beautification of the Common Areas. Funds may also be used to provide other services for the Association Members to promote the health, safety and welfare of the residents of the community and in particular for the acquisition, improvement and maintenance of properties, services and facilities related to the use and enjoyment of the Common Area, including but not limited to, the cost of repair, replacement and additions thereto; the cost of labor, equipment, materials, management and supervision thereof; the payment of taxes assessed against the Common Area; the procurement and maintenance of insurance; the employment of attorneys; accountants and other professionals to represent the Association when necessary or useful; the employment of security personnel to provide any service which is not readily available from any governmental authority; and such other needs as may arise.

2. The assessments levied by the Committee shall be used to establish the Limited Common Area Maintenance Fund which fund shall be used by the Committee only for the purposes of maintaining the Limited Common Area, exterior maintenance of residential dwellings upon each lot and other purposes as authorized and allowed by the provisions of this Supplemental Declaration.

Section Five. Annual Maintenance Assessment.

1. At the time of the filing hereof, the annual assessment levied by the Association for the Common Area Maintenance Fund (excluding any sum an Owner may be obligated to pay to the operator of Raintree Country Club [whether such operator is the Association or a lessee from the Association] as provided for in Article IX of this Declaration) is \$120.00 per Lot (subject to the modifications of such rate as set out in Section Seven of this Article).

2. At the date of the filing of this Supplemental Declaration, the maximum annual assessment levied by the Committee for the Limited Common Area Maintenance Fund shall be \$360.00 per Lot for the property identified in Article I hereof, except that the maximum annual assessment for the Limited Common Area Maintenance Fund for each Lot owned by Developer in Section 1-L shall be \$20.00 per Lot.

(a) After the date of filing hereof, the maximum annual assessments levied in accordance with Subsection 1 of this Section Five may be increased or decreased effective January 1 of each year without a vote of the membership in conformance with the rise or decline, if any, of the Consumer Price Index as published by the U. S. Department of Labor for the Charlotte, North Carolina area. The initial index from which adjustments to future assessments shall be computed shall be the index figure published by the Department of Labor nearest January 1, 1971, and thereafter adjustments shall be computed on the basis of the latest index figure nearest to January 1 of each consecutive year. If the publication of the Consumer Price Index is discontinued, the Association shall use comparable statistics on the cost of living in Charlotte as computed and published by an agency of the United States or by a financial periodical of recognized authority then to be selected by the Association Board of Directors. The Consumer Price Index figure to be utilized is the index figure for all items.

(b) After the date of filing hereof, the annual assessment for the Common Area Maintenance Fund may be increased by the Association Board of Directors to an amount which will be sufficient, in the judgment of the Board, to provide funds required by the Association in carrying out its stated purposes and functions for the ensuing calendar year; provided, however, in no event shall the annual assessment as adjusted by the Board exceed 125 percent of the amount of the annual assessment for the immediately preceding calendar year without the consent and assenting vote of two-thirds of each class of the Association members.

3. After the date of the filing hereof, the annual assessment for the Common Area Maintenance Fund may be increased above the maximum provided in subparagraphs (a) and (b) above and without limitation upon such increase if approved by no less than two-thirds (2/3) of the votes of each Class of membership cast in person or by proxy, at a meeting duly called for this purpose.

4. From and after the date of this Supplemental Declaration, the annual assessment for the Limited Common Area Maintenance Fund may be increased by the Committee to an amount which will be sufficient, in the judgment of the Committee, to provide funds required by the Committee in carrying out its stated purposes and functions for the ensuing calendar year, as set forth in its budget which shall be approved by a majority of the lot owners in Section 1-L and under procedures set forth in the By-Laws.

Section Six. Special Assessments.

1. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, provided that any such assessment shall have the same assent of the members as provided in Section Five 3. of this Article.

2. In addition to the annual assessments authorized above, the Committee may levy, in any assessment year, special assessments applicable to that year only. The Committee shall have the right to levy special assessments without the consent and assenting vote of the Owners in the event of exterior maintenance or repairs of an extraordinary nature requiring the expenditure of moneys in excess of the Limited Common Area Maintenance Fund then available, provided, however, that such special assessments shall not exceed the amount of such extraordinary expenses.

