

3538

REVISED, AMENDED AND RESTATED BY-LAWS
GOVERNING GARDEN APARTMENTS
A CONDOMINIUM PROJECT

(Provo, Utah)

These revised, amended and restated By-Laws for GARDEN APARTMENTS, a Condominium Project, Provo, Utah, made and entered by the unit owners of said project,

W I T N E S S E T H:

WHEREAS, various documents, hereinafter described, have been made, entered and recorded in the office of the County Recorder of Utah County, Utah, creating and controlling said Condominium Project, variously known as GARDEN VILLA APARTMENT HOMES and GARDEN APARTMENTS, and

WHEREAS, the unit owners now desire to modify, amend and restate the previous and existing By-Laws pertaining to said project so as to clarify and more nearly reflect the interests and desires of the present unit owners,

NOW, THEREFORE, it is hereby agreed, submitted and declared as follows:

1. PROPERTY AFFECTED

The property affected by this instrument is known as GARDEN APARTMENTS CONDOMINIUM PROJECT, Provo City, Utah County, Utah, more particularly described as follows, 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° 10' East 119.56 feet from

BOOK 1459 PAGE 608

the Southwest corner of Section 30, Township 6 South, Range 3 East Salt Lake Base and Meridian; running thence North 86° 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° 56' East 169.44 feet; thence South 60° 20' West 61.00 feet; thence South 77° 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° 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° 50' East 337.43 feet; thence South 89° 10' East 4.00 feet; thence North 0° 50' East 223.79 feet; thence South 89° 10' East 209.28 feet; thence North 0° 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° 55' East 143.71 feet; thence South 4° 56' East 428.25 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° 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° 10' West 158.94 feet; thence North 3° 50' West 115.00 feet; thence South 86° 10' West 80.00 feet; thence South 3° 50' East 115.00 feet; thence South 86° 10' West 209.37 feet to the point of beginning.

2. PRIOR DOCUMENT SUPERSEDED

The following described document pertaining to Garden Apartments Condominium Project, Provo, Utah and any other matters, whether of record or not, in conflict herewith, except the Declaration and the Act are hereby superseded, to-wit:

- (a) By-Laws dated February 28, 1964, and recorded February 28, 1964, as Entry No. 3158, in Book 964, at page 574.

3. EXISTING OWNERSHIP, LIENS AND SECURITY INTERESTS

RECOGNIZED.

These revised and amended By-Laws are declared to revise and replace the previously existing By-Laws controlling the operation of the project known as Garden Apartments, but are not intended to disturb pre-existing ownerships, liens or security interests within the project.

4. EFFECTIVE DATE

The effective date of this instrument shall be the date on which such document is filed for record in the office of the County Recorder of Utah County, State of Utah.

5. DEFINITIONS

As used herein:

- (a) "The Act" shall mean the "Utah Condominium Ownership Act". Sections 57-8-1 through 57-8-36, Utah Code Annotated 1953, as amended).
- (b) "Project" shall mean Garden Apartments Condominium Project, Provo, Utah.
- (c) The word "property" means and includes the land, the buildings, all improvements and structures thereon, all easements, rights and appurtenances belonging thereto and all articles of personal property intended for use in connection therewith.
- (d) The word "building" means a building containing units and comprising a part of the property.
- (e) The words "common areas and facilities", unless otherwise provided herein, mean and include (1) the land included within the condominium project;

- (2) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes and entrances and exits of the buildings; (3) the basements, yards, gardens, parking areas and storage spaces; (4) the swimming pool, tennis courts, garden shelters, and carports; (5) the premises for lodging of janitors or persons in charge of the property; (6) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating equipment; (7) the elevators, tanks pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use.
- (f) The words "limited common areas and facilities" mean and include those common areas and facilities designated in the Declaration as reserved for use of a certain unit or units to the exclusion of the other units.
- (g) The word "unit" means a separate physical part of the property intended for independent, private dwelling purposes.
- (h) The words "unit number" mean the number, letter or combination thereof designating the unit in the Declaration and in the Record of Survey Map.
- (i) The words "unit owner" mean the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the Declaration.
- (j) The words "majority" or "majority of the unit owners", unless otherwise provided herein, mean the owners of more than 50% in the aggregate in interest of the undivided ownership of the common areas and facilities.
- (k) The words "association of unit owners" mean all of the unit owners acting as a group in accordance with the Declaration and the By-Laws of Garden Apartments.
- (l) The words "Management Committee" mean the committee as provided in the Declaration and these By-Laws charged with and having the responsibility and

authority to make and enforce all of the reasonable rules and regulations covering the operation and maintenance of the property.

