

*Drawn by R. North Morgan*

STATE OF NORTH CAROLINA

31

COUNTY OF MECKLENBURG

SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

VILLAGE OF RAINTREE

SECTION 2-M

PRESENTED  
FOR

1973 JUN 21 AM 9 41

CHARLES E. CROWDER  
REGISTER OF DEEDS  
MECKLENBURG CO. N.C.

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 11th day of August, 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 2-M prepared by Charles G. Rust, P. E., which plat is dated June 1973 and a copy thereof recorded in the Mecklenburg Public Registry in Map Book 17, at page 127.

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 2-M, which Committee shall administer and control all of the Limited Common Area in Section 2-M 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 2-M 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 2-M 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 2-M 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.

577\* (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.

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 continuance 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 2-M 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 2-M 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 2-M 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 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), surface water drainage systems located on any Lot, 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 2-M 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.

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), surface water drainage systems located on any lot, 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 2-M 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.



#### 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. 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 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.

The existing topography of Section 2-M is such that proper surface water drainage of each Lot depends upon preserving the existing topography of all Lots and the Limited Common Area in Section 2-M. Further, the existing topography is such that surface water drains from one or more Lots onto other Lots in undefined areas. Therefore, each Owner of a Lot in Section 2-M shall have and enjoy the benefit of an easement across each Lot in Section 2-M for the drainage of surface water. Each Lot in Section 2-M shall further be subject to an easement for the benefit of all other Lots in Section 2-M to accept surface water drainage from said Lots in whatever location the surface water enters and flows across each Lot. No Lot shall be used or improved in a way which will interfere with the surface water run-off of the Lot or an adjoining Lot and no catch basin or yard inlet located on any Lot shall be altered, closed, fenced or otherwise obstructed in any way by any Owner of a Lot.

#### 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 11<sup>th</sup> day of June, 1973.

ATTEST:

R. W. Morganum  
Assistant Secretary

THE ERVIN COMPANY

By William A. Linn  
Vice President



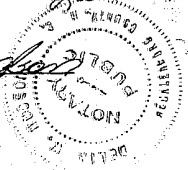
STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

This 11<sup>th</sup> day of June, 1973, personally came before me William A. Linn 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 11<sup>th</sup> day of June, 1973.

Delia W. Hudson  
NOTARY PUBLIC



My Commission Expires: 5-6-75.

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

of Delia W. Hudson

a Notary Public of said County and State  
is ~~xxx~~ certified to be correct.

This 21<sup>st</sup> day of June, 19 73

Recorded in Book 3593 Page 575 and Verified.  
CHARLES E. CROWDER, Register of Deeds

By Margie King  
Deputy

BYLAWS OF THE  
COMMITTEE OF  
SECTION 2-M OF  
RAINTREE

*PINEBLUFF*





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## Article I.      Name and Location

The name of the entity shall be "Committee of Section 2-M of Raintree, hereinafter often referred to as the "Committee, a standing committee of the Raintree Homeowners Association, Inc., pursuant to that certain SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR VILLAGE OF RAINTREE SECTION 2-M, presented for registration on June 21, 1973, at 9.41 a.m., and recorded in Book 3593, page 575, in the Mecklenburg County Registry. Its principal office shall be located at 8800 Raintree Lane, Matthews, Mecklenburg County, North Carolina, or at such other place as the Executive Board may deem necessary, advisable, or convenient, from time to time.

## Article II.      Definitions

"Association" shall mean and refer to Raintree Homeowners Association, Inc., its successors and assigns, a non-profit corporation organized and existing under the laws of the State of North Carolina.

"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 title, whether in fee or for a term of years, for the non-exclusive use, benefit, and enjoyment of the members of the Association subject to the provisions of the Declaration, the Raintree Country Club Membership Agreement, and any leases or other agreements pertaining thereto.

"Declaration" shall mean and refer to the DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS which is recorded in Book 3282, page 205, in the Mecklenburg County Registry.