F. Article V, Section Seven, Assessment Rate, subparagraph 2 of the Declaration shall be amended as follows:

2. Single-family Attached Dwelling Units (including Condominiums). Each Lot designated as a Lot on which a condominium unit, single-family attached townhouse or patio house is or may be constructed shall be assessed at a rate of seventy-five (75%) percent of any annual or special Common Area Maintenance Fund assessment as may be fixed or levied by the Association and one hundred (100%) percent of any annual or special Limited Common Area Maintenance Fund assessment as may be fixed or levied by the Committee.

G. The following shall be added to Article V of the Declaration as Section Twelve:

Section Twelve. Powers of Committee. The rights, powers, duties and obligations contained in Sections Nine, Ten and Eleven hereof shall be exercised by the Association for the benefit of the Committee as they relate to the assessments levied or fixed by the Committee under authority contained herein or in the By-Laws.

H. Article VI, Section Four, subparagraph 3 of the Declaration is hereby modified as it applies to each Lot upon which a party wall as hereinafter defined is located by eliminating the minimum square footage area of any dwelling constructed thereon, regardless of the number of floor levels in the dwelling.

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I. Article VI, Section Five, Maintenance, subparagraph 1 of the Declaration shall not apply to the property described in Article I of this Supplemental Declaration.

ARTICLE III

ADDITIONAL RESTRICTIONS

The property identified in Article I above and made subject to said Declaration of March 26, 1971, is hereby made subject to the following additional covenants, conditions, easements, restrictions and modifications as follows:

1. PARTY WALLS

Section One. Declaration.

Each wall which is built as a part of the original construction of the improvements made on those certain residential Lots (defined in said Declaration of March 26, 1971) shown and described on the recorded plat of portion of Raintree identified in Article I above and which is placed on the dividing line between any two Lots shall be deemed a party wall for the benefit of the Owner(s) (defined in said Declaration of March 26, 1971) of said Lots and shall be used for the joint purpose of the buildings separated thereby.

Section Two. Ownership and Maintenance.

The conveyance of each Lot separated wholly or partially from any other Lot by a party wall shall include an undivided interest in so much of the width of the entire length of said party wall separating such Lot from the adjoining Lot as is located on said lot together with a grant of easement of lateral support for such part of said wall as is situated on the adjoining Lot; and there shall be reserved in the conveyance of each of such Lots a like easement of lateral support. The cost of reasonable repair and maintenance of the party wall shall be shared by the Owners who make use of the wall in proportion to such use. Whenever a party wall or any part thereof shall be rebuilt, it shall be constructed on the same site and shall be of the same size and of the same or similar materials of like quality as the party wall prior to such repair or reconstruction.

Section Three. Destruction by Fire or Other Casualty.

If a party wall is destroyed or damaged by fire or other casualty, each Owner who has used the wall shall contribute to the cost of restoration thereof in proportion to such use.

Section Four. Weatherproofing.

Notwithstanding any other provision of these restrictions, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section Five. Right of Contribution Runs with the Land.

The party walls constructed on the above described Lot(s) shall be and shall remain party walls for the perpetual use and benefit of the Owners of the Lots burdened by such party walls and said Lots shall be conveyed subject to the covenants, restrictions, reservations and servitudes set forth herein. The right of any Owner to contribution from any other Owner under these restrictions shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section Six. Applicable Law.

The Law of the State of North Carolina regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply.

2. USE OF LOT; ACCESS

Section One. Declaration.

Each Owner of a Lot upon which a party wall is located shall be entitled to the exclusive ownership and possession of his Lot as shown and described on the recorded plat of the property identified in Article I above, provided Owner shall not do any work which would jeopardize the soundness or safety of the party-wall, reduce the value of the adjoining attached dwelling or impair any easement or other right of the adjoining Lot Owner(s) without in every such case the prior approval and consent of the adjoining Lot Owner affected by such work.