- (m) The word "Declaration" means the instrument by which the property was submitted to the provisions of the Act and as it from time to time may have been lawfully amended.
- (n) The words "common expenses" mean and include (1) all sums lawfully assessed against the unit owners; (2) expenses of administration, maintenance, repair or replacement of the common areas and facilities; (3) expenses agreed upon as common expenses by the association of unit owners; (4) expenses declared common expenses by provisions of the Act, by the Declaration, or by these By-Laws.
- (o) The words "common profits" mean and include the balance of all income, rents, profits and revenues from the common areas and facilities remaining after the deduction of the common expenses.
- (p) The word "person" means an individual, corporation, partnership, association, trustee, or other legal entity.
- (q) The words "Record of Survey Map" mean the amended and revised plat of survey of the land and units on the property prepared in accordance with the requirements of the Act.
- (r) The word "declarant" means all persons who execute the Declaration or any amendment thereof, or on whose behalf the same is executed. Any successors of the persons referred to in this subsection who come to stand in the same relation to the Condominium Project as their predecessors did shall also come within this definition.
- (s) The words "condominium unit" mean a unit, together with the undivided interest in the common areas and facilities appertaining to that unit.
- (t) The word "size" means the number of square feet of ground or floor space within each unit as computed by reference to the Record of Survey Map and rounded off to a whole number.

6. TYPE OF CONDOMINIUM

Garden Apartments, being fully constructed and occupied shall not be further expanded nor contracted, and the terms and concepts "time period unit", "contractable condominium", "convertible land", "convertible space", "expandable condominium", or "leasehold condominium" as used in the Act shall have no application to this project or be undertaken in connection therewith.

7. AMENDED BY-LAWS GOVERNING GARDEN APARTMENTS

ARTICLE I

MANAGEMENT COMMITTEE

Section 1. General Responsibility.

The business and property comprising GARDEN APARTMENTS CONDOMINIUM PROJECT shall be managed by a management committee consisting of seven (7) unit owners to be selected by the unit owners as hereinafter provided. Such management committee shall have all the powers, duties and responsibilities as are now or may hereafter be provided by law, the Restated Declaration filed contemporaneously herewith and any amendments subsequently filed thereto, and these By-Laws as the same may from time to time be altered or amended; provided, however, that the management committee may engage the services of a manager and fix and pay a reasonable fee or compensation therefor.

Section 2. Operation and Maintenance.

The committee shall be responsible for the control, operation and management of the project in accordance with the provisions of the Utah Condominium Ownership Act, the Declaration whereby the project is established and submitted to the provisions of said Act, these By-Laws, and such administrative, management and operational rules and regulations as the committee may adopt from time to time as herein provided, and all agreements and determinations lawfully made and entered into by the committee. The committee shall, in this connection, provide for the proper and reasonable control, operation and management of the project and of the maintenance and repair of the common areas and facilities appurtenant thereto.

Section 3. Committee Vacancies.

In case of any vacancy in the management committee, the remaining members thereof may elect a successor to hold office until the next duly constituted meeting of the unit owners.

Section 4. Officers.

The management committee shall appoint or elect from among its membership a chairman, vice-chairman, secretary, and a treasurer, who shall hold office at the pleasure of the committee. The chairman of the committee, or in his absence, the vice-chairman, shall preside at all meetings of the committee and at all meetings of the unit owners. The secretary shall take and keep minutes of all meetings. He shall perform such other services as the committee may impose upon him, and shall receive such compensation as the committee may fix or approve. The treasurer shall have the custody and control of the funds of the committee, subject to the action of the committee, and shall, when requested by the chairman so to do, report the state of finances of the committee at each annual meeting of the unit owners and at any meeting of the committee. He shall perform such other services as the committee may require of him and shall receive compensation as the committee may fix or approve. The offices of secretary and treasurer may at the option of the committee be held by the same person.

Section 5. Regular Meetings.

A regular meeting of the committee shall be held immediately after the adjournment of each annual unit owners meeting at the place at which such unit owners meeting was held. Regular meetings, other than the annual meeting, shall be held at regular intervals and at such places and at such times as the committee may from time to time by resolution provide. No notice need be given of regular meetings of the committee.

Section 6. Special Meetings.

Special meetings shall be held whenever called by the chairman, vice-chairman, or by a majority of the committee. Either written or oral notice of such special meeting shall be given not less than twenty-four (24) hours in advance of said meeting; provided, however, that by unanimous consent of the committee, special meetings may be held without call or notice of any time or place.

Section 7. Quorum.

A quorum for the transaction of business at any meeting of the committee shall consist of the majority of the committee

then in office. In the absence of a quorum, the chairman may adjourn the meeting until a quorum shall be present for any formal action by the committee.

Section 8. Special Committees.

The management committee, by resolution, may designate one or more special committees, each committee to consist of two (2) or more of the unit owners, which, to the extent provided in said resolution, shall have and may exercise the powers in said resolution set forth. Such special committee or committees shall have such name or names as may be determined from time to time by the management committee. Such special committees shall keep regular minutes of their proceedings and report the same to the management committee when required. The management committee may appoint persons to fill vacancies on each of said special committees occasioned by death, resignation, removal or inability to act for any extended period of time. Any member of any such special committee shall be subject to removal, with or without cause, at any time by the affirmative vote of a majority of the members of the management committee.

