

**DECLARATION OF
MULTI- UNITS , INC. AN OHIO CORPORATION
CREATING AND IMPOSING CERTAIN
COVENANTS, CONDITIONS AND RESTRICTIONS
ON CERTAIN REAL ESTATE IN THE TOWNSHIP OF BEAVERCREEK,
OHIO**

**DECLARATION
CREATING AND IMPOSING CERTAIN
COVENANTS, CONDITIONS AND RESTRICTIONS**

This Declaration is made and entered into this 7th day of February 1972, for the purposes set forth hereinafter.

RECITALS

Section 1. Identification of Developer. Multi-Units, Inc., an Ohio corporation with its principal office in Fairborn, Ohio, is the legal entity which is creating and imposing these covenants, conditions and restrictions, and said corporation is hereinafter sometimes referred to as the Declarant.

Section 2. Ownership of Real Estate. Declarant is the owner of certain real estate situated in the township of Beavercreek, Greene County, Ohio, which is more particularly described in Exhibit A attached hereto and made a part hereof.

Section 3. Name of Project. The name by which this planned unit development project shall be known is RONA VILLAGE OF BEAVERCREEK.

Section 4. Imposition of Covenants, Conditions and Restrictions. It is hereby declared that all of the real estate described in Exhibit A shall be held, transferred, sold, conveyed, occupied and used subject to the terms of this Declaration which imposes certain covenants, conditions and restrictions, all of which shall be binding on all parties having any right, title or interest in any part or all of said real estate, their heirs, executors, administrators, successors and assigns, and which shall inure to the benefit of each owner thereof, and which shall run with title to any part of and all of said real estate.

**ARTICLE I
DEFINITIONS**

As used in this Declaration or in any amendment to it the following words shall have the meanings set forth below:

Section 1. “Property” or “Properties” shall mean and refer to the real estate described in Exhibit A and to such additions thereto as may hereafter be brought within the jurisdiction of the association, and shall also mean and refer to all buildings, improvements, fixtures, structures and personal property belonging to the association and located on said real estate.

Section 2. “Association” shall mean and refer to Rona Village of Beavercreek Homeowners’ Association, Inc., its successors and assigns, an Ohio nonprofit corporation.

Section 3. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot which is part of the Properties, including purchasers on land installment contracts as such instruments are defined in Ohio Revised Code Chapter 5313 and including contract sellers on other forms of executory contracts for the sale of

a lot, but excluding those holding record title or a similar interest merely as security for the performance of an obligation.

Section 4. “Declaration” shall mean and refer to this legal instrument by which the aforesaid Property is made subject to certain covenants, conditions and restrictions running with the title to said real estate.

Section 5. “Common Area” shall mean and refer to that portion of the Property owned by the Association for the common use and enjoyment of the Owners. Such Common Area is delineated, depicted graphically and identified as “common area” on Exhibit B of this Declaration.

Section 6. “Lot” shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property as to which fee simple title is to be conveyed to Owners with the exception of the portion of the Property which constitutes Common Area.

Section 7. “Declarant” shall mean and refer to Hupp & Roehner, Inc., and its successors and assigns, if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II **PROPERTY RIGHTS**

Section 1. Owners’ Easement and Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, including a right and easement of ingress and egress both vehicular and pedestrian from and to an adjacent public street, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area; and to make reasonable rules and regulations concerning the use of the Common Area;
- (b) The right of the Association to suspend the voting rights and rights to use of the recreational facilities of an Owner for any period during which any assessment against his Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of the provisions of this Declaration, the Articles of Incorporation, the By-Laws of the Association or the published rules and regulations of the Association;
- (c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded;
- (d) The right of the Association to limit the number of guests of members and to make reasonable rules and regulations concerning usage of the Common Area by such guests, and;

(e) The right of individual Owners to the exclusive use for their guests and/or themselves of any parking places which are designated by the Declarant or the Association for the exclusive use of such guests or of such Owners.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association and rules and regulations of the Association, his right of enjoyment in and to the Common Area to the members of his family, his tenants, or to contract purchasers who reside on the Property or to tenants, to contract purchasers who reside on the Property, and to guests.

