

FOR REGISTRATION JUDITH A. GIBSON  
REGISTER OF DEEDS  
MECKLENBURG COUNTY, NC  
2008 MAR 28 02:00 PM  
BK:23563 PG:959-978 FEE:\$68.00

INSTRUMENT # 2008053800



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Prepared by and Return to Sellers, Hinshaw, Ayers, Dortch & Lyons, P.A. (Box 91) KC

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

**AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE LAKES AT RAINTREE**

**THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE LAKES AT RAINTREE** is made and entered into by the undersigned Owners of not less than two-thirds (2/3) of the Lots subject to the Declaration pursuant to Article XII, Section 2 of the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE LAKES AT RAINTREE which is recorded in Book 4751 at Page 954 of the Mecklenburg County Public Registry ("Declaration").

**Statement of Purpose**

The Declaration allows for the amendment of its provisions from time to time by an instrument signed by the Owners of not less than two-thirds (2/3) of the Lots which are then subject to the Declaration. The purpose of this document is to facilitate and memorialize an amendment to the Declaration as is set forth herein.

**NOW THEREFORE**, the undersigned, being Owners of not less than two-thirds (2/3) of the Lots now subject to the Declaration, agree and consent to the amendment of the Declaration as follows:

1. Article VIII is amended to create a new section 2 to provide as follows:

**Section 2. Leasing of Lots.** "Leases" or "Rental Agreements" for the purposes of this Paragraph, are defined as regular, exclusive occupancy of a Lot by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service or gratuity. No more than 18% of the Lots within the Property may be leased at any one time. All leases or rental agreements shall be in writing and shall have a minimum term of six months. No lease or rental agreement may be extended, by agreement or holdover, unless expressly approved as required herein. No lease or rental agreement shall be assigned nor shall any Lot be sublet

without the prior written permission of the Board of Directors of the Association. Such prior written permission must be obtained prior to final signature by the proposed landlord and tenant. No proposed lease or rental agreement of any type, including but not limited to renewals, assignments and subleases, shall be considered unless it is accompanied by a list of the names of persons who will reside in the home pursuant to the lease. The Association shall keep a copy of all leases or rental agreements submitted for its review. The Board may adopt policies and procedures for the identification and designation of Lots which may be leased or rented within the Property, the process to be followed by owners submitting leases or rental agreements for review, including, but not limited to requiring a nonrefundable review fee, and for the maintenance of a waiting list for owners seeking to lease or rent their Lots, and those policies and procedures may be amended by the Board from time to time as the Board, in its discretion, deems appropriate. Each permitted lease shall be subject to this Declaration, the Association's Bylaws and the rules and regulations adopted hereunder ("Governing Documents") and shall be for residential purposes only. Every lease and rental agreement shall provide that the lease term may be terminated in the event of a violation by any occupant of any provisions of the Governing Documents. In addition to other remedies, the Association may require an Owner to promptly evict all occupants in the event of any such violation.

**IN WITNESS WHEREOF**, the undersigned have signed this **AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE LAKES AT RAINTREE** and affixed their seals hereto.

Richard M. Holbert (seal)  
Name: RICHARD M. HOLBERT  
Address: 9716 ST. VINCENT LANE  
CHARLOTTE NC 28277

R. Stovley  
Witness

Lela H. Holbert (seal)  
Name: LELA H. HOLBERT  
Address: 9716 ST. VINCENT LANE  
CHARLOTTE NC 28277

R. Stovley  
Witness

\_\_\_\_\_  
Name: \_\_\_\_\_ (seal)  
Address: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Witness

CONTINUED

COPY

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE LAKES AT RAINTREE

THIS AMENDMENT TO DECLARATION to the Declaration of Covenants, Conditions and Restrictions for The Lakes at Raintree is made this 29<sup>th</sup> day of June, 1993 by the undersigned individual persons (collectively referred to as the "Townhouse Owners"), The Raintree Lakes Homeowners Association, Inc. (the "Association") and Terry R. Dewar and Carolyn S. Dewar (the "Developer").

