

**AMENDMENT TO  
THE DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
OF GARDEN SOUTH HOA,  
PHASES 1 - 9  
A PLANNED UNIT DEVELOPMENT**

**This amendment to the Declaration of Covenants, Conditions and Restrictions (CC&Rs of) Gardens South HOA, a planned Unit Development (the "Declaration") that established The Gardens South community is made this \_\_\_\_ day of \_\_\_\_\_, 2006 by Gardens South HOA Association (the "Association").**

**RECITALS**

**A. Certain real property in Washington County, Utah known as Gardens South is subjected to certain covenants, conditions, and restrictions pursuant to a Declaration dated \_\_\_\_\_ and recorded as Entry No. 958899 in the Recorder's Office for Washington County, Utah:**

**B. These amendments shall be binding against all of the property described in the Declaration and any annexation, expansion or supplement thereto.**

**C. Pursuant to the original CC&Rs of Gardens South, owners representing more than sixty-six and two-thirds percent (66-2/3%) of the voting rights need to approve this Amendment Notice. It is being sent to all owners and/or holders of first mortgage liens in accordance with original CC&Rs declaration.**

**NOW THEREFORE, The Association, by and through its Board of Directors, hereby recommends amending and clarifying the CC&Rs with the following:**

### **Article 1 Owners Responsibility:**

**Problem that now exists:** Many people now living in Gardens South come to the Board claiming they do not know the rules and regulations existing in Gardens South.

**Amendment 1** Owners are responsible for obtaining a copy of the CC&Rs from the President of the Board of Directors. Absentee owners are responsible for providing renters or those who are living in the unit with said copy.

**Amendment 2** Owners shall comply with Article 33. Lease of Units of the Declaration of Covenants Conditions and Restrictions. Owners will be held liable when renters or occupants are in violation of the rules governing the Association.

**Amendment 3** All garbage and refuse is to be deposited with care into the dumpsters.  
Note: The refuse contractor will not clean up around the dumpster so  
This is the owners responsibility. A fine may be levied for  
littering.

**Amendment 4** Littering in common areas and limited common areas is prohibited. Items will not be left or stored outside of any units designated storage locker. Stairways, balconies, carports and other common areas cannot be used as storage areas.

**Amendment 5** Monthly Association fees must be paid timely. There will be a (12%) late fee charged on any monthly fee over 90 days late.

**Amendment 6** No advertisements or political campaign signs will be allowed on the common areas of the Gardens South Complex.  
Note: This includes FORSALE or FOR RENT signs.

## **Article 2 Parking:**

**Problem that now exists:** Many visitors and renters because of limited parking in Gardens South, are parking in no parking areas or in parking areas that are designated for the parking of specific units.

### **Present rules regarding the parking of vehicles in Gardens South.**

1. Every unit in Gardens South has a attached garage or a designated numbered covered parking stall. There are enough uncovered parking places for each unit to have a uncovered parking area for a second car or guest parking.
2. Due to this limited parking we are asking each unit owner or renter to please use their garage or covered parking area.
3. The uncovered unnumbered parking areas are to be used on a first come bases.

**Amendment 1** Residents are required to ensure that their guests park only in an "extra" uncovered parking stall or in the owners covered parking stall. Double parking or parking in a "No Parking Zone" is strictly prohibited.

**Amendment 2** Parking in any area not designated by white stripe marks is strictly prohibited between the hours of 10:00 P.M. to 7:00 A.M.

**Amendment 3** Vehicles, that are inoperable, shall not be permitted to park in any of the open parking areas of the condominium facilities and no major repairs to vehicles may take place in the open parking areas.

**Amendment 4** Parking of recreational vehicles (boats, any trailers, motor homes, etc.) is not allowed in the complex. Vehicles in violation can be towed at owner's expense and owner will be fined.

**Amendment 6** Parking Violations will be handled by the Association in the following manner:

- 1<sup>st</sup> offense: A written warning notice will be left on Vehicle by a member or the board.
- 2<sup>nd</sup> offense: A fifty (\$50.00) charge will be assessed to owner of unit.