ARTICLE III

DESCRIPTION OF BUILDINGS: OWNERSHIP OF COMMON AREA

Section 1. Description of Buildings. The Property is to be improved by the construction upon the Lots of a series of attached single-family dwellings some of which will be two-story townhouses and some of which will be one-story villas, all as set forth on Exhibit B attached hereto and made a part hereof. Each such single-family dwelling will be constructed on a separate Lot and fee simple ownership of each such Lot may be conveyed to one or more Owners.

Section 2. Ownership of Common Area. The Common Area shall be owned by the Rona Village of Beaver Creek Homeowners' Association, Inc.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner a Member. Every Owner of a Lot which is subject to assessments shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Two Classes of Membership. The Association shall have two classes of voting membership, as follows: Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each unit owned. Where more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as the Owners among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Class B members shall be the Declarant who shall be entitled to three (3) votes for each Lot owned. Class B membership shall cease and shall be converted to Class A membership upon the happening of either of the following events, whichever occurs earlier: (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership which by virtue of the three-to-one (3 to 1) ratio of votes between Class A and Class B will occur when three-fourths (3/4) of the Lots included within this Declaration have at that time been sold by the Declarant; provided, however, that if additional land is thereafter annexed as part of this Planned Unit Development so as to create an additional number of Lots in such an amount that the proportion of Lots sold is decreased below said three-fourths (3/4), then and in that event Class B membership shall be

recreated automatically in the same manner and in the same condition as that in which it existed originally and shall terminate in the same manner; or (b) On the 31st day of December 1974.

Section 3. Voting By Minors and Fiduciaries. Any minors who are Owners of an interest in a Lot may vote their respective interests as such members. When any person has furnished to the Association proof, satisfactory to the Association, of his appointment and qualification as a Fiduciary representing the ownership of an interest in a Lot, such Fiduciary may vote the ownership interest he represents.

ARTICLE V
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Annual Assessments or charges, and (2) Special Assessments, and (3) Special Individual Lot Assessments. All such assessments shall be fixed, established and collected from time to time as hereinafter provided. The annual and both types of special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the homes situated upon the Properties.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Annual Assessment shall be One Hundred Eighty (\$180.00) Dollars per Lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Annual Assessment may be increased each year not more than three percent (3%) above the maximum assessment for the previous year without a vote of the membership.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Annual Assessment may be increased above three percent (3%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- (c) The Board of Directors may fix the Annual Assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual Assessments authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both Annual and Special Assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis, provided, however, that with regard to Lots which have not yet been sold by the Declarant, the Annual Assessment may be permitted to be one-half (1/2) of the Annual Assessment fixed for other Lots, but this lower level of assessments may continue for no more than six (6) months as to any individual Lot.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The Annual Assessments provided for herein shall commence as to all Lots on the first (1st) day of the month following the conveyance of the Common Area to the Association. The first (1st) Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors 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 subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether all assessments on a specified Lot have been paid and the amount of unpaid assessments.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six and one-half percent (6 1/2%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Property, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of any such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any

Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage 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 such assessment payments which came due prior to such sale or transfer having been secured by the assessment lien, shall be entitled to payment out of any fund created through the mortgage foreclosure or proceeding in lieu thereof to the extent that monies are remaining in said fund after any first mortgage obligation including court costs shall have been paid in full from said fund, and after real estate taxes and real estate assessment have been paid from said fund. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated to and accepted by a local authority as well as the Common Area shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI **ARCHITECTURAL CONTROL**

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties (excepting any original construction or development by the Declarant), nor shall any exterior addition to or change or alteration therein be made (except by the Declarant) until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Trustees of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board, in the event said Board has chosen to appoint such a committee. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VII **PARTY WALLS**

