

REGISTERED

DECLARATION

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COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS
REGISTER OF DEEDS
CO. N.C.

FOR

CAMPBELL WOODS SUBDIVISION

THIS DECLARATION is made this 25 day of OCTOBER, 1989,
A.D., by DINGUS PROPERTIES, INC., a North Carolina Corporation
(hereinafter referred to in the neuter singular as the
"DECLARANT";

R E C I T A L S:

1. DECLARANT is the Owner and Developer of that certain
real property located in Haywood County, North Carolina, known
as CAMPBELL WOODS SUBDIVISION (the Properties), which
Properties are described as Lots 1 thru 56, "CAMPBELL
WOODS", according to the Map thereof as filed in Cabinet "C",
Slot 347, Haywood County Registry, hereafter referred to as
"Properties".

2. DECLARANT intends to sell and convey certain platted
Lots within the Properties to be hereafter referred to as the
"Development" and, before doing so, desires to impose upon them
mutual and beneficial restrictions, covenants, equitable
servitudes and charges under the general plan or scheme of
improvements for the benefit of all Lots in the Development and
for the benefit of the Owners and future Owners thereof; to
assure owners of lots in the subdivision a finer community; to
protect the investment of owners of lots in the subdivision and
to enhance the value of lots and homes in the subdivision; to
create a community which is aesthetically pleasing and
functionally convenient; to create reciprocal rights between
the respective Owners of all such Lots; to create privity of
contract and estate between the Grantors of such Lots, their
heirs, successors and assigns; and to operate as covenants
running with the land for the benefit of each and all other
such lots in the Development and their respective owners

present and future.

3. DECLARANT desires to subject the above described real property to the covenants, conditions, restrictions and easements described herein, the same to attach to and encumber the single family lots within said tract of land as they are platted, recorded and filed in the Haywood County Registry.

4. This Declaration shall initially apply to all those subdivided single family residential Lots in the Development, as are shown on a plat recorded and filed in the Office of the Register of Deeds for Haywood County, in Cabinet C, Slot 347.

5. The DECLARANT reserves the right to sell, lease, assign, transfer, license and in any manner alienate or dispose of any rights, interests and liabilities retained, accruing or reserved to it by this Declaration, to enforce these covenants, conditions, restrictions and easements, or any of them, and to exercise the various powers, duties, rights and privileges reserved in this Declaration, to some firm or corporation as successor to the DECLARANT or to a newly formed association of property owners, to be known as CAMPBELL WOODS PROPERTY OWNERS ASSOCIATION, organized for purposes of enforcing this Declaration, and carrying out the various duties and responsibilities hereof.

NOW, THEREFORE, the DECLARANT declares that all of the lots in the Development are held and shall be held, conveyed, hypothecated, or encumbered, leased, rented, used, occupied, and improved subject to the provisions of this Declaration, all of which are declared by the DECLARANT, and agreed by DECLARANT's successors in title, to be in furtherance of a plan of development established for the purpose of enhancing and protecting the value, desirability, and attractiveness thereof.

ARTICLE I

DEFINITIONS

The following terms used in this Declaration are defined as follows:

A. "Association" shall mean and refer to CAMPBELL WOODS

PROPERTY OWNERS ASSOCIATION, INC., a North Carolina non-profit corporation with its principal place of business in Haywood County, North Carolina, which Association is operated pursuant to the Articles of Incorporation thereof to be recorded in the Corporation Book of the Haywood County Registry.

B. "Roads" means all roadways and easements in the subdivision including but not limited to Hornet's Nest Road, Hillside Lane, Creekside Drive and Henry Dingus Drive, said Henry Dingus Drive to its intersection with U. S. Highway 19.

C. "Declarant" means DINGUS PROPERTIES, INC., a North Carolina corporation, its successors and assigns.

D. "Declaration" means the Declaration of Protective Covenants, Conditions, Restrictions and Easements fo CAMPBELL WOODS SUBDIVISION dated the 25 day of OCTOBER, 1989, A.D., and as the same may be supplemented or amended from time to time.