W I T N E S S E T H :

WHEREAS, the Townhouse Owners are current owners of that property shown on the recorded plats of The Lakes at Raintree which plats are recorded in Map Book 20 at Page 668, and Map Book 20 at Page 740 (which plat was revised in Map Book 20 at Page 752), Map Book 20 at Page 777, Map Book 20 at Page 797, and Map Book 21 at Page 435 of the Mecklenburg County Public Registry (the "Townhouse Property"); and

WHEREAS, Developer is the owner of all that property adjoining the Townhouse Property described on Exhibit C attached hereto (the "Undeveloped Property") which was subjected to the terms and conditions of the Declaration of Covenants, Conditions and Restrictions for The Lakes at Raintree ("The Declaration") recorded in Book 4751 at Page 954 of the Mecklenburg County Public Registry by Supplementary Declaration recorded in Book 4910 at Page 970 of the Mecklenburg County Public Registry; and

WHEREAS, the undersigned Townhouse Owners (being the owners of at least two thirds of the Lots within the Townhouse Property), the Association, and the Developer desire to modify and amend the Declaration in accordance with Article XII, Section 2 thereof in order that: (1) all or part of the Undeveloped Property described on Exhibit C attached hereto may be developed for detached single family homes and, (2) the portion of the Undeveloped Property described on Exhibit B attached hereto may be developed for townhomes and/or for detached single family homes, and (3) all of the Undeveloped Property may be subject to the jurisdiction of and assessment by the Association as hereinafter provided, without in any way revoking the provisions of the Declaration insofar as it pertains to the Townhouse Property.

NOW, THEREFORE, the undersigned Townhouse Owners, the Association and the Developer hereby declare that the portion of the Undeveloped Property described in Article I, Section 1 below shall be held, sold and conveyed subject to the aforesaid Declaration to the same extent and degree as if said Declaration was herein set out in its entirety, except, as such Declaration is hereby modified and subject also to additional covenants, conditions, easements, restrictions and modifications (hereinafter collectively referred to as "Restrictions") as herein set forth. The Restrictions herein imposed shall be construed as covenants running with the land and shall be binding on all parties, having any right title or interest in the Undeveloped Property or in any part thereof, their heirs, successors or assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I  
PROPERTY SUBJECT TO THIS AMENDMENT  
TO DECLARATION AND TO THE RESTRICTIONS**

SECTION 1. The property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Amendment to Declaration is more particularly described on Exhibit A attached hereto and is a portion of the Undeveloped Property described in Exhibit C. The property described on Exhibit A shall be developed exclusively for detached single family homes. Developer reserves the right to subject other real property to this Amendment to Declaration and to the Restrictions as provided in Section 2 below; provided, however, that the Developer shall not create more than 27 Lots on the Undeveloped Property.

SECTION 2. Without further assent or permit, Developer, their heirs and assigns, shall have the right exercisable at any time or times prior to April 1, 1999, to subject all or any part of the Undeveloped Property to all the terms and conditions of this Amendment to Declaration in order that detached single family homes which may be constructed thereon will be subject hereto and will also be subject to the jurisdiction and assessment of the Association. Provided further, that at any time or times prior to April 1, 1999, Developer, their heirs and assigns shall have the right to subject all or any part of the Undeveloped Property described on Exhibit B attached hereto to the terms and conditions hereof applicable to the entire Property (namely all provisions hereof except those set forth in B of Article II) in order that the attached townhomes which may be constructed thereon will be subject to: (1) the Declaration as amended by the applicable provisions hereof applicable to the entire property, and (2) the jurisdiction and assessment of the Association.

The additions authorized in the preceding paragraph shall be made by filing of record one or more supplements hereto in respect to the properties to be then subject hereto and which shall extend the jurisdiction of the Association to such property and thereby subject such addition to assessment for its share of the Association's expenses. No such supplement shall revoke or otherwise amend the provisions of the Declaration as the Declaration pertains to the properties subject hereto. Any such supplement hereto shall state whether the additional property shall be used for detached single family homes or townhomes as permitted by these Restrictions and shall be substantially similar in form and content hereto except that such supplement need only be executed by the Developer.

**ARTICLE II  
MODIFICATIONS TO DECLARATION**

A. Applicable to Entire Property. The Townhouse Property and the Undeveloped Property are hereby made subject to the following modifications to the Declaration:

1. Article I, Section 8, which defines "Lot" is deleted in its entirety and replaced with the following:

SECTION 8. "Lot" shall mean and refer to any numbered plot of land, with delineated boundary lines, appearing on any recorded plat of the Townhouse Property or the Undeveloped Property, with the exception of Common Area, Common Open Space or Limited Common Area.