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use; provided, however, that to the extent the need for such repair or maintenance is caused or results from acts or failure to act of the Owner, residents or invitees of

only one (1) unit, whether or not there was negligence or a willful act, the Owner of such one (1) Lot shall be solely responsible for the cost of such repair and the maintenance.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use and such contribution shall be due when the reconstruction costs are due and payable. The obligation and enforcement of such contribution shall be without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions or under provisions of Section 2 of this Article.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, 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 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each Owner shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all arbitrators. The cost of the arbitrators shall be shared equally between the Owners, and by the acceptance of a deed to a Lot each Owner waives his right to contest the decision of the arbitrators and his right to bypass the arbitration proceeding by filing a lawsuit in any city, state or in the federal court system, and agrees to be bound by the decision of the arbitrator.

ARTICLE VIII **MAINTENANCE**

Section 1. General Maintenance. The Association shall maintain, repair and operate all Common Areas, including but not limited to buildings, parking spaces, exterior lighting, lawns, shrubs, trees, interior drive areas, walkways, and recreation areas. The Association shall also provide maintenance and repair to the exterior of buildings and structures situated on any Lot, including but not limited to painting, repair and replacement of roofs, gutters, downspouts, exterior building surfaces and other exterior improvements excluding glass surfaces; but no such maintenance or repair shall be performed by the Association upon the following areas of any Lot: patios, utility service lines or portions thereof serving only one (1) unit, and any ground surface, paving, walks, or vegetation to the extent located on or as a part of any Lot.

Section 2. Individual Unit Maintenance. In the event that the need for maintenance or repair of the exterior of a particular Lot or of any part of the Common Area is caused by the negligent or intentional act of any Owner or any persons residing on any Lot within the Properties, the cost of such maintenance, or repair shall constitute an assessment against the Lot owned by such Owner or occupied by such persons.

Section 3. Other Maintenance. Maintenance of all other portions of the premises purchased by Owners shall be the responsibility of such Owners, including repair and maintenance of walls which are common to more than one (1) Lot. In the event any Owner shall fail to maintain said portion of the premises and improvements situated thereon in a manner satisfactory to the Board of Trustees, the Association shall have the right, through its agents and employees and after approval by a two-thirds (2/3) vote of the Trustees, to enter upon said Lot and to repair, maintain and restore the same. The cost of such maintenance shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE IX
USE RESTRICTIONS

Section 1. Single Family Residence. No Lot shall be used for any purpose other than as a residence site for a single family. For the purpose of this restriction upon use, a “family” shall be deemed to mean a group of one (1) or more persons each of whom is related to the other by blood, marriage or adoption who are living together and maintaining a common household, but excluding two (2) or more married couples and excluding two (2) or more parents (not married to each other and not themselves parents and child) who have their children or stepchildren living with them. In the alternative, any Lot may be used as a residence site for any two (2) persons over twenty-one (21) years of age as long as those two (2) persons are the sole occupants of the premises.

Section 2. No Roomers or Boarders. In accordance with the frequent approach in zoning codes of protecting values in residence districts by prohibiting the use of single family residences for roomers and boarders, and in order to provide similar protection for the Owners of these Lots, it is hereby provided that no boarders or roomers shall be permitted in addition to the family occupying each such Lot and the single family residence erected thereon.

Section 3. Home Occupation. The restriction above to the use of any Lot as a single family residence shall not prohibit the conduct of a “home occupation” upon said Lot as defined herein. Home occupation means any occupation or profession carried on by members of the immediate “family” residing on the premises, in connection with which there is used no sign or display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a single family residence dwelling; in connection with which there is no commodity sold upon the premises, and no person is employed other than a member of the immediate family residing on the premises, and no mechanical or electrical equipment is used except such as is permissible for and is customarily found in purely domestic or household purposes for use by the family residing therein. A professional person may use his residence for infrequent consultation, or emergency treatment, or performance of occasional or emergency religious rites, but not for the general practice of his profession. Permitted home occupations shall not include barber shops, beauty shops, shoe or hat repair shops, tailoring shops or any type of pickup situation or similar commercial activity, but the recitation of these particular exclusions shall not be deemed to constitute authorization for the conduct of other businesses or enterprises which are precluded by the previous language of this paragraph or other sections of the Declaration, the Articles, or By-Laws.