Section 9. Additional Facilities.

The management committee shall have the authority to provide such facilities, in addition to those for which provision has already been made, as it may deem to be in the interest of the members. Provided that this section shall not be implemented unless the proposed committee action is approved by a two-thirds majority vote of the unit owners.

ARTICLE II

MEETING OF UNIT OWNERS

Section 1. Annual Meeting.

The annual meeting of all unit owners shall be held at 7:00 o'clock p.m. on the second Wednesday in February of each year at such place as shall be stated in the notice of meeting or in a duly executed waiver of notice; provided, however, that whenever such date falls upon a legal holiday, the meeting shall be held on the next succeeding business day, and provided further, that the management committee may, by resolution, fix the date of the annual meeting at such other date as it shall deem appropriate. At such meeting the unit owners shall elect committee members for two-year terms, which terms shall commence as of March 1; provided, however, that at the first election after the recording of these By-Laws three (3) of the seven (7)

committee members shall be elected for terms of not more than one (1) year, which terms shall commence upon election and shall expire on the next March 1 after such election, and four (4) of said committee members shall be elected for not more than two (2) years, which terms shall commence upon election and shall expire on the second March 1 after such election; provided further that the term of any duly elected or appointed committee member shall not expire until his successor is elected and qualifies. Only unit owners shall be eligible for election as committee members. Any member of the management committee may be removed at any time by a vote of two-thirds of the unit owners at a meeting specially called and noticed for such purpose, anything hereinabove to the contrary notwithstanding.

Section 2. Calls and Notices of Meetings.

The calls and notices of all meetings of the unit owners shall conform to the provisions of Article III of these By-Laws.

Section 3. Voting Requirements.

When a quorum is present at any meeting, the vote of a majority of the unit owners present in person shall decide any question brought before such meeting, including the election of the management committee members, unless the question is one upon which, by express provision of the Act, the Declaration, or of these By-Laws, a different percentage is required, in which case such express provision shall govern and control the decision of such question.

Voting by proxy in writing shall be permitted. A proxy to be valid, however, must specifically refer to the particular meeting involved.

The vote attributable to and exercisable in connection with each unit shall be one vote. In the event there is more than one owner of a particular unit, the vote relating to such unit shall be exercised as such owners may determine among themselves. A vote cast at any meeting by any of such owners shall be conclusively presumed to be the vote attributable to the unit concerned unless an objection is immediately made by another owner of the same unit. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

Section 4. Quorum.

At any meeting of the unit owners, 51% of such owners shall constitute a quorum for the transaction of business. In

the absence of a quorum, the chairman of the meeting may adjourn the meeting from time to time, without notice other than by announcement at the meeting, until unit owners requisite to constitute a quorum shall attend. At any such adjourned meeting at which a quorum shall be present any business may be transacted which might have been transacted at the meeting as originally notified.

Section 5. Waiver of Irregularities.

All inaccuracies and/or irregularities in calls, notices of meeting and in the matter of voting, and method of ascertaining those present, shall be deemed waived if no objection is made at the meeting.

ARTICLE III

CALLS AND NOTICES OF MEETINGS

Section 1. Annual Meeting of Unit Owners.

At least ten (10) days, inclusive of the date of meeting before the date of any annual meeting of the unit owners, the secretary shall cause a written notice, setting forth the time and place, to be delivered personally or deposited in the mail, with postage prepaid, addressed to each unit owner at his last post office address as it then appears on the records of the management committee.

Section 2. Special Meetings of Unit Owners.

Special meetings of the unit owners may be called by the management committee, or by one-third in number of the unit owners, and notice of such meeting shall be given to each unit owner in writing at least five (5) days before the time fixed for the meeting, and such notice shall advise each unit owner as to the time, place and general purpose of the meeting and shall be delivered personally, or mailed, postage prepaid, to each unit owner at his last post office address as it appears on the books of the management committee. Whenever all of the members shall meet in person, such meeting shall be valid for all purposes without call or notice, or waiver of call or notice. No call or notice of any meeting of members shall be necessary if waiver of call and notice be signed by all of the members.

ARTICLE IV

TRANSFER OR LEASE OF APARTMENT UNITS

Section 1. General.

Unit owners shall not sell, lease or sublet their apartment units, and any such sales, leases or subletting shall be void, unless the purchaser, tenant or subtenant be first approved by the management committee, which approval shall not unreasonably be withheld. The management committee shall act upon applications for approval of a sale, lease or sublease within ten (10) days after such applications have been filed with the committee, and any application not acted upon within said time shall be deemed to have been approved by the committee. The committee shall be given notice in writing of any intended sale, lease or sublease, and the terms and conditions thereof. Whenever the owner applies to the committee for the approval of a sale, lease or sublease, the committee may require that the owner shall deliver to the committee a copy of the contract of sale, lease or sublease of which approval is requested. No such sale, lease or sublease shall take effect for any purpose, unless and until the following requirements have been completed and satisfied:

1. All assessments and other charges due from the owner must be paid to the committee.
2. A written consent to such sale, lease, or sublease must be signed by the committee or by the chairman thereof at the direction of the committee. The committee shall not unreasonably withhold its consent.
3. In the case of any sale, lease or sublease the new owner or tenant shall execute in writing an agreement to perform and comply with all the provisions of the Declaration, By-Laws, and rules and regulations promulgated pursuant thereto.