E. "Dedication" means the act of committing any portion of the Development or the Subdivision to the purposes of this Declaration.

F. "Development" means that portion of the Properties which are platted into single family Lots as a Subdivision and shown on a plat filed in Cabinet "C", Slot 347, recorded in the Office of the Register of Deeds for Haywood County.

G. "Improvements" means all buildings, out-buildings, streets, roads, driveways, parking areas, fences, retaining and other walls, hedges, poles, antennas, and any other structure of any type or kind or any land clearing whatsoever.

H. "Lot" means any separately numbered and separately described parcel of land, located within the Development or Subdivision for single family use, together with an appurtenant easement for pedestrian and vehicular egress, ingress, and regress thereto over and across each road abutting and traversing said Lot which is shown on any recorded plat or referred to in any deed. The boundary of a Lot shall be as defined on any plat or in any deed, although that portion which shall lie within any road right-of-way shown thereon or

referred to therein shall be subject to certain additional restrictions set forth in this Declaration.

I. "Owner" means:

- (1) Any person, firm, corporation, or other legal entity (including the DECLARANT) who or which holds fee simple title to any Lot.
- (2) Any person, firm, corporation, or other legal entity who has contracted to purchase fee simple title to any Lot pursuant to a written agreement giving such purchaser immediate possessory rights.

J. "Plat" means the map or plat of the Development which has been recorded and filed, and maps or plats of the Development as they may be from time to time recorded and filed, entitled "CAMPBELL WOODS SUBDIVISION".

K. "Properties" means Lots 1 thru 56, Campbell Woods, Plat Cabinet "C", Slot 347, Haywood County Registry, or any other property subsequently made a portion of the Development by the DECLARANT pursuant to the provisions of this Declaration, including the Development.

L. "Single-Family Dwelling" means the residential dwelling for one or more persons, each related to the other by blood, marriage, or legal adoption.

M. "Subdivision" means CAMPBELL WOODS and any portion of the Development which has been dedicated pursuant to this Declaration.

N. "Supplemental Declaration" means any future Declaration made by the DECLARANT which incorporates the provisions of this Declaration therein by reference and which shall apply to property being annexed to the Development by the DECLARANT according to the terms and provisions contained hereafter.

ARTICLE II

LAND USE RESTRICTIONS

The following shall be applicable to all Lots within the Development and each Owner, as to his Lot, covenants to observe and perform the same.

A. All Lots shall be used exclusively for single-family residential purposes, and only one (1) single-family dwelling,

with attached garage (garage not required), shall be permitted on any Lot. No business, commercial, fraternal, civic, historic or religious enterprise shall be conducted from any Lot or any building erected thereon.

B. No Lot shall be rearranged, moved, relocated, divided or subdivided, and no boundary line shall be changed, except with the express written permission of the DECLARANT. There shall be no subleasing of any part of a Lot. There shall be no divided interest, ownership or lease, or time-sharing of any Lot.

C. No mobile home, prefabricated or modular home or shed shall be erected or maintained on any Lot, except with the express approval of the DECLARANT.

D. No tents, trailers, shacks, barns, quonset huts, sheds, out buildings or prefabricated buildings shall be placed or erected on said premises, and no temporary residence shall be permitted in unfinished residential buildings. No storage sheds shall be allowed on any lot within the confines of this subdivision. Temporary buildings or trailers may be used during daylight hours by contractors in connection with construction work in progress, but only upon written approval by the DECLARANT or its agent.

E. All single family residences will have a minimum of one thousand five hundred (1500) square feet for a one-story dwelling; and one thousand five hundred (1500) square feet for a two-story dwelling, provided, however, that the first floor of a two-story dwelling have a minimum of nine hundred (900) square feet exclusive of screened porches, patios, breezeways or garages; outside wall dimensions may be used to determine square footage.