Section 4. Additional Structures. No additional and/or accessory structures of any nature whatsoever shall be erected upon any Lot, in addition to the basic single family residence with a patio constructed thereon, to any storage shed provided by the Declarant or any reasonably similar replacement of such storage shed, and to any other structures erected by the Declarant including carports, and to any other structures authorized by a two-thirds (2/3) vote of both classes of membership of the Association.

Section 5. Nuisances. No noxious or offensive activities shall be carried on upon the Unit or upon the Common Area or facilities, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 6. Signs. No signs of any kind shall be displayed to the public view on the Properties except:

- (a) On the Common Area and approved in advance by the Directors;
- (b) Signs regarding and regulating the use of the Common Area, as approved by the Directors;
- (c) Signs used by the Declarant to advertise the Property for sale during the construction and sales period; and
- (d) Signs on any Unit(s) no larger than five (5) square feet in size containing the words "for sale" or "for rent" and the name and/or address and/or telephone number of the seller.

Section 7. Exterior Wiring, Antennas or Installations. No exterior wiring or antennas shall be permitted on the exterior portion of any building or improvement situated upon any Lot except as may be erected by the Declarant. No air conditioning or other type of installation shall be installed or permitted which appears on the exterior of any building or which protrudes through the walls, roof or window area of any building on any Lot except as may be installed by the Declarant prior to sale of the Unit to an individual Owner or as approved by the Association.

Section 8. Livestock, Poultry and Pets. No animals, livestock, poultry or pets of any kind to be raised, bred or kept upon or in any portion of the Properties, except that dogs, cats or household pets may be kept in and upon Lots to the extent permitted by law and subject to the following provisions:

- (a) Such pets may not be kept in or upon any Lot, temporarily or permanently, for any commercial purpose;
- (b) Such pets shall not run loose on any portion of the Properties other than the Lot in which they are kept and while on any other portion of the Properties shall be kept upon a leash or similar physical restraint;

- (c) Whether or not on a leash, such pets shall not relieve bodily wastes upon any portion of the Properties except the Lot in which they are kept;
- (d) It is understood that the enjoyment of the Properties by all Owners and residents thereof, and the success of this development, might be jeopardized by violations of these conditions; accordingly, the Trustees may by a majority vote and after three (3) written complaints signed by an Owner or resident of the Properties require that any certain pet(s) be removed permanently from the Properties and the Owner of the Lot shall have a period of thirty (30) days to comply with such decision of the Trustees;
- (e) The Owner of a Lot which has such pet(s) kept in or upon it--and not residents or the Owners of any other Lot or portion of the Properties--shall bear all risks which result from the presence of the pet(s). Accordingly, such Owner shall be absolutely responsible for adherence by the pet(s) to these conditions and absolutely liable for any and all damage done by such pet(s), and due care or absence of negligence shall not constitute a defense.

Section 9. Trash, Storage. All trash, rubbish or garbage which is placed outside the townhouse on any Lot shall be stored or placed in the storage sheds provided by the Declarant. All such trash, rubbish or garbage shall be contained in one (1) or more storage boxes or containers, kept inside said sheds, which are fly-tight, rodent proof, non-flammable and reasonably waterproof. The outdoor placement or storage of any other materials for a continuous period exceeding fifteen (15) days in length shall be prohibited. Provided, however, that the storage of such functional items as children's bicycles and play equipment shall be exempt from this provision. Because of the hazards of fire, the storage of highly flammable or explosive matter (other than the aforementioned trash, rubbish or garbage stored in certain containers) in the storage sheds or outside of the Lot is prohibited.

Section 10. Open Fires. No open fires shall be permitted on the individual Lots, with the exception of outdoor grill-type fires used for the preparation of food to be consumed on the premises.