Whenever an owner shall be permitted to sell and shall so sell the same upon compliance with the provisions and conditions herein stated, the owner shall have no further liability to the committee.

No demand for or acceptance of assessments from any purchaser, lessee, or sublessee, hereof shall constitute or be deemed to constitute a consent to or approval of any sale, lease or sublease, and all provisions hereof shall be binding upon any executor, administrator, personal representative, trustee, grantee, lessee, or successor in interest of any unit owner. In the event

of the failure of any person to comply with the provisions hereof, the management committee shall have the right, in addition to all other remedies provided in these By-Laws or the Declaration to which they are appended, to discontinue all services furnished by or through the committee to any such unit in default until such default is cured in full.

Section 2. Right of Committee.

The management committee shall have the right, exercisable at any time within ten (10) days after its receipt of the notice provided for in the next preceding paragraph to purchase or enter into an agreement for the occupancy of said unit upon the same terms and conditions as those specified in the notice; provided, however, that in the event the committee enters into an agreement under this Article for the occupancy of any unit, it shall have the right to sublet said unit to any person or persons reasonably suitable to both the committee and to the owner of said unit.

ARTICLE V

ADMINISTRATIVE RULES AND REGULATIONS

The committee shall have the power to adopt and establish by resolution, such building, management, and operational rules as the committee may deem necessary for the maintenance, operation, management and control of the project, and the committee may, from time to time, by resolution, alter, amend and repeal such rules. When a copy thereof has been furnished to the owners they shall be taken to be a part hereof. Unit owners shall at all times obey such rules and see that they are faithfully observed by those persons over whom they have or may exercise control and supervision, it being understood that such rules shall apply and be binding upon all unit owners and/or occupants of the project, including the family, guests, employees, tenants and subtenants of any owner.

The management committee shall exercise all reasonable effort to see that all persons comply with such rules and regulations, but the committee shall not be liable to any unit owner for the non-observance in violation of such rules by any other owner or person.

ARTICLE VI

PAYMENT OF EXPENSES

Section 1. Assessments.

(a) Each unit owner or occupant shall pay the

management committee his prorata portion of the cash requirements deemed necessary by the committee to manage and operate GARDEN APARTMENTS upon the terms, at the times, and in the manner herein provided without any deduction on account of any set-off or claim which the owner may have against management, and if the owner shall fail to pay any installment within one (1) month from the time when the same becomes due, the owner shall pay interest thereon at the rate of 1.5% per month from the date when such installment shall become due to the date of the payment thereof.

(b) The cash requirements above referred to for each year, or portion of the year, are hereby defined, and shall be deemed to be such aggregate sum as the management committee from time to time shall determine, in its judgment, is to be paid by all the owners or occupants of GARDEN APARTMENTS then in existence to enable the committee to pay all estimated expenses and outlays of the committee to the close of such year, growing out of or connected with the maintenance and operation of such land and buildings and improvements, which sum may include, among other things, the cost of management, special assessments, fire, casualty, and public liability insurance premiums, common lighting and heating, pool expenses, landscaping and care of grounds, repairs and renovations to common areas and facilities, garbage collections, wages, water charges, legal and accounting fees, management fees, expenses and liabilities incurred by the management committee under or by reason of the Declaration, these By-Laws, or any occupancy agreements, the payment of any deficit remaining from a previous period, the creation of a reasonable contingency or other reserve or surplus fund, as well as all other costs and expenses relating to the GARDEN APARTMENTS. The management committee may, from time to time, up to the close of the year for which such cash requirements have been so fixed or determined, increase or diminish the amount previously fixed or determined for such year. The committee may include in the cash requirements for any year any liabilities or items of expense which accrued or became payable in a previous year, or which might have been included in the cash requirements for a previous year, but were not included therein; and also any sums which the management committee may deem necessary or prudent to provide a reserve against liabilities or expenses then accrued or thereafter to accrue although not payable in that year.

(c) The prorata portion payable by the owner in and for each year or portion of year shall be a sum (within the limits and on the conditions hereinabove provided) bearing to the aggregate amount of such cash requirements for such year, or portion of year, determined as aforesaid, the same ratio as that which the number of square feet above ground in the owner's individual apartment home, to which he has exclusive right of possession,

bears to the aggregate of the square feet above ground in all the individual apartment homes in the GARDEN APARTMENTS at the time of the fixing and determination of such cash requirements, and such assessments, together with any additional sums accruing under this agreement, 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.