F. All structures must comply with the building and zoning codes of Haywood County. There shall be nothing constructed on any lot, block or parcel, except as hereinafter provided, within a minimum of ten (10) feet at each side of the property line, twenty (20) feet from the front property line, and fifteen (15) feet from the back property line. On all corner lots, all structures shall be set back fifteen (15) feet

from both roads.

G. All dwellings on said lots must be constructed of new materials. The first floor walls of all dwellings shall be of frame, masonry, or masonry veneer construction. All concrete block houses and/or walls shall have a full stucco finish unless decorative block is used. All roof coverings shall be cement tile, 240 pound asphalt or fiberglass shingle, or wood split shake. Any deviation from these approved materials must receive the specific written approval of the DECLARANT or his agent.

H. Construction of any improvements upon any Lot, once commenced, must proceed at a reasonable rate of progress and shall be completed within nine (9) months from the date the Building Permit is issued. Improvements not so completed or upon which construction has ceased for one hundred eighty consecutive days, or which have been totally or partially destroyed and not rebuilt within nine (9) months, shall be deemed to be nuisances. The DECLARANT may remove any such nuisance or repair or complete the same at the cost of the Owner of the Lot upon which said nuisance may exist. The owner of any lot upon which construction of a house is occurring shall pay a fee to the Association for the road maintenance fund in addition to the regular road maintenance fee. This amount shall be \$250 initially, but may be increased by the vote of the Association, and this payment will help defray damage done to the roads by construction equipment.

I. Should any dwelling or other structure on any portion of the property be destroyed in whole or in part, it must be reconstructed in accordance with the original plans and specifications approved by the DECLARANT, and any subsequently approved modifications thereto or the debris therefrom must be removed and the property restored to a neat and sightly condition as soon as practical but no later than nine (9) months after the date of such construction.

J. Each lot, whether occupied or unoccupied, shall be

maintained clean and free from refuse, debris, and unsightly growth such as tall grass and weeds or such as may be considered a fire hazard. All buildings, fences and walls shall be maintained in a good state of exterior repair. In the event that any owner shall fault, neglect or omit to maintain or keep clean any parcel or property in the manner herein provided, after having been notified by the DECLARANT or his agent to do so in writing addressed to such owner at his last known address, then the DECLARANT or his agent for such purpose may enter upon said premises for the purpose stated in said notice, and the expense of carrying out such purpose shall be charged to the owner of such lot and shall become a lien thereon collectable and enforceable in the manner provided by law. Neither the DECLARANT or its agent shall be liable for any damage which may result from the performance of any services herein authorized.

K. Only wooden fencing is allowable;

(1) No fence shall be constructed past the front wall line of any dwelling.

(2) No fence shall exceed four (4) feet in height.

L. No noxious or offensive activities or nuisances shall be permitted on any Lot.

M. No signs or promotional flags shall be displayed to the public view on any lot or building, except builders models or an owner of a lot may display a "For Sale" sign upon his lot of not larger than five (5) square feet. The DECLARANT may authorize the displaying of signs and promotional flag advertising lots and homes for sale until all lots and homes in the entire development have been sold.

N. No animals, livestock, birds or poultry of any kind shall be raised, bred or kept on any lot. Not more than a total of two (2) dogs or cats or other usual household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. All pets shall be kept on their own lot, except when being walked on a leash.

O. No Owner shall accumulate on his Lot any form of junk, inoperative vehicles, litter, refuse, or garbage except in sanitary receptacles provided for such purposes. Such receptacles shall be properly concealed from view from roadways and adjacent portions of the property, and kept in a clean and sanitary condition.

P. Fuel tanks, electric and gas meters, air-conditioning equipment, clothes lines, tools, equipment and other unsightly objects may not be maintained on any portion of the property except in screened areas as approved by the DECLARANT, or its agent, which conceal them from view from roadways and adjacent portions of the property.