2. Article III, Section 2(a) is hereby deleted in its entirety and replaced with the following:

SECTION 2(a). The voting rights of the membership shall be appurtenant to the ownership of Lots. The ownership of each Lot shall entitle its Owner to one vote. Provided, however, that notwithstanding anything herein or elsewhere contained to the contrary that one of the members of the Board of Directors of the Association shall be elected by the owners of Lots subject hereto upon which detached single family homes have or may be constructed.

B. Applicable Only to Undeveloped Property Made Subject to These Restrictions For Development As Detached Single Family Homes. The portion of the Undeveloped Property subject to this Amendment to Declaration identified in Article 1 above is hereby made subject to the following modification to Declaration; however, such modifications do not apply to the Townhouse Property and any portion of the Undeveloped Property upon which attached townhomes are constructed.

1. Article V, Section 2, Purpose of Assessments is hereby deleted in its entirety and replaced with the following:

SECTION 2. Purpose of Assessments. The assessments levied by the Association shall be used to provide funds for such purposes and common expenses as are for the benefit of the Association and the owners of property within the area overseen and administered by the Association which purposes may include maintenance, repair, insurance, landscaping and beautification of the Common Areas, mowing and maintenance of the lawn and landscaping on that portion of the front yard of each Lot (on which a single family detached home is situated) which is not enclosed within a wall or fence by Developer. Such assessments shall also be used to contribute to the maintenance and upkeep of and purchase of liability, personal property, fidelity, flood and officers and directors insurance; and payment of applicable ad valorem taxes for the Common Areas within the Village of Raintree Planned Unit Development to the extent more particularly set forth in the agreements entered into pursuant to Article IV, Section 3 above.

Funds may also be used to provide other services 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 Areas; 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; and such other needs as may arise. Provided, however, that no portion of the assessment levied against the property subject hereto shall be spent to maintain the exteriors of townhomes constructed or to be constructed on the property subject to the Declaration. Provided further that each Lot subject hereto shall pay no more than its pro-rata share of any common expense of the Association.

2. Article V, Section 5, Annual Maintenance Fund and Maximum is hereby deleted in its entirety and replaced with the following:

SECTION 5. Annual Maintenance Assessment and Maximum Annual Assessment.

- (a) The Annual Maintenance Assessment shall be set each year by the Board of Directors of the

Association. Such assessment shall consist of the Maximum Annual Assessment as described in the following paragraph plus assessments due with respect to each Lot to Raintree Homeowners Association, Inc. which shall be paid by the Association directly to Raintree Homeowners Association, Inc.

- (b) Until January 1, 1994, the maximum annual assessment shall be \$780.00 per Lot per year ("Maximum Annual Assessment"). Provided, however, that notwithstanding anything herein or elsewhere contained to the contrary, that such maximum does not include the portion of the assessment attributable to the assessment to be paid to Raintree Homeowners Association, Inc.
- (c) From and after January 1, 1994, the Maximum Annual Assessment above may be increased, effective January 1 of each year, without a vote of the membership, but subject to the limitation that any such increase shall not exceed the greater of (1) 5% or (2) the increase in the Consumer Price Index published by the Department of Labor for all cities over the immediately preceding twelve (12) month period which ended on the previous October 1 (except to the extent any increase in excess thereof is directly attributable to an increase in the water rate for water service to the property subject hereto).
- (d) From and after January 1, 1994, said Maximum Annual Assessment may be increased without limitation, if such increase is approved by Members entitled to no less than two-thirds (2/3) of the votes of the Association represented in person or by proxy at a meeting duly called for this purpose.

3. Article V, Section 7, Declarant is hereby deleted in its entirety and replaced with the following:

SECTION 7. Reduced Assessment. Notwithstanding the foregoing until such time as a residence is substantially completed and a certificate of occupancy issued therefor with respect to a Lot, the assessment for such Lot shall be 25% of that established pursuant to Section 5 of this Article.

4. Article VI, Section 4, Subsection (d) is hereby deleted in its entirety and replaced with the following:

(a) No residential structure shall be erected or placed on any Lot unless such structure has a total finished heated area of at least 1550 square feet. Unintentional violations not exceeding ten percent (10%) of the minimum square footage requirements herein set forth shall not be considered a violation of this subsection.