(d) The management committee shall have discretionary powers to prescribe the manner of maintaining and operating GARDEN APARTMENTS and to determine the cash requirements of the management committee to be paid as aforesaid by the owners under the Declaration and these By-Laws. Every such reasonable determination by the committee, within the bounds of the Condominium Ownership Act, the Declaration and these By-Laws, shall be final and conclusive as to the owners, and any expenditures made by the committee, within the bounds of the Condominium Ownership Act, the Declaration, and these By-Laws, shall, as against the owner, be deemed necessary and properly made for such purpose.

(e) If the owner shall at any time let or sublet the apartment, and shall default for a period of one (1) month in the payment of any management assessments, the management committee may, at its option, so long as such default shall continue, demand and receive from any tenant or sub-tenant of the owner occupying the apartment the rent due or becoming due from such tenant or sub-tenant to the owner up to an amount sufficient to pay all sums due from the owner to the management committee, and any such payment of such rent to the committee shall be sufficient payment and discharge of such tenant or sub-tenant as between such tenant or sub-tenant and the owner to the extent of the amount so paid. In the event of default in payment of assessments as herein provided, the management committee, in addition to all other remedies herein and in the Declaration provided, shall have the right to discontinue all services to such unit in default as the committee may provide until such default is cured in full.

(f) To facilitate the operation and management of the project, the committee shall annually prepare a proposed budget of income and expenses and shall present the same to the unit owners at each annual meeting for discussion and recommendations. The committee shall thereupon, after considering any recommendations from the unit owners, adopt a budget for the ensuing assessment year and shall, to the greatest extent possible, operate within the limits thereof. The committee shall nevertheless, in order to perform its management responsibilities, have the authority to deviate from such budget, both as to expense and assessment items, as unforeseen or necessary circumstances may require.

Section 2. No Waiver.

Anything herein contained to the contrary notwithstanding, the omission of the management committee before the expiration of any year to fix the management assessments hereunder for that or the next year shall not be deemed a waiver or modification in any respect of the covenants, conditions, or restrictions of the Declaration and these By-Laws, or a release of the owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment shall be fixed.

Section 3. Collection of Common Expenses.

The amount of common expenses assessed against each unit shall be a debt of the owner at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. In the event of such a suit, the unit owner shall in addition to the assessment due, pay all costs of collecting the same, including reasonable attorney fees.

Section 4. Lien for Non-Payment of Common Expenses.

If any unit owner shall fail or refuse to make any payment of the common expenses when due, the amount thereof shall constitute a lien on the interest of the owner in the property, and, upon the recording in the office of the county recorder of Utah County, Utah, of notice thereof by the manager or management committee, shall be a lien upon the unit owner's interest in the property prior to all other liens and encumbrances, recorded or unrecorded, except only:

1. Tax and special assessment liens on the unit in favor of any assessing unit, and special district, and
2. Encumbrances on the interest of the unit owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

The management committee shall, upon the written request of any unit owner or any encumbrancer or prospective encumbrancer of a unit, upon payment of a reasonable fee not to exceed \$10.00, issue to a person or persons requesting, a written statement setting forth the unpaid common expenses with respect to the unit covered by the request, which shall be conclusive upon

the remaining unit owners and upon the management committee in favor of all persons who rely thereon in good faith. Unless the request for a statement of indebtedness shall be complied with within ten (10) days, all unpaid common expenses which become due prior to the date of the making of such request shall be subordinate to the lien held by the person requesting the statement. Any encumbrancer holding a lien on a unit may pay any unpaid common expenses payable with respect to such unit and upon such payment, such encumbrancer shall have a lien on such unit for the amounts paid of the same rank as the lien of his encumbrance.

The lien for nonpayment of common expenses may be enforced by sale or foreclosure of the unit owner's interest by the management committee, such sale or foreclosure to be conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any manner permitted by law. In any foreclosure or sale, the unit owner shall be required to pay the costs and expenses of such proceedings and reasonable attorney's fees. In the case of foreclosure, the owner shall be required to pay a reasonable rental for the unit during any redemption period, and the plaintiff in the foreclosure action shall be entitled to the appointment of a receiver to collect the rental without regard to the value of the unit subject to such lien.

The management committee shall have the power to bid in the unit at foreclosure or other sale and to hold, lease, mortgage and convey the unit.

ARTICLE VII

TAXES AND INSURANCE

Section 1. Taxes.

It is acknowledged that under the Condominium Ownership Act each of said units and each of said units percentage of the undivided interests in the common areas and facilities of the project are subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law, and that as a result thereof, no taxes will be assessed or payable against the project as such. Each owner shall, therefore, pay and discharge any and all taxes which may be assessed against any of said units of which he is the owner, against the percentage of undivided interests in the common areas and facilities of any such unit, and/or against any items of personal property located in or upon any unit of which he is the owner.