Q. No outside burning of wood, trash, leaves, garbage or other refuse shall be permitted on any portion of the Development nor shall any timber cutting be conducted unless the same is for the personal firewood use of the lot owner or unless necessary for the clearing of a house site, creating a lawn or thinning for a better growth.

R. The pursuit of hobbies or other activities including, without limiting the generality hereof, the assembly and disassembly of motor vehicles and other mechanical devices, which might lead to disordered, unsightly or unkept conditions, shall not be pursued or undertaken on any portion of the Development except within an enclosed structure.

S. No overnight truck parking of trucks one ton or larger shall be permitted, and no camper or boat parking in excess of forty-eight (48) hours shall be permitted unless the same are kept in an enclosed garage. No repairs shall be done to any motor vehicle, outboard motors, boats, etc., and no unsightly, unlicensed or inoperative vehicles are permitted. Vehicles on jacks are not permitted on any residential lot. No motor vehicles or boats may be kept on any lot except those bearing current licenses and used by lot owners in this subdivision. No utility or work vehicles over three-quarter (3/4) ton and vehicles on jacks are permitted.

U. All cables, lines, wires or conduits of every nature and kind located on the property and used to connect the structures on the property to the main electrical, telephone and CATV service lines shall be underground.

V. No permanent or temporary antenna, tower or dish of any kind, for television, radio, shortwave, or any other use, may be erected, placed, maintained or located upon any Lot. However, until CATV is available, television satellite dishes shall be permitted, provided that only a dark colored, mesh type antenna located as approved by the DECLARANT or its agent shall be permitted. As soon as CATV is available to serve the lot, no satellite dish not previously permitted will be permitted. No electronic equipment will be allowed that causes interference with another owners equipment.

W. Every person, firm or corporation purchasing a lot in the Development, recognizes that the DECLARANT, or its agent or assigns, has the right to maintain such furnished model homes and sales offices open to the public for inspection seven (7) days per week for such hours as are deemed necessary and practical until all of the lots have been sold and until all of the houses have been constructed and sold.

X. In the event a lot buyer purchases two (2) or more lots or one (1) lot and part of another for one (1) home, the outside line shall only be considered for the minimum set back. On a residential lot fronting on two (2) streets, for the purpose of this setback restriction, the sideline shall be the street line that is parallel to the longest line of the lot.

Y. No swimming pool may be constructed which is not fully enclosed by an adequate screened enclosure or a minimum four (4) foot high locked fence. All swimming pools shall be below ground.

Z. Shallow well type waterwells shall be permitted upon a lot solely for the purpose of watering and caring of plants, trees, lawns, flowers, and the like (landscaping purposes only). Any well shall be neatly concealed, protected, safe and

shall be electrically operated. Prior to wells being dug, the owner shall request from all utilities the location of utility lines and pipes. All residences must be connected to the Maggie Valley Water District by the DECLARANT or its agents.

ARTICLE III

ENVIRONMENTAL RESTRICTIONS

A. In order to implement effective and adequate erosion control and protect the purity and beauty of the streams and the property, the DECLARANT shall have the right to enter upon any Lot for the purpose of performing any grading work or constructing and maintaining erosion prevention devices. Such entries shall, however, be made only after construction of improvements have commenced on such Lot or the soil thereof has been graded. Prior to exercising its right to enter upon a Lot for the purpose of performing any grading work or constructing or maintaining erosion prevention devices, the DECLARANT shall give the Owner of that Lot the opportunity to take any corrective action required by giving said Owner notice indicating what type of corrective action is required and specifying in that notice that immediate corrective action must be taken by the Owner. If said Owner fails to take the specified corrective action immediately, the DECLARANT may then exercise its right to enter upon the Lot in order to take the necessary corrective action. The cost of such work, when performed by the DECLARANT shall be paid by the Owner of the Lot on which the work is performed. The provisions of this paragraph shall not be construed as an obligation on the part of the DECLARANT to perform grading work or to construct or maintain erosion prevention devices.