Owner shall also enjoy a non-exclusive easement and the right to the use and benefit of Limited Common Areas including cul-de-sacs and parking areas providing access to Owner's Lot from the nearest dedicated public street, provided, however, Owner's use thereof shall be in accordance with the purpose for which such Limited Common Area improvements were intended - to provide ingress and egress to Owner's Lot - without hindering or encroaching upon the lawful rights of other Owners of the property described in Article I above and the common driveway(s) and cul-de-sacs between Owner's Lot and such dedicated public street shall be used only by Owners of Lots served by such connecting driveway(s) and cul-de-sacs.

Section Two. Maintenance.

In addition to the maintenance of the Limited Common Areas, the Committee shall provide, subject to assessments hereunder, exterior maintenance to the main residential dwelling upon each Lot as follows: paint, repair damage caused by ordinary wear and tear of the elements, stain, varnish, replace and care for roof surfaces, gutters and downspouts (if any) exterior building surfaces and other exterior improvements. The Committee shall further provide garbage pick-up service and grass cutting of all grassed areas whether within Owners Lot lines or in Limited Common Areas. Exterior maintenance shall not include glass surfaces, doors (except paint or stain), screen doors and other screens.

Water and sewer service to Section 1-L is currently provided through a master meter and the Committee shall pay for such water and sewer service from the Limited Common Area Maintenance Fund. If, in the future, water and sewer service should be individually metered to each lot, the Owner of each Lot shall bear the cost of his individual charge for water and sewer service and the Limited Common Area Maintenance Assessment shall be reduced by an amount equal to the cost of water and sewer service previously allocated to each Lot as a part of the Limited Common Area Maintenance Assessment.

The Committee shall have the irrevocable right, to be exercised by the members thereof, their agents, employees and designees, to have access to each lot and the improvements thereon from time to time during reasonable hours as may be necessary for the maintenance, repair and replacement herein provided for, or for making emergency repairs therein necessary to prevent damage to the Limited Common Area or to another residential dwelling.

In the event that a majority of the Committee shall determine that the need for maintenance or repairs by the Committee is caused through the willful or negligent act of an Owner, his family, guests or invitees, then the costs, both direct and indirect of such maintenance and repairs shall be added to and become a part of the Limited Common area assessment to which such Lot is subject.

Such maintenance, upkeep and repairs, if any, as may be performed by the Committee, hereunder shall be without liability to the Association or the Committee, or their respective officers, directors, agents or employees.

3. ENCROACHMENT

Section One. Declaration.

Each Owner of a Lot upon which a party wall is located shall acquire title to such Lot subject to the right and reciprocal easement of the adjoining Lot Owner(s) to have the building or any part thereof as originally constructed by Developer on the adjoining Lot to remain standing. Owner shall be deemed to consent, grant and to secure unto the adjoining Lot Owner(s) the right to have any part of the improvements built as part of the original construction on the adjoining Lot to overlap and extend beyond the lot line of Owner as shown on the recorded map thereof and to encroach under, over and above Owner's Lot to the same extent and in the same manner as the improvements overlap and encroach upon Owner's Lot upon completion of initial construction by Developer.

If any portion of the Common Area now encroaches upon any Lot subject hereto, or if any building improvement upon a Lot now encroaches upon any other Lot or upon any portion of the Limited Common Area, or if any such encroachment shall occur hereafter as a result of (1) repair, alteration or reconstruction of the Limited Common Area made by or with the consent of the Committee; (2) repair or reconstruction of a residential dwelling or dwellings upon one or more Lots following damage by fire or other casualty; or (3) condemnation or eminent domain proceedings, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Committee shall approve of same and the property described in Article I above shall remain subject hereto.

Section Two. Non-Disturbance.

Each Owner of a Lot over which the adjoining Lot Owner's building encroaches covenants and agrees for himself, his heirs, executors, administrators and assigns that Owner will not break, cut, disturb, destroy or remove any part of the improvement overlapping and encroaching upon or over his Lot so long as the improvement remains standing and is similar in materials and appearance to the original construction of improvements made by Developer. Owner further covenants that the provisions hereof shall operate as covenants running with the Lot and the covenants herein contained shall remain in force as long as improvements upon the adjoining Lot are substantially the same as originally constructed by Developer.