Section 2. Insurance.

The committee shall secure and maintain the following insurance coverage on the project:

(a) Fire and Extended Coverage. The management committee shall secure and at all times maintain in its name as trustee for the owners a policy or policies of fire and extended coverage insurance, excluding glass coverage, on the project in an amount which shall be equal to its maximum insurance replacement value, excluding foundation and excavation costs, or in such greater or lesser sum as the committee may from time to time determine to be necessary, proper and adequate. As between unit owners, participation in any proceeds realized by the committee from said insurance policy or policies will be on the basis of any damage sustained. In the event such unit owners cannot agree on the amount of damage sustained by each, the decision of the committee respecting the appraisal of such damage shall be conclusive. Each unit owner shall be responsible for securing and maintaining insurance coverage on any items of personal property which he may have in or on his particular unit and shall also maintain such glass coverage as he may require for his own protection. The unit owners may agree to be charged and pay for fire and extended coverage insurance on a prorata basis determined with reference to the replacement value of any particular unit as compared with the other units in the project.

(b) Public Liability Coverage. The committee shall secure and at all times maintain, in its own name, a policy of comprehensive general liability insurance for bodily injury and property damage in the amount of \$500,000.00. Said minimum coverage limit may be increased or decreased by the committee from time to time as it may deem to be in the interest of its members.

It is intended that the insurance policies herein provided for include coverage for any act or omission of the committee, its officers, agents and employees, or of the occupants of any office unit in the project, respecting the ordinary and anticipated use, occupancy, operation and/or maintenance of the project. It is not intended, however, that said insurance policies include any coverage or recognize any liability with respect to any act or omission on the part of any unit owner or occupant, or their employees, respecting acts or omissions other than those arising out of the ordinary and anticipated use, occupancy, operation and/or maintenance of the project or of any of said units.

ARTICLE VIII

RIGHT OF ENTRY

Section 1. By the Committee.

The committee and its duly authorized agents shall have the right to enter any and all of the said units in case of an emergency originating in or threatening such unit or any other part of the project, whether the owner or occupant thereof is present at the time or not and to make such repairs or take such action as may be reasonably indicated. The committee and its duly authorized agents shall also have the right to enter any and all of said units at all reasonable times as required for the purpose of making necessary repairs upon the common areas and facilities of the project. To facilitate making any such repairs or taking emergency action, the committee or its agents may remove such portions of the walk, floors and ceilings of any unit as may reasonably be required, but such unit shall as soon as possible thereafter be restored to its proper and usual condition by the committee or its agents, the cost of which shall be a common expense.

Section 2. By Unit Owners.

All unit owners and their duly authorized agents and representatives shall have the right to enter any of said units contained within the project for the purpose of performing emergency installations, alterations, or repairs to the mechanical or electrical devices or installations located therein or thereon; provided, however, such emergency installations, alterations, or repairs are necessary to prevent damage or threatened damage to other units in the project; and provided further, that the unit owner affected by such entry shall first be notified thereof if available and if time permits.

ARTICLE IX

REIMBURSEMENT FOR DAMAGES

Each unit owner shall promptly perform or cause to be performed all maintenance and repair work within any of said units owned by him which, if omitted, will adversely affect the building in which said unit is located in its entirety, or any part of the project, and shall be liable in damages for any failure on his part so to do. In case of the refusal or neglect of the owner, within ten (10) days after notice in writing from the management committee, to make such repairs or to restore the apartment to good condition, such repairs and restoration may be made by the

management committee, who shall have the right through its officers or authorized agents, to enter the apartment for that purpose, and to thereafter collect the cost of such repairs or restoration as an additional maintenance assessment against such apartment. Each member shall also reimburse the committee for the full value of any repairs or replacements to the common areas and facilities made necessary through the negligence or fault of such unit owner or such unit owner's tenants.

ARTICLE X

No unit owner shall cause, permit or suffer any nuisance to be created or carried on in any apartment unit of which he is the owner or occupant.

ARTICLE XI

USE AND OCCUPANCY

Section 1. Obstruction of Common Areas and Facilities.

No member shall cause or allow nor permit any person over whom he has or may exercise supervision or control to cause or allow any foyer, stairway, hallway, exit, entrance, breeze way, fire escape, roadway, driveway, or sidewalk in or on the project to be obstructed or to be used for any purpose other than for ingress to or egress from said units or the project.

Section 2. Use of Unit.

(a) No owner or occupant of any of said units, shall without the prior written consent of the committee, occupy or use any of said units, nor permit any person over whom such owner or occupant has or may exercise supervision and control to occupy or use the same for any any purpose other than a private dwelling, or to permit or suffer anything to be done or kept in or upon any of said units which would constitute a nuisance or a violation of any law, ordinance, or regulation, which would increase the rate of fire insurance on the project or which might otherwise interfere with the rights of other owners or occupants of the project. No sign, signal, advertisement, or illumination except as approved by the management committee by regulation duly adopted, shall be inscribed or exposed on or at any window or outside wall of the project. If by reason of any use of a unit by any occupant the rate for fire insurance is increased over what otherwise would be the case, the owner of such unit shall be liable for such increase and the committee shall have the right to collect the same as an additional assessment against any such unit.