B. No Lot Owner shall obstruct, alter or interfere with the flow or natural course of the waters of any creek or stream within the Properties, and shall not erect or maintain a dam or other similar structure on any such waterway.

C. Each Lot Owner shall keep drainage ditches located on his Lot free and unobstructed and in good repair and shall provide for the installation of such culverts upon his Lot as

may be reasonably required for proper drainage. No structure shall be erected, placed or permitted and no alterations shall be permitted on the property which shall in any way hinder the surface or subsurface drainage of the property.

D. No oil or gas wells shall be drilled on any Lot, nor shall there be any excavation for the extraction of minerals on any Lot. No earth shall be removed from a Lot except for construction of a residence and driveway and in those instances, excavation shall not commence until a reasonable time prior to commencement of construction. No industrial waste may be used as landfill or contaminated oil on roadway.

E. The ground grade or ground elevation of any portion of any Lot may not be changed without the specific written consent of the DECLARANT or its agent.

F. No curb, drainage structure, water line, or portion of any street shall be removed or altered for any purpose without the specific written consent of the DECLARANT or its agent.

G. Owners of respective lots shall be directly responsible financially to the DECLARANT or the proper authorities having jurisdiction for damage to the foregoing improvements resulting from the action of employees or said owners or independent contractors furnishing labor or materials to or for said owners.

ARTICLE IV

ADDITIONAL COVENANTS

A. The DECLARANT reserves the right to assign the various review and approval functions set forth in this Declaration to some successor party, or to an Association of property Owners organized for this purpose. An assignment by the DECLARANT of its review and approval functions under this Declaration shall be recorded as a supplementary Declaration to this Declaration

ARTICLE V

THE ASSOCIATION

A. General: The CAMPBELL WOODS PROPERTY OWNER'S ASSOCIATION is a North Carolina non-profit corporation organized to further and promote the common interests of property owners in the Development, enforce the provisions of this Declaration, accept such responsibilities as are assigned to it by the DECLARANT, and shall have such powers as are set forth in its Articles and By-Laws.

B. Membership: The members of the Association shall consist of:

- (1) Every person, firm, corporation, or other legal entity having a vested possessory interest in any lot;
- (2) The spouse and/or children of a member described in subparagraph (1) above who have the same principal residence as such member.
- (3) Persons who by virtue of contractual agreements with the Developer are entitled to membership in the Association; and

The rights, duties, privileges, and obligations of membership in the Association are as set forth in its Articles and By-Laws.

ARTICLE VI

TERM AND AMENDMENT

A. The provisions of this Declaration shall affect and run with the land and shall exist and be binding upon all parties claiming an interest in the Development until January 1, 2010, A.D., after which time the same shall be automatically extended for successive periods of ten (10) years each, unless upon the affirmative vote of two-thirds (2/3) of the Owners of Lots subject to this Declaration it is agreed to change them in whole or in part.

B. This Declaration may be amended by the DECLARANT until ninety percent (90%) of the lots have been conveyed or contracted for conveyance, and thereafter until January 1, 2010, by an instrument signed by not less than ninety percent (90%) of the Owners of Lots in the Development which are

subject to this Declaration and thereafter by agreement of not less than seventy-five percent (75%) of the Lot Owners, provided that no Amendment shall alter any obligation to pay assessments as herein provided, or affect any lien for the payment of same. Any amendment must be duly executed by (1) requisite number of such Owners required to effect such amendment or, (2) by the Association, in which latter case such amendment shall have attached to it a copy of a resolution of the Board of Directors of the Association attesting to the affirmative action of the requisite number of such Owners to effect such amendment, certified by the Secretary of the corporation.