4. USE OF COMMON AREAS ADJOINING LOT

No planting or gardening shall be done upon any Limited Common Area adjoining a Lot upon which a dwelling having a party wall as part of the original construction of the improvements made by Developer upon such Lot except as may be approved and permitted by the Committee. It is Developer's intent that the use and enjoyment of all Limited Common Area shall inure to the mutual benefit of all Owners within the property described in Article I above and shall be subject to the Committee's control.

5. UTILITY EASEMENT(S)

Each Owner of a Lot upon which a party wall as hereinabove defined is located shall have an easement in common with the adjoining Lot Owner(s) to use all pipes, wires, ducts, flues, cables, conduits, and similar public utility lines, if any, located on such adjoining lot and serving Owner's residential dwelling. Each such Lot shall also be subject to an easement in favor of the Owner of any other Lot to use the pipes, wires, ducts, flues, cables, conduits, and similar public utility lines, if any, serving such other Owner's dwelling and located on such Lot.

Each Owner of such Lot upon which a party wall as above described is located shall also have and enjoy the benefit of an easement appurtenant to said Lot through and under that portion or strip of land within the Limited Common Area shown on the recorded map of the property subject hereto or any other recorded map of the subdivision, said easement for the installation and maintenance of storm drainage system and utility lines and laterals serving Owner's Lot. Developer hereby modifies or extinguishes the utility and drainage easements along Owner's Lot lines reserved in said Declaration of March 26, 1971, to the extent that adequate reserved easements are otherwise herein available to Owner. Provided, however, maintenance of all utility lines and laterals serving Owner's Lot shall be at Owner's sole cost and expense whether located on Owner's Lot or within the Limited Common Area.

6. RIGHT OF ACCESS

Owner of each Lot upon which a party wall is located shall acquire title to such property subject to the irrevocable right of the Committee to have access to such Lot and the dwelling thereon, said right of access solely for the purpose of making emergency repairs or taking such action as may be necessary and required to prevent damage to the Limited Common Area or to another Owner's Lot or dwelling.

7. HAZARD INSURANCE

Each Owner of a Lot upon which a party wall as hereinabove defined is located covenants to secure and maintain in full force and effect at Owner's expense one or more insurance policies. Such policy shall contain waivers of subrogation and any endorsements waiving any defense based on co-insurance or of invalidity arising from any act(s) of the insured. Such policy shall insure Owner's Lot and the improvements thereon for the full replacement cost thereof, exclusive of excavation and foundation costs, against loss or damage from all hazards and risks normally covered by a standard "extended coverage" policy, including fire and lightning, vandalism and malicious mischief.

Owner shall provide the Committee with satisfactory evidence that such insurance as herein required is in full force and effect and that the Committee will be given thirty (30) days notice prior to the expiration or cancellation of Owner's insurance coverage. In the event Owner fails or refuses to maintain such insurance coverage as herein required, the Committee may, but shall not be obligated to, through its agent or representative, secure and maintain such insurance coverage hereinabove described for Owner's benefit, and the cost or expense thereof shall be deemed a special assessment levied by the Committee against Owner in accordance with Article V, Section Six of this Supplemental Declaration and Owner covenants and agrees to pay to the Committee such special assessment upon demand.

All such hazard insurance policies covering such Lot (and the dwelling thereon) separated from an adjoining Lot by a party wall built as part of the original construction of improvements made thereon by Developer shall be written in the name of Owner with endorsement naming the Committee as additional insured and Trustee for Owner with stipulation that proceeds from such policies for loss or damage to the property be payable to said Committee, its successor or other designee, and such proceeds shall be held for the use and benefit of Owner and adjoining Lot Owners, their respective mortgagees, and the Committee, as their interests may appear, such proceeds to be applied or distributed in accordance with the provision hereinafter set forth. Provided, however, no mortgagee of any such Lot(s) or any dwelling located upon such Lot(s), shall have any right to determine or participate in the determination as to whether or not such Lot and the improvements thereon shall be repaired, replaced or reconstructed.

The Committee may cause a copy of this Article to be delivered to any mortgagee of record of a Lot subject hereto.