"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, for the non-exclusive use, benefit, and enjoyment of the members of the Committee, subject to the provisions of the Declaration, the Supplement, the Raintree Country Club Membership Agreement, and any leases or other agreements pertaining thereto, in the area known as Section 2-M of Raintree, as shown on that certain plat of Raintree Section 2-M, recorded in Map Book 17, page 127, in the Mecklenburg County Registry.

"Lot" for the purposes of these bylaws shall mean any of the residential dwelling units known as Lots I through 15, in Section 2-M of Raintree, as shown on map recorded in Map Book 17, page 127, in the Mecklenburg County Registry.

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee interest in any lot which is a part of Section 2-M in the village of Raintree, excluding, however, those parties having such interest merely as a security interest for the performance of an obligation.

"Properties" shall mean and refer to any and all of that certain real property flow, or which may hereafter be made, subject to the Declaration as part of the subdivision known as the Village of Raintree ("Raintree"), together with such additions as may hereafter be brought within the jurisdiction of the Association.

"Supplement" COVENANTS, SECTION 2-M Registry shall mean and refer to the SUPPLEMENT TO DECLARATION OF CONDITIONS, AND RESTRICTIONS FOR VILLAGE OF RAINTREE which is recorded in Book 3593, page 575, in the Mecklenburg County Registry.

### Article III. Membership

Section 1. Every person or entity who is the owner of record of a fee interest in any lot, or who is purchasing any lot under a contract or purchase agreement within Section 2-M shall be a member of the Committee, subject to and bound by the Articles of Incorporation and Bylaws of the Association, and the rules and regulations of the Committee, as adopted by the Committee from time to time. Persons or entities who hold an interest in any lot merely as security for the performance of an obligation shall not be members of the Committee. Lot ownership shall be the sole qualification for membership. When any lot is owned of record in tenancy by the entireties or tenancy in common, or by some other legal entity, or when two or more persons or other legal entities purchasing any lot under a contract or agreement of purchase, the membership as to such lot shall be joint, and the right of membership (including the voting power arising therefrom) shall be exercised only as stipulated in ARTICLE V hereinafter.

Section 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 or the Association, the voting rights and right to the use of the Limited Common Areas or any other facilities which the Committee may provide may be suspended by the Executive Board until such assessment is paid. In the event of violation by a member of any rules or regulations established by the Committee, such members voting and use rights may be suspended by the Executive Board 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 after giving the member ten 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.

Section 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 members Lot as specified in the Declaration, the Supplement, these Bylaws, or as the members of the Committee may hereafter adopt from time to time.

### Article IV. Meetings of Members

Section 1. The annual meeting of the members shall be held on the third Sunday in January, at such place and time as the Executive Board shall provide in its notice to members, and each subsequent annual meeting of the members shall be held on the same day of the same month of each year thereafter. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday. If the annual meeting shall not be held on the day designated by these Bylaws, a substitute annual meeting may be called in accordance with the provisions of Section 2 of this Article. A meeting so called shall be designated and treated for all purposes as the annual meeting.

Section 2. Special meetings of the members may be called at any time by the Chairman, or by a majority of the Executive Board, or upon written request of the members who are entitled to vote one-third (1/3) of the votes of the membership of the Committee.



Section 3. Written notice of meetings stating the time and place of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) days before the date of the meeting either personally or by mail, by or at the direction of the Chairman, the Secretary, or the person authorized to call the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mails addressed to the member at his address as it appears on the records of the Committee with the postage thereon prepaid.

Section 4. The presence in person or by proxy at the meeting of members entitled to vote, one-half (1/2) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in these Bylaws. A majority of the votes entitled to be cast by the members present in person or represented by proxy at such meeting at which a quorum is present shall be necessary for the adoption of any matter voted upon by the members. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented. When a meeting is adjourned for more than forty-five (45) days, notice of the adjourned meeting shall be given as in the case of an original meeting.

Section 5. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

#### Article V. Voting and Voting Rights

Section 1. The voting rights of the membership shall be appurtenant to the ownership of the Lot. Each Lot shall be entitled to one vote, regardless of the number of fractional interests in, or owners of, such particular Lot, and consistent with Section 1 of ARTICLE III above.