(b) No unit shall be occupied or used for anything other than a single family dwelling. For the purposes hereof, "family" shall mean an individual or two or more persons related by blood, marriage, or legal adoption, living together. Provided, that a family may have one additional non-related person living in connection therewith. The provisions hereof shall apply whether such unit is occupied by the owner, leased, or under any other arrangement.

(c) No boat, trailer, camper, automobile or other vehicle shall be parked on or in any common area in the project for longer than 72 hours during any 60-day period.

Section 3. Maintenance of Units.

Each unit owner at his own expense shall keep the interior of his unit and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition in accordance with the requirements of the Board of Health and other governmental authorities, and shall do all redecorating, painting and varnishing which may at any time be necessary to maintain the good appearance of his unit. Except to the extent that the management committee is protected by insurance against such injury, the owner shall repair all injury or damage to the building or buildings caused by the act, negligence or carelessness of the owner or that of any lessee or sublessee or any member of the owner's family or of the family of any lessee or sublessee or of any guest, employee or agent of the owner or his lessee or sublessees, and all such repairs, redecorating, painting and varnishing shall be of a quality and kind equal to the original work. In addition to decorating and keeping the interior of the unit in good repair, the owner shall be responsible for the maintenance or replacement of any plumbing fixtures, refrigerators, air conditioning equipment, dishwashers, disposals, ranges, etc., that may be in or connected with the apartment unit. The unit owners in each building shall further be liable for any repair or damage due to any clogging of the sewer line servicing such building. If specific responsibility cannot be determined for any such condition, the owners of each unit in such building shall share equally the cost of such repair or damage on a prorata basis by dividing such cost or damage expense by the number of units in said building. Each owner shall be entitled to the exclusive use and possession of the patio and storage areas attached to his unit and shall be responsible for the maintenance and upkeep of said patio and storage areas; provided, however, that without the written permission of the management committee first had and obtained, the owner shall not make or permit to be made any structural alteration, improvement or addition in or to the apartment unit, patio areas or in or to the exterior of the building, and shall not paint or decorate any portion of the exterior of the building in which his unit is located.

No radio or T.V. antenna or aerial shall be installed on the outside of any building contained within the project without prior written consent of the committee.

Section 4. Minimum Age For Occupancy.

There shall be no occupant in any of the units of the project under the age of twelve (12) years. Visitation in any unit for a period of more than one month may be treated by the committee as occupancy for purposes of this section. Notwithstanding any provision hereinabove contained which may be construed to the contrary, a child which is born to an occupant of a unit in the project shall qualify, and may remain as an occupant of the project until, but not after, said child attains the age of three (3) years.

Section 5. Pets.

No animal shall be kept or harbored in the project unless the same in each instance be expressly permitted by the management committee. In no event shall dogs be permitted in any of the common areas and facilities of the project unless carried on a leash. The owner shall indemnify the committee and hold it harmless against any loss or liability of any kind or character whatsoever arising from or growing out of having an animal or pet in the project. The committee, for reasonable cause, shall, however, have the right to revoke any permit or consent previously given to any unit owner for keeping or harboring any animal within the limits of the project.

Section 6. No Waiver of Strict Performance.

The failure of the management committee to insist, in any one or more instances, upon a strict performance of any of the terms, covenants, or conditions of these By-Laws, the Act, Declaration, Record of Survey Map, or such rules or regulations as may be adopted, or to exercise any right or option therein contained, or to serve any notice or to institute any action or proceeding, shall not be construed as a waiver or a relinquishment for the future of such covenant, condition, or option, but such covenant, condition, option or right shall continue and remain in full force and effect. The receipt by the management committee of assessments, with knowledge of the breach of any such covenant shall not be deemed to be a waiver of such breach, and no waiver by the management committee of any such provision shall be deemed to have been made unless expressed in writing and signed by the committee, and even though a consent to lease or sublease be given, no further lease or sublease shall be made without express consent in writing given as hereinabove provided.

ARTICLE XII

REPAIRS AND MAINTENANCE BY MANAGEMENT COMMITTEE

(a) The management committee shall keep in good order, condition and repair the foundation, sidewalks, walls, (except ceilings, floors and interior walls of apartments), supports, beams, roofs, gutters, fences, windows (excluding glass), and all pipes and conduits for carrying water and electricity through the buildings, swimming pool, parking areas, and private driveways, except those portions of any of the foregoing which it is the duty of the owner to maintain and keep in good repair. The owner shall give the management committee prompt notice of any accident or defect known to the owner and requiring repairs to be made. All costs incident to such repairs required to be made by the management committee shall be a common expense unless the same shall have been rendered necessary by the act, negligence or carelessness of the owner, or any of the owner's family, guests, employees, tenants, or subtenants, in which case the expense is to be borne by the owner.