VII

EASEMENTS

A. Reservations: The following perpetual easements over each Lot, together with the right of ingress and egress to the extent reasonably necessary to construct, repair and replace such road and utility easements, are expressly reserved to the joint use of the DECLARANT and each owner, their respective heirs, administrators, successors and/or assigns:

- (1) Roads: A roadway easement as particularly defined upon any recorded plat of survey entitled CAMPBELL WOODS SUBDIVISION, which easement can also be used for utilities.
- (2) Utilities: A ten (10) foot wide strip running along the inside of all Lot lines for the installation, maintenance, and operation of utilities (water, electric and telephone), including radio and television transmission cable lines, conduits, water mains, and the accessory right to locate guy wires, braces, or anchors or to cut, trim, or remove trees, and plantings, wherever necessary upon such Lots in connection with such installation, maintenance, and operation.
- (3) Other Easements: Any other easement particularly set forth in any deed from DECLARANT for a Lot in the property, or upon any recorded plat of the property, including but not limited to the road rights of way shown in Plat Cabinet C, Slot 347, Haywood County Registry.

B. Use of Maintenance by Owners: The areas of any Lots affected by the easements reserved herein, but not being currently used for roadway purposes, shall be maintained

continuously by the Owner of such Lot, but no structures, plantings, or other material shall be placed or permitted to remain thereon.

C. Liability for Use of Easements: No Owner shall have any claim or cause of action against DECLARANT or its licensees arising out of the exercise or non-exercise of any easement reserved hereunder or shown on the Plat.

D. Conveyance of Easements: The DECLARANT reserves the right to convey such easements to the State of North Carolina and to cause said streets to be dedicated to the public.

E. Utility Contracts: The DECLARANT reserves the right to subject the real property in this subdivision to a contract with Carolina Power & Light Company for the installation of underground electric cables which may require an initial contribution and/or the installation of street lighting, and which will require continuing monthly payment to Carolina Power & Light Company by the Owner of each building in the Subdivision. The DECLARANT also reserves the right to subject the real property in this subdivision to similar contracts with Southern Bell Telephone & Telegraph or any other utility company.

F. Access to Other Property: There shall be no access from any Lot on the perimeter of the Development to any lands adjacent to such perimeter Lot and no Owner may grant a right-of-way through his Lot for the purpose of affording access to property not within the Development. This provision shall not apply to the DECLARANT.

ARTICLE VIII

COVENANTS FOR MAINTENANCE AND SECURITY ASSESSMENTS

A. The Association shall provide the services set forth in Section B and collect the assessments set forth in this Article.

B. The annual assessments levied by the Association shall be used as follows:

- (1) to maintain and repair all roads constructed within the Subdivision to the standard as such roads were in at the time of their completion,

to maintain all landscaping adjacent to such roads in a manner consistent with the overall appearance of the Development and to maintain, pay the town of Maggie Valley for electric service to, and repair all street lights, and to maintain and repair all gates and signs installed along such roads;

- (2) to provide such security services as may be deemed reasonably necessary for the protection of the Subdivision, including all Lots from theft, vandalism, fire and damage from animals;
- (3) to pay all ad valorem taxes levied against any property owned by the Association;
- (4) to pay the premiums on all insurance policies owned by the Association pursuant to its By-laws;
- (5) to pay all legal, accounting and other professional fees incurred by the DECLARANT or the Association in carrying out the duties as set forth herein or in the By-laws.

C. The DECLARANT, for each Lot, hereby covenants, and each Owner of any Lot by acceptance of a deed, is deemed to covenant and agree to pay the annual assessments in such amounts necessary so as to pay for the services set forth in Section B of this Article and charges established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such assessment charge is made. The personal obligation for delinquent assessments or charges shall pass to an Owner's successors in title.

D. The annual and paid assessment rates shall be determined as follows:

- (1) annual assessments must be fixed at a uniform rate for all Lots.
- (2) the amount of the aggregate annual assessments for each year shall be the amount necessary to fund the expenses described in Section B of this Article. Until January 1 of the calendar year following the first conveyance of the first Lot, the maximum annual assessment shall be \$_____ per Lot. For each calendar year thereafter, the maximum annual assessment may be increased by up to twenty percent (20%) of the prior year's maximum annual assessment by the appropriate assessing authority as set forth in Section A of this Article. If the annual assessment is not increased by the maximum amount permitted, the difference between the actual increase made and the maximum increase permitted for that year shall be computed and the assessment may be increased

by that amount in a future year by the appropriate assessing authority as set forth in Section A of this Article.

