

**FIRST AMENDMENT TO THE REVISED, AMENDED AND RESTATED
BY-LAWS GOVERNING GARDEN APARTMENTS
A Condominium Project (Provo, Utah)**

THIS FIRST AMENDMENT is made and executed this 9th day of December, 1996, by GARDEN APARTMENTS a/k/a GARDEN VILLA, a Utah Non-Profit Corporation (hereinafter referred to as the "Association"), acting by and through its President, HILMA HONEYMAN.

ENT 104330 BK 4157 PG 176
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
1996 Dec 30 12:44 pm FEE 17.00 BY BLT
RECORDED FOR DAVID GLAZIER

W I T N E S S E T H

WHEREAS, the Revised, Amended and Restated By-Laws Governing Garden Apartments, dated February 15, 1990 (hereinafter referred to as the "Amended By-Laws"), was recorded on the 16th day of February, 1990 in the office of the Utah County Recorder, State of Utah, as Entry No. 4947, in Book 2666, on Pages 333, et seq.;

WHEREAS, pursuant to ARTICLE XVI, AMENDMENTS, of the Amended By-Laws, the vote of at least sixty-seven percent (67%) of the common area ownership interests in Garden Apartments has been obtained authorizing this First Amendment to the Amended By-Laws; and

WHEREAS, the Association does now desire to amend the Amended By-Laws of the Association.

NOW, THEREFORE, the Amended By-Laws of Garden Apartments are hereby amended as follows:

ARTICLE V, PAYMENT OF EXPENSES, Section 1, Assessments, Paragraph c. of the Amended By-Laws, is hereby deleted in its entirety and restated as follows:

c. The pro-rata portion of the cash requirements payable by the owner in and for each year or portion of a year shall be an amount (within the limits and on the conditions hereinabove provided) determined in accordance with the number of square feet in the owner's individual apartment home in the following three (3) Categories: All apartments containing less than 1,000 square feet shall be designated as "Small Apartments". All apartments containing from and including 1,000 square feet to 1,499 square feet shall be designated as "Medium Apartments". All apartments containing 1,500 square feet or larger shall be designated as "Large Apartments". Owners of Small Apartments shall pay the amount of the monthly Base Fee. Owners of Medium Apartments shall pay the amount of the monthly Base Fee, plus Fifteen Dollars (\$15.00) per month. Owners of Large Apartments shall pay the amount of the monthly Base Fee, plus Thirty Dollars (\$30.00) per month. The monthly Base Fee can be determined by solving the following formula for B:

$$A/12 = SB + M(B + 15) + L(B + 30)$$

"A" equals the total amount of the cash requirements deemed necessary by the management committee to manage and operate GARDEN APARTMENTS for the applicable year.

"B" equals the monthly Base Fee.

"S" equals the total number of Small Apartments in GARDEN APARTMENTS.

"M" equals the total number of Medium Apartments in GARDEN APARTMENTS.

"L" equals the total number of Large Apartments in GARDEN APARTMENTS.

The number of Small Apartments, Medium Apartments, and Large Apartments in GARDEN APARTMENTS shall be determined by the management committee in accordance with the square footage of the individual apartments on an annual basis at the time of determining and fixing the cash requirements for the applicable year. The purpose of establishing the three (3) categories of Small Apartments, Medium Apartments, and Large Apartments for assessment proration is to create a fair and workable assessment procedure, and thus prevent large disparities in the assessment amounts paid among the apartment owners. The above assessments, together with any additional sums accruing under these By-Laws or the Declaration of GARDEN APARTMENTS, shall be payable monthly in advance, or in such payments or installments as shall be required by the management committee, and at such times as shall be provided by the management committee. Notwithstanding the foregoing, nothing in this Paragraph shall prevent the assessment of other expenses to individual owners as provided in these By-Laws or in the Declaration of GARDEN APARTMENTS.