(b) The management committee shall maintain and manage the buildings, parking areas, roadways, swimming pool and all common areas in a first-class manner, and shall have the power to establish and enforce rules covering all the common areas and shall provide the number of attendants requisite, in the judgment of the management committee, for the proper care and service of the building and other areas listed above.

(c) The committee, as a common expense, shall pay water and garbage removal and sewer charges in connection with the project. The owners shall pay for all other utilities used by them.

ARTICLE XIII

RECORDS OF ACCOUNT

The management committee shall keep complete and correct books of account, which shall be open to inspection by each owner or a duly authorized representative thereof at such reasonable times as may be fixed by the committee. The management committee shall annually prepare a budget to assist in the operational control of their financial responsibilities and shall present at each annual meeting of the owners a financial statement of the business and condition of the management committee and the project.

ARTICLE XIV

NOTICES

Any notice by the management committee to an owner shall be deemed to be duly given, and any demand by the management committee upon an owner shall be deemed to have been duly made if personally served in writing or if enclosed in a postpaid envelope addressed to the owner at his apartment mailing address at GARDEN APARTMENTS, Provo, Utah, or such other address as may be designated by the owner, and mailed by registered mail in any general or branch post office. Any notice by an owner to the management committee shall be deemed to be duly given and any demand by an owner upon the management committee shall be deemed to be duly made if personally served in writing or a member of the committee or if enclosed in a postpaid envelope addressed to the person herein designated to receive service of process, or to such other address as may be designated by the management committee and mailed by registered mail in any general or branch post office.

ARTICLE XV

ENFORCEMENT AND COSTS THEREOF

If an owner shall at any time be in default under the provisions of these By-Laws or the Declaration, and the management committee shall institute an action or proceeding against such owner based upon such default, that owner shall reimburse the management committee for the expense of attorney's fees and disbursements thereby incurred by the committee, so far as the same are reasonable in amount, and the management committee shall have the right to collect the same as an additional management assessment. In the event of a breach or threatened breach by an owner of any of the covenants or provisions hereof, the management committee shall have the right to injunction, and the right to invoke any remedy allowed at law or in equity.

ARTICLE XVI

PERSONS BOUND

All references herein to an owner or an occupant shall be deemed to include the executors, administrators, legal representatives, legatees, distributees and assigns thereof; and the covenants and conditions herein contained shall apply to and bind each owner and occupant and the executors and administrators, legal representatives, legatees, distributees, and assigns thereof.

In the application of any provision of these By-Laws, the use of any gender shall include all other genders, the singular shall include the plural, and the plural shall include the singular.

ARTICLE XVII

SAVING CLAUSE

If any clause or provision herein contained shall be adjudged invalid, the same shall not affect the validity of any other clause or provision of these By-Laws.

ARTICLE XVIII

AMENDMENTS

These By-Laws may be altered, amended, or repealed by the affirmative vote of two-thirds of all the unit owners at any regular meeting of such unit owners, or at any special meeting if notice of the proposed alteration or repeal be contained in the notice of such special meeting.

ADOPTED AND APPROVED this 11th day of February, 1976, by affirmative vote of more than two-thirds of the unit owners of GARDEN APARTMENTS CONDOMINIUM PROJECT, Provo, Utah at the annual meeting of said unit owners held at Provo, Utah on the date last above written.

GARDEN APARTMENTS MANAGEMENT COMMITTEE

By: W. Wayne C. Close
Its Chairman

ATTEST:

Patricia J. Peterson
Secretary

STATE OF UTAH,)
: SS.
COUNTY OF UTAH.)

On the 11th day of February, 1976, personally appeared before me Wayne C. Close and Betty J. Petersen who each being by me first duly sworn did say that Wayne C. Close is the chairman of the Management Committee of Garden Apartments Condominium Project, Provo, Utah; that Betty J. Petersen is the secretary of the Management Committee of Garden Apartments Management Committee; that the foregoing Revised, Amended and Restated By-Laws for Garden Apartments Condominium Project were duly approved and adopted by the affirmative vote of unit owners in said project owning more than two-thirds of the units contained therein at the annual meeting of such unit owners held at Provo, Utah on the 11th day of February 1976; that the foregoing instrument was signed in behalf of said unit owners and said management committee by authority of the By-Laws of Garden Apartment Condominium Project and in conformity with the powers conferred by the Utah Condominium Ownership Act; and the said chairman and secretary of Garden Apartments Management Committee duly acknowledged to me that they executed the same.

My Commission Expires:
March 1, 1979

Karl Johnson
NOTARY PUBLIC
Residing: Provo, Utah
1976 FEB 17 11:09 AM
3558
BOOK 1459 PAGE 632
ABSTRACT CO.
ABSTRACT CO.