- (3) Any increase in the annual assessments in excess of that permitted in subsection (2) of this Section may be levied only after obtaining the written consent of the Owners of at least fifty-one percent (51%) of the aggregate number of Lots then subject to the Declaration.

E. All annual assessments on the Lots shall be billed to and collected from the property owners. The Property Owner's Association shall be responsible for collecting such assessments from its Lot Owners and remitting same to the DECLARANT or, to the Association.

F. The annual assessments provided for herein shall commence for each Lot upon recording of a plat of such lot and upon the completion of the street on which such Lot fronts. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The DECLARANT reserves the right to pay only any amount of common expenses attributable to lots owned by it to the extent that such expenses are not paid by assessments receivable from Lot owners other than the DECLARANT. The DECLARANT, or the Board of Directors of the Association, shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner. The due dates shall be established in such written notices.

G. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum. In addition to such interest charge, the delinquent Lot Owner shall also pay such late charge as may have been theretofore established by the DECLARANT, or the Board of Directors of the Association, to defray the costs arising because of late payment. If any assessment is not paid within thirty (30) days of the due date thereof, the amount of such assessment (together with interest computed at the simple rate of eighteen percent (18%) per annum from and after the due date thereof) and any cost of collection

(including reasonable attorney's fees, if any) shall, at the option of the Board, constitute and become a lien upon said Lot as of the due date thereof upon the filing of notice thereof with the Haywood County Clerk of Court (which notice shall be filed within 120 days from the due date of the assessment). In such instance, the services rendered by the Association for the benefit of such Lot and for which an assessment is levied shall be deemed to have been performed on the due date of such assessment and to "improve" the subject lands and/or create an "improvement" thereon as defined in Chapter 44A, Article II, Part I of the General Statutes of North Carolina; the lien arising therefrom shall constitute a "lien of mechanics, laborers, and materialmen dealing with the owner", and such lien may be perfected and enforced pursuant to the provisions of said Part I. The lien created hereby shall not, however, be superior to any institutional mortgage or Deed of Trust recorded prior to the filing of the Notice of Claim of Lien or any other statutory lien having priority or otherwise provided by law. Any action to enforce said lien may, at the Association's option, include a prayer for collection of assessments levied against the lot since the filing date of the Notice of Claim of Lien. The Association may purchase the property at any sale thereof contemplated under Section 44A-14 of the General Statutes of North Carolina.

H. Alternate Collection Remedies: The Association may at its election, simultaneously pursue each and every other remedy which it may have available to it for the enforcement and collection of any delinquent assessments.

I. Estoppel and/or Proof of Payment: At any time upon request, the Association shall furnish to any member a written statement certifying the amount of assessments levied against his Lot and balance of such assessments then due. Such written statement shall estop the Association from the making of any contrary claims against any person, firm, corporation or other legal entity (other than the requesting member) who may have

taken affirmative action and detrimental reliance upon said statement.

J. The Lien of the Assessment: The lien of the assessments provided for herein shall be subordinated to the lien of any first mortgage or deed of trust on a Lot or any mortgage or deed of trust to the DECLARANT. Sale or transfer of any Lot shall not affect the assessment lien. However, foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer; provided, however, that the DECLARANT, the Board of Directors of the Association, may in its sole discretion, determine such unpaid assessments to be an annual assessment, collectable pro-rata from all Lot Owners and the Property Owner's Association including the foreclosure sale purchaser. Such pro-rata portions are payable by all Lot Owners and Property Owner's Association notwithstanding the fact that such pro-rata portions may cause the annual assessments to be in excess of the maximum permitted under Section E of this Article. No sale or transfer shall relieve the purchaser of such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided.