Section 11. Interference With Maintenance By Association. No Owner or resident of any portion of the Properties, shall have, claim or exercise any right to maintain, alter the appearance of, or improve any areas or surfaces of the Properties to be maintained by the Association under the general maintenance provisions of this Declaration.

ARTICLE X **EASEMENTS**

Section 1. Easements for Repair, Maintenance and Restoration. The Association shall have an easement to, over and through all Lots for ingress and egress so as to enable the Association to perform its obligations, rights and duties with regard to repairs, maintenance and restoration as set forth in this Declaration.

Section 2. Easement for Encroachments. Each building included in each Lot as originally constructed shall have an easement to encroach on any other Lot and upon the Common Area and facilities as originally constructed, and the Common Area and facilities shall have a reciprocal easement for encroachment upon each Lot, as the same may occur as the result of overhangs in the design or deviations in construction.

Section 3. Easement for Support. Every portion of a building or of the Properties contributing to the support of another building or improvement on the Properties shall be burdened with an easement of support for the benefit of all such other buildings and improvements and for the benefit of the Common Area and facilities.

Section 4. Utility Easements. Easements shall exist throughout any and all buildings, over, through and under any and all Lots and the Common Area for the benefit of all such buildings, the Common Area, and any Property which may subsequently be annexed, for conduits, ducts, plumbing, poles, transformers, wiring and other facilities within said easements shall constitute part of the Common Area in order that they may be used by and for the benefit of all Owners and the Common Area in the initial Properties and on real property that may hereafter be brought within the jurisdiction of the Association under the annexation provisions of Article XI of this Declaration.

ARTICLE XI
ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation of additional Property shall require the assent of two-thirds (2/3) of the Class A voting power and two-thirds (2/3) of the Class B voting power, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than ten (10) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. The presence of members or of proxies entitled to cast sixty percent (60%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. In the event that two-thirds (2/3) of the Class A membership or two-thirds (2/3) of the Class B membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

Section 2. Provided, however, that additional land as described in Book 455, Page 121, of the Greene County, Ohio, Deed Records may be annexed without consent of the members within three (3) years from the date this instrument is recorded, if FHA and VA determine such annexation is in accord with the general plan heretofore approved by them.

ARTICLE XII
GENERAL PROVISIONS.

Section 1. Enforcement. The Association and any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration.

Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of thirty-five (35) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless an instrument signed by not less than seventy-five percent (75%) of Owners has been recorded, which instrument provides for amending or terminating this Declaration, in whole or in part. During the first thirty-five (35) year period of this Declaration, it may be amended or terminated in whole or in part by an instrument signed by not less than ninety percent (90%) of the Owners, and thereafter such action may be taken in said manner by not less than seventy-five percent (75%) of the Owners, except that the right to annex additional land within five (5) years from the date this Declaration is recorded, as may be approved by FHA and VA, may not be restricted or eliminated by any amendment or termination. In order to be binding any and all such amending or terminating instruments must be recorded.

Section 4. Local Government Assessments. In the event any local government unit should, in connection with a street or sidewalk improvement or maintenance program, or other governmental action involving assessments, levy assessments against part of the Lots within the Properties for improvements or maintenance which benefit all of the Lots, said assessments shall be shared pro rata among all other Lots within the properties and the pro rata amount so allocated to each Lot shall be added to the assessments to which each such Lot is subject.

Section 5. FHA/VA Approval. As long as there is a Class B membership the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, mortgaging of the Common Area and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 6. Service of Process. Service of process upon the Association shall be made upon KENNETH H. DURNBAUGH, whose post office address is 2891 Durnbaugh Drive, Dayton (Greene County), Ohio 45432, or such other person as shall from time to time be designated as the successor to the person named in this Section. Any person entitled to receive service of process under the terms of this provision shall be designated as a Statutory Agent of the nonprofit Ohio corporation which constitutes the Association.

IN WITNESS WHEREOF, the Declarant, MULTI-UNITS, INC., has caused this document to be executed by its duly authorized officers on the, date first above mentioned.