Nothing herein contained shall be construed to prohibit Owner(s) of such Lot(s) from carrying other insurance for Owners' benefit provided such policies contain waivers of subrogation and further provided that the liability of the insurance carriers under policies procured by any other Lot Owner(s) shall not be affected or diminished by reason of Owners' other insurance.

8. REPAIR AND RESTORATION

In the event of fire or other disaster to a Lot upon which a party wall as hereinabove defined is located, the proceeds from any insurance obtained by Owner, the Committee, its successor or other designee, or such other Trustee as may come into possession of such proceeds in accordance with the provisions herein or By-Laws of the Association, shall, except as may otherwise be provided herein be applied to the repair, replacement or reconstruction, as the case may be, of the improvements built as part of the original construction of the dwelling on the Lot by Developer. If insurance proceeds are in excess of the cost of repair, replacement or reconstruction, then such excess proceeds shall be paid and distributed by Trustee to Owner and to Owner's mortgagee or mortgagees, as their respective interests may appear. If such proceeds covering the loss or damage are not sufficient to pay for the repair, replacement or reconstruction

of the improvements upon such Lot, the uncovered portion of the rebuilding costs shall be paid by Owner. In case of fire or other disaster to the improvements on any such Lot, Owner shall cooperate with the Committee and shall join in the execution of any document reasonably required to obtain insurance proceeds from Owner's insurer and cause same to be applied to the rebuilding of the dwelling upon Owner's Lot.

9. ADDITIONAL PROPERTY

Developer hereby reserves the right, exercisable at any time, to subject other real property to the restrictions set forth herein in order to extend the scheme of this Supplementary Declaration to other property to be developed as part of Village of Raintree provided that the annexation of such additional property is in accord with applicable zoning ordinances and Developer's general plan of development pursuant thereto.

10. MISCELLANEOUS

A. Severability.

The provisions of this Supplementary Declaration are severable and the invalidity of one or more provisions hereof shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder hereof.

B. Compliance.

Each Owner shall comply strictly with the Association By-Laws and the rules and regulations adopted pursuant thereto, and the rules and regulations of the Committee, as any of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth herein or in the deed to the Lot of such Owner. Failure to comply with any of the same shall be ground for an action to recover sums due, or damages or injunctive relief, or both, maintainable by the Association on behalf of the Committee, their successor or designee, or in a proper case, by an aggrieved Owner.

ARTICLE IV

RATIFICATION OF DECLARATION


Except with respect to the property described in Article I hereof which is hereby made subject to said Declaration of March 26, 1971, and the modifications and additions herein contained, Developer hereby ratifies and confirms said Declaration, and the Declaration shall continue in full force and effect.

ARTICLE V

BINDING EFFECT

This Supplementary Declaration shall be binding upon and inure to the benefit of the respective heirs, executors, successors and assigns of Developer and all persons, firms, or corporations claiming by, through or under Developer.

IN WITNESS WHEREOF, Developer has caused this Supplementary Declaration to be duly signed, this 4th day of April, 1973.


ATTEST:

William W. Mangum
Assistant Secretary
DELAWARE

THE ERVIN COMPANY
By William H. Cannon
Vice President

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

This 4th day of April, 1973, personally came before me William W. Cannon who, being by me duly sworn, says he is the Vice President of The Ervin Company and that the seal affixed to the foregoing instrument in writing is the corporate seal of the Company, and that said writing was signed and sealed by him, in behalf of said Corporation, by its authority duly given. And the said Vice President acknowledged the said writing to be the act and deed of said Corporation.

WITNESS my hand and notarial seal, this 4th day of April, 1973.


My Commission Expires: 11-16-75.

Sue H. Edwards
NOTARY PUBLIC

STATE OF NORTH CAROLINA The foregoing
COUNTY OF MECKLENBURG certificate(s)

of Sue H. Edwards

a Notary Public of said County and State
is ~~not~~ certified to be correct.
This 5th day of April 19 73.

Recorded in Book _____ Page _____ and Verified.
CHARLES B. CROWDER, Register of Deeds

By Charles B. Crowder
Deputy

DRAWN BY:
WORTH MANGUM
THE ERVIN CO.