The foregoing First Amendment which restructures the assessment proration among the apartment owners is hereby appended to the Revised, Amended and Restated By-Laws Governing Garden Apartments, dated February 15, 1990, and shall take precedence over any provisions contained therein that are inconsistent with the above First Amendment.

In all other respects, the undersigned hereby confirms, republishes, and reinstates all other provisions of the Revised, Amended and Restated By-Laws Governing Garden Apartments, dated February 15, 1990, and recorded on February 16, 1990 in the office of the Utah County Recorder, State of Utah, as Entry No. 4947, in Book 2666, on Pages 333, et seq., which concerns the real property described in Exhibit "A" attached hereto, and which has not been modified by this First Amendment.

IN WITNESS WHEREOF, the Association has caused this Amendment to be executed as of the date first above written.

**GARDEN APARTMENTS a/k/a GARDEN VILLA,
a Utah Non-Profit Corporation**

By: *Hilma Honeyman*
HILMA HONEYMAN, President

EXHIBIT "A"

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The following described tract of land situated in the City of Provo, Utah County, State of Utah, to wit:

Beginning at a point on the South side of 2100 North Street, said point being North 189.99 feet, East 253.71 feet, and North $86^{\circ} 10'$ East 119.56 feet from the Southwest corner of Section 30, Township 6 South, Range 3 East, Salt Lake Base and Meridian; running thence North $86^{\circ} 10'$ East 353.54 feet to a point on a 245.03 foot radius curve to the left; thence Northeasterly 93.56 feet along the arc of said curve to a point of tangency on the West boundary of Pleasant Village Subdivision; thence along said boundary South $4^{\circ} 56'$ East 169.44 feet; thence South $60^{\circ} 20'$ West 61.00 feet; thence South $77^{\circ} 31'$ West 84.91 feet; thence South 28.00 feet to a point on the South line of Section 30, Township 6 South, Range 3 East, Salt Lake Base and Meridian; thence West 238.25 feet along said section line; thence North $44^{\circ} 30'$ West 118.61 feet; thence North 113.38 feet to the point of beginning.

ALSO: Beginning at a point which is North 240.15 feet and East 254.46 feet from the Southwest corner of Section 30, Township 6 South, Range 3 East, Salt Lake Base and Meridian; and running thence North $0^{\circ} 50'$ East 337.43 feet; thence South $89^{\circ} 10'$ East 4.00 feet; thence North $0^{\circ} 50'$ East 223.79 feet; thence South $89^{\circ} 10'$ East 209.28 feet; thence North $0^{\circ} 50'$ East 76.5 feet to the South line of Rock Canyon Road; thence East along said South line of road 153.10 feet; thence South 153.74 feet; thence North $84^{\circ} 55'$ East 143.71 feet; thence South $4^{\circ} 56'$ East 428.23 feet to a point on the North line of 2100 North Street; thence Southwesterly along a curve to the right having a radius of 268.45 feet for an arc length of 17.21 feet; thence South $68^{\circ} 01' 20''$ West 41.88 feet to point of a 176.29 foot radius curve to the right; thence Southwesterly along the arc of said curve 55.83 feet; thence South $86^{\circ} 10'$ West 158.94 feet; thence North $3^{\circ} 50'$ West 115.00 feet; thence South $86^{\circ} 10'$ West 80.00 feet; thence South $3^{\circ} 50'$ East 115.00 feet; thence South $86^{\circ} 10'$ West 209.37 feet to the point of beginning.

STATE OF UTAH)
 :SS.
COUNTY OF UTAH)

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I, the undersigned, a Notary Public, hereby certify that on the 9th day of December, 1996, personally appeared before me, HILMA HONEYMAN, who being by me first duly sworn, declared that she is the President of GARDEN APARTMENTS a/k/a GARDEN VILLA, a Utah Non-Profit Corporation (the "Association"), and that she signed the foregoing instrument on behalf of said Association.

Tonia L. Jorgensen
NOTARY PUBLIC

Residing At: Provo, UT
My Commission Expires: 10-7-97