Section 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 of such charges, together with such reasonable penalties as the Committee may impose, have been paid.

Section 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 members vote shall be cast by the 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.

Section 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 present at the meeting shall prior to voting on any matter, demand a ballot vote on that particular matter. Where directors or officers are to be elected by the members, the solicitation of proxies for such elections may be conducted by mail.

#### Article VI. Property Rights

Section 1. Each member of the Committee shall be entitled to the use and enjoyment of the Limited Common Areas subject to the provisions of the Declaration, the Supplement, the Membership Agreements respecting Raintree Country Club, and any leases or other agreements pertaining thereto. Any member may delegate his rights of enjoyment of the Limited Common Areas and facilities to the members of his family, his tenants or contract purchasers who reside on his property. Such member shall

notify the Secretary in writing of the name of any such delegee. The rights and privileges of such delegee are subject to suspension to the same extent as those of the member.

## Article VII. Maintenance, Duties, Powers

Section 1. Creation of the Lien and Personal Obligation of Assessments. By the Declaration and the Supplement, each member is deemed to covenant to pay to the Association for the benefit of the Committee certain annual assessments for the creation and continuance of a Limited Common Area Maintenance Fund, and such special assessments as may be approved by the members. All of such assessments, together with interest thereon, and costs of collection, to include reasonable attorney's fees, thereof, as hereinafter provided, to the extent permissible by law, shall be a continuing lien upon the property against which each such assessment is made, to secure the payment of such assessments due and to become due. Each such assessment, together with interest, collection costs, to include reasonable attorney's fees, also shall be the personal obligation of the person who was the owner of such property at the time when the assessments fell due, and such obligation shall not pass to his successors in title, unless expressly assumed by them, which assumption, however, shall not relieve the owner of his personal obligation in the event of non-payment, nor shall it affect the continuing lien upon the property, until paid.

✓ Section 2. Effect of Non-Payment of Assessments - Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If an assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency, at the maximum legal rate, and the Committee shall report the same to the Association, so that the Association may bring an action at law against the owner personally obligated to pay the same, or may foreclose the lien against such members Lot, or both, and interest and costs of collection, including reasonable attorney's fees, of any such action be added to the amount of such assessment, to the extent permissible by law. The rights, powers, duties, and obligations contained in Sections 9, 10, and 11 of the Declaration shall be exercised by the Association for the benefit of the Committee, insofar as they relate to the assessments levied or fixed by the Committee, under authority contained in the Supplement or in these Bylaws. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Limited Common Areas, or by abandonment of his Lot.

Section 3. Subordination of the Lien to mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first deed of trust (mortgage) of record, if all assessments having a due date on or prior to recording of such deed of trust have been paid. Sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any Lot which is subject to any such first deed of trust, pursuant to a decree of foreclosure under such deed of trust, or any proceeding or conveyance in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer, but the Association shall have a lien on the proceeds from foreclosure or of sale junior to such deed of trust but senior to the equity of redemption of the owner and in parity with the lien, if any, for amounts due Raintree Country Club as provided for in the Declaration. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 4. Annual Assessments for Maintenance Fund. For each Lot owned within Section 2-M, in addition to any other assessments properly provided for in other documents, or otherwise, every owner of any such Lot shall pay to the Association for the benefit of the Committee, to be collected by the Executive Board and deposited to a checking account to be known as the Raintree Section 2-M Limited Common Area Maintenance Fund, to be maintained and controlled by the Executive Board of the Committee, such fund to be used 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 these Bylaws and the Supplement.

Section 5. Basis and Maximum of Annual Assessments. The maximum annual assessment levied by the Committee for the Limited Maintenance Fund shall be \$360.00 per Lot, the same to be due and payable in the full annual amount, as the same may be changed from time to time, on the first day of January of each year. Such annual assessment for the Limited Common Area Maintenance Fund may be increased by the Committee, from time to time, 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 2-M, and under procedures set forth in these Bylaws.

(a) The procedure for approval by the Committee of increases or decreases in the annual assessment for the Limited Common Area Maintenance Fund shall be first to have a special meeting of the Committee, upon ten (10) days' advance written notice to the members thereof, for the stated purpose, among others if appropriate, of discussing recommended changes in such annual assessment, and then approval by a vote of a majority of the members present, or by proxy, who are entitled to vote on such action.

(b) An annual budget shall be approved by the Committee, by a majority vote of those present, in person or by proxy, and entitled to vote, at a special meeting called in February of each year, upon ten (10) days' advance written notice to the members, stating the purposes of such meeting, such budget to be submitted by the newly-elected Executive Board for such approval.

✓ Section 6. Maintenance.

(a) In addition to 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) surface water drainage systems located on any lot, exterior building surfaces, and other exterior improvements. The Committee shall provide garbage pick-up service and grass cutting of all grassed areas whether within owners lot lines or in the Limited Common Areas. The exterior maintenance mentioned above shall not include glass surfaces, doors (except for painting or staining), screen doors, and other screens.

(b) The Committee shall pay for and cause to be provided appropriate water and sewer service unless and until the same shall be made available to the Lot owners, by individual meters for each Lot, in which case each owner shall bear the cost of his individual charges for water and sewer service, and the Limited Common Area maintenance assessment shall be reduced by an amount equal to the cost of the water and sewer service previously allocated thereunder for each Lot.

(c) The Committee shall have the irrevocable right, through its members, 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 other residential dwelling units. In the event that a majority of the Committee shall determine that the need for maintenance or repairs by the Committee is caused by 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 Committee, its respective officers, Executive Board members, agents, or employees.

Section 7. Special Assessments. 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 such special assessments without the consent and assenting vote of the owners ~~only in the event of exterior maintenance or repairs of an extraordinary nature requiring the expenditure of monies in excess of the Limited Common Area maintenance fund then available,~~ provided, however, that such special assessments shall not exceed the amount of the extraordinary expenses therefor.

Section 8. Additional Purposes of Assessments. The assessments levied by the Committee may be used for such purposes as the Committee shall determine or for the benefit of its members, which purposes shall include the maintenance and other requirements set forth above, as well as for the procurement and maintenance of any necessary insurance, the employment of attorneys, accountants, and other professionals to represent the Committee when necessary or useful, and for such other reasonable needs as may arise and be approved properly.

Section 9. Insurance and Miscellaneous. The Executive Board shall have the powers, and the duties, and shall exercise and perform the same, as are set forth in the supplement, including, but not limited to, the provisions therein regarding hazard insurance, and regarding adoption of rules and regulations.

## Article VIII. Board of Directors

Section 1. The business and affairs of this Committee shall be managed by an Executive Board which shall consist of five (5) members, one from each of the five buildings within Section 2-M.

Section 2. All of the members of the first Executive Board, elected at the annual meeting on January 27, 1977, shall serve for a term of one (1) year: except, however, two (2) of the members thereof shall be selected by a majority vote of the Executive Board to serve for an additional one-year term, in order to permit staggering of the members of such Board. Accordingly, three new members of such Board shall be elected at the January, 1978, meeting, for two-year terms, and two (2) members shall be elected to such Board, at the January, 1979, meeting, for two-year terms, and alternately thereafter, three (3) members, and then two (2) members shall be elected to such Board for two-year terms. Directors shall be elected by ballot at the annual meeting of the members, and each director shall hold office until his death, resignation, removal, disqualification, or his successor duly shall have been elected or appointed and qualified. Any vacancy may be filled at any time by a majority of the remaining members of the Executive Board, though less than a quorum, but a vacancy created by an increase in the authorized number of directors shall be filled only by election at an annual meeting, or at a special meeting of members called for that purpose.

Section 3. The members of the Executive Board shall act only as a board, and the individual members shall have no power as such. A majority of the Executive Board then in office shall constitute a quorum for the transaction of business, but a majority of those present at the time and place of any regular or special meeting, although less than a quorum, may adjourn the same from time to time without notice, until a quorum is present. The act of a majority of directors present at any meeting at which there is a quorum shall be the act of the Executive Board.



Section 4. The Executive Board, by resolution adopted by a majority thereof, may designate one or more committees, each committee to include at least one (1) member of the Executive Board, which committees to the extent provided in such resolution, may have and may exercise, when the Executive Board is not in session, the powers of the Executive Board in the management of the affairs of the Committee.

Section 5. The Executive Board shall meet for the transaction of business at such time and place as may be designated from time to time by resolution of such Board. Regular meetings of the Board may be held without notice. Special meetings of the Board may be called by the Chairman, or by any two (2) members of the Board, for any time and place, provided reasonable notice of such meetings shall be given to each member of the Board before the time appointed for such meeting. The attendance of a member of the Executive Board at such a meeting shall constitute the waiver of notice of such meeting, except where a member attends such a meeting and objects thereat to the transaction of any business because the meeting is not called or convened lawfully.

Section 6. The Executive Board, from time to time, may determine the order of business at its meetings. The Chairman, or in his absence, the Vice-Chairman chosen by the members of the Executive Board, shall preside at all meetings of the Board.

Section 7. The Executive Board, after the close of the fiscal year, shall submit to the members of the Committee a report as to the condition of the Committee, including an account of the financial transactions of the past year.

Section 8. Any director may be removed from the Executive Board, with or without cause, by a majority vote of the members of the Committee. In the event of death, resignation, or removal of a director, his successor shall be selected by the remaining members of the Board, and such successor shall serve for the unexpired term of his predecessor.

Section 9. No member of the Executive Board shall receive compensation for any service he may render to the Committee; provided, however, any member of the Executive Board may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 10. The members of the Executive Board shall have the right to take any action, in the absence of a meeting, which they could take at a meeting, by obtaining the written approval of all of the members of the Board. Any action so approved shall have the same effect as though it were taken at a meeting of the Executive Board.

#### Article IX. Powers and Duties of the Executive Board

Section 1. Powers. The Executive Board shall have power to:

- (a) Adopt and publish rules and regulations governing the use of the Limited Common Areas and other facilities provided for the common use and benefit of Committee members, and to establish penalties for the misuse thereof;
- (b) Exercise for the Committee all powers, duties, and authority vested in or delegated to it and not reserved to the membership by other provisions of these Bylaws or the Supplement;

(c) Declare the office of a member of the Executive Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board; and

(d) To enter into agreements with third parties in order to facilitate efficient operation of the Limited Common Areas. It shall be the primary purpose of such agreements to provide for the administration, maintenance, and repair, and operation of the Limited Common Areas, and to perform its other duties and requirements as set forth herein.

Section 2. Duties. It shall be the duty of the Executive Board to:

(a) Cause to be kept a complete record of all its acts and business affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members of the Committee;

(b) Supervise all officers, agents, and employees of the Committee, and to see that their duties are properly performed;

(c) (c) Fix the amount of the annual or special assessments against each Lot as provided in the Supplement and send written notice of each assessment to every Committee member at least thirty (30) days in advance of each annual or special assessment due date, subject, however, as to special assessments, to the assent of the membership as herein provided;

(d) Issue, or cause an appropriate officer to issue, upon demand by any person, a receipt setting forth whether or not any assessment has been paid; a reasonable charge may be made by the Board for the issuance of these certificates and such certificates, if issued, shall be conclusive evidence of payment of any assessment therein stated to have been paid; and

(e) Cause the Limited Common Areas to be maintained and the other functions set forth herein to be performed.

Article X. Officers and their Duties

Section 1. The officers of this Committee shall be a Chairman and a Vice-Chairman, a Secretary, a Treasurer, and such other officers and assistant officers as the Board, from time to time, may deem necessary. No two offices may be held by the same person, except the offices of Secretary and Treasurer.

Section 2. The officers of the Committee shall be elected or appointed annually by the Executive Board, and each shall hold office for one (1) year unless he shall sooner die, resign, or be removed, or otherwise be disqualified to serve. The Board may elect such other officers as the affairs of the Committee may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board, from time to time may determine.

Section 3. Any officer may be removed from office by the Board, with or without cause. Any officer may resign at any time by giving written notice to the Board, the Chairman, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.



Section 4. A vacancy in any office may be filled in the manner prescribed for regular election or appointment. The officer elected or appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 5. The duties of the officers are as follows:

(a) CHAIRMAN

The Chairman shall be the chief executive officer of the corporation and shall perform such other duties as from time to time may be assigned to him by the Board; shall see that orders and resolutions of the Board are carried out; shall sign all necessary documents; and, in general, shall perform all duties incident to the office of Chairman.

(b) VICE-CHAIRMAN

The Vice-Chairman shall act in the place and stead of the Chairman in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) SECRETARY

The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; prepare and send or deliver notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Committee together with their addresses; and perform such other duties as required by the Board.

(d) TREASURER

The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Committee and shall disburse such funds as directed by resolution of the Board; keep proper books of account; cause an annual accounting of the Committee books to be made at the completion of each fiscal year; prepare an annual budget; and prepare a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

Article XI. Indemnification Of Officers And Members Of Executive Board

The Committee shall indemnify any and all persons who may serve or who have served at any time as Executive Board members or officers of the Committee against any and all expenses, including amounts paid upon judgments, counsel fees and amounts paid in settlement (before or after suit is commenced), actually and necessarily incurred by such persons in connection with the defense or settlement of any claim, action, suit, or proceeding in which they, or any of them, are made parties, or a party, which may be asserted against them or any of them, by reason of being or having been directors or officers or a director or officer of the Committee, except in relation to matters as to which any such Executive Board member or officer or former Executive Board member or officer or person shall be adjudged in any action, suit, or proceeding guilty of willful and intentional negligence or misconduct in the performance of his duties to the Committee; provided, however, that in the event of a settlement the indemnification herein shall apply only when the Board approves such settlement and reimbursement as being in the best interest of the Committee.

The provisions hereof shall be in addition to and not exclusive of any and all other rights. to which any Executive Board member or officer otherwise may be entitled under any law, Bylaw, agreement, vote of Committee members, or otherwise. In the event of death of the officer or Executive Board member, the provisions hereof shall extend to his legal heirs, representatives, successors, and assigns. The foregoing rights shall be available whether the Executive Board member or officer continues to be an Executive Board member or officer at the time of incurring or becoming subject to such expenses, on whether the proceeding, claim, suit, or action is based on matters which antedate the adoption of this Section.

The invalidity or unenforceability of any provision of this Section shall not affect the validity or enforceability of any provision hereof.

## **Article XII. Committees**

**Section 1. Standing Committees.** Within two weeks after the annual meeting of the membership in January, the Executive Board shall appoint chairmen of the following committees, which are and shall be known as standing committees: Maintenance and Service Committee, Grievance and Conduct Committee, Insurance Committee, Social Committee, and Finance and Budget Committee.

**Section 2. Interim Committees.** The Executive Board, from time to time, shall have the authority to create and to appoint such temporary, or interim, committees as it shall deem necessary or advisable.

## **Article XIII. Books and Records**

The books, records, and papers of the Committee shall at all times be subject to inspection by any member during reasonable business hours. The Supplement and these Bylaws shall be available for inspection by any member at the principal office of the Committee, where copies may be purchased at reasonable cost.

## **Article XIV. Fiscal Year**

The fiscal year of the Committee shall begin on the first day of January and end on the thirty-first day of December of every year.

## **Article XV. Notice**

Any notice required to be given by these Bylaws may be waived by the person entitled thereto before or after the time stated therein. Unless otherwise provided, whenever a notice shall be required by these Bylaws, such notice shall be given in writing and addressed to the person entitled thereto at his address as the same appears on the books of the Committee, the time when such notice is mailed being deemed the time of the giving of such notice.

## **Article XVI. Amendments**

These Bylaws may be amended, at a regular or special meeting of the members of the Committee by a vote of a majority of a quorum of the members present in person or by proxy. In the case of any conflict between these Bylaws and the Declaration, Articles of Incorporation of the Raintree Homeowners Association, Inc., Bylaws of the Raintree Homeowners Association, Inc., and the Supplement, then these Bylaws shall not control.