ARTICLE IX

REMEDIES

A. Enforcement: DECLARANT, the Association, and each person(s) or entity to whose benefit this Declaration inures may proceed at law or in equity to prevent the occurrence, continuance, or violation of any provisions of this Declaration, and the Court in such action may award the successful party reasonable expenses in prosecuting such action, including attorneys' fees.

B. Cumulative Rights: Remedies specified herein are cumulative and any specifications of them shall not be taken to preclude an aggrieved party's resort to any other remedy at law

or in equity.

No delay or failure on the part of an aggrieved party to invoke an available remedy in respect of a violation of any provisions of this Declaration shall be held to be a waiver by that party of any right available to him upon the recurrence or continuance of said violation or the occurrence of a different violation.

C. Suspension of Privileges: The Board may suspend all voting rights, if any, of any Owner for any period during which any Association assessment against such Owner remains unpaid, or during the period of any continuing violation of the provisions of this Declaration by such Owner, after the existence thereof has been declared by the Board.

ARTICLE X

GRANTEE'S ACCEPTANCE

Each Grantee or Purchaser of any Lot shall, by acceptance of a Deed or other instrument conveying title thereto, or the execution of a contract for the purchase thereof, whether from DECLARANT or a subsequent Owner of such Lot, accept such Deed or contract upon and subject to each and all of the provisions of this Declaration and to the jurisdiction, rights, powers, privileges, and immunities of DECLARANT. By such acceptance such Grantee or Purchaser shall for himself, his heirs, assigns, devisees, personal representatives, grantees, successors, lessees, and/or lessors, covenant, consent, and agree to and with the DECLARANT and the Grantee or Purchaser of each other Lot to keep, observe, comply, and perform the covenants, conditions, and restrictions contained in this Declaration.

ARTICLE XI

ANNEXATION

A. Property to be Annexed: DECLARANT may, from time to time and in its sole discretion, annex to the Development any other real property owned by DECLARANT which is contiguous or

adjacent to or in the immediate vicinity of the Development.

B. Manner of Annexation: DECLARANT shall effect such annexation by recording a Plat of the real property to be annexed and by recording a Supplemental Declaration which shall:

- (1) Describe the real property being annexed and designate the permissible uses thereof;
- (2) Set forth any new or modified restrictions or covenants which may be applicable to such annexed property, including limited or restrictive uses of Common Areas; and,
- (3) Declare that such annexed property is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the provisions of this Declaration. Upon the recording of such Plat and Supplemental Declaration, the annexed area shall become a part of the Development, as fully as if such area were part of the Development on the date of recording of this Declaration.

ARTICLE XII

SEVERABILITY

Each provision of this Declaration is hereby declared to be independent of and severable from every other provision hereof. If any provision hereof shall be held by a court of competent jurisdiction to be invalid, or unenforceable, all remaining provisions shall continue unimpaired and in full force and effect.

ARTICLE XIII

CAPTIONS

Paragraph captions in the Declaration are for convenience only and do not in any way limit or amplify the terms or provisions hereof.

IN WITNESS WHEREOF, the DECLARANT has executed this Declaration on the day and date first above written.

DINGUS PROPERTIES, INC.

Attest:

BY: Frances Dingus _____ (SEAL)
Secretary

NORTH CAROLINA
HAYWOOD COUNTY

I, a Notary Public of the County and State aforesaid, certify that FRANCES DINGUS personally came before me this day and acknowledged that she is FRANCES DINGUS Secretary of DINGUS PROPERTIES, INC., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by him/her as its _____ Secretary.

WITNESS my hand and official stamp or seal, this 25 day of October, 1989.

Dorothy L. Norton-Jones
Notary Public

My Commission Expires:

July 12, 1994

STATE OF NORTH CAROLINA, HAYWOOD COUNTY

The foregoing certificate of Dorothy L. Norton-Jones

is certified to be correct.

This 25 day of Oct, 1989, Book 403 Page 982

Charentawell

Register of Deeds