5. Article VI, Section 5, Party Walls, is hereby deleted in its entirety and replaced with the following:

SECTION 5. Party Walls.

- (a) Each wall or fence (hereinafter "Wall") which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between Lots and all reconstruction or extensions of such walls shall constitute party walls, and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls, lateral support in below-ground construction and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.
- (b) The cost of reasonable repair and maintenance of a Wall shall be shared equally by the owners of properties subject to the Declaration whose Lots abut a portion of the Wall to be repaired or maintained. If a Wall is destroyed or damaged by fire or other casualty, any owner whose Lot abuts the Wall may restore it, and shall have a right to contribution from the owner of any other Lot subject to the Declaration whose Lot abuts it, subject, however, to the right of any such owner(s) to call for a larger contribution from the other(s) under any rule of law regarding liability for negligent or willful acts or omissions. Provided further, that if, in the opinion of the Association, the owner(s) of property subject to the Declaration whose Lot(s) abut a Wall fails to maintain such a Wall in an attractive manner and condition, the Association may undertake to maintain or restore the Wall and add the cost thereof to the assessment against such owner(s)' Lot(s).
- (c) The Association and every Owner of a Lot subject to the Declaration abutting a portion of a Wall in need of repair, maintenance or restoration shall have an easement and right of entry upon the Lot of another Owner to the extent necessary to perform repair, maintenance or reconstruction of a



party wall. Such repair, maintenance or reconstruction shall be done expeditiously. Upon completion of such construction, such Owner or the Association (as the case may be) shall restore the adjoining Lot to as near the same condition which prevailed on it before the commencement of such construction as is reasonably practicable.

- (d) The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.
- (e) If any Owner desires to sell his property, he may, in order to assure a prospective purchaser that no adjoining property Owner or the Association has a right of contribution as provided in this Section, request the adjoining property Owner or property Owners and the Association a certificate that no contribution exists; whereupon it shall be the duty of each to make such certification immediately upon request without charge; provided, however, that where the adjoining property Owner claims a right of contribution, the certification shall contain a recital of the amount claimed.
- (f) In the event of any dispute arising concerning a Wall or under the provisions of this Section, such dispute shall be settled by arbitration as provided by the laws of North Carolina relating to arbitration then and there existing.

6. Article VI, Section 6, Maintenance, is hereby deleted in its entirety and replaced with the following:

SECTION 6. Maintenance.

- (a) The Association shall provide or arrange for mowing and maintenance of the lawn and landscaping on that portion of the front yard of each Lot (on which a detached residence is situated) which is not enclosed within a wall or fence erected by Developer; provided, however, the Association shall not be responsible for watering lawns or watering landscaping.
- (b) The Owner shall be responsible for the upkeep, maintenance and repair of his home. In the event an Owner(s) shall fail to maintain the exterior of his home and any other improvements situated on his Lot in a manner satisfactory to the Board of Directors, the Association, after approval by two-

thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said Lot to repair, maintain and restore the Lot, the exterior of the dwelling unit and other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject. In the event the Association should determine that such failure to maintain, upkeep and repair is sufficiently widespread as to result in the Association's desire to undertake such maintenance, upkeep and repair generally, then the Association shall so notify the Owners, and include the budgeted costs for such maintenance, upkeep and repair as an additional common expense chargeable, collectible and enforceable as additional assessments pursuant to the provisions of Article V.

Front portions of each Lot will be landscaped by Developer and maintained by the Association. The cost of replacing landscaping within one year of its installation shall be borne by the Developer. After the initial landscaping is installed by Developer, no further landscaping, including without limitation, the planting of new items or the removal of existing items, or other such changes in the appearance of such front, side and back portions of their Lots shall be permitted, except with the approval of the Committees as provided in Article VI. However, these portions of each Lot shall be for the exclusive use of the Owner, subject to reasonable rights of the Association to enter upon and maintain said portions of each Lot and to have said areas kept in neat and orderly condition, as provided above in this Section.

7. The following sentence is hereby added to the end of Article VII, Section 1:

An easement is further reserved by the Association over such partes of any Lot subject hereto as is necessary to accomplish the mowing of lawns and maintenance of front yards described in Article VI, Section 6, hereof.

8. Article IX, Section 2 entitled Fire and Hazard Insurance, and Article XI entitled Condemnation are hereby deleted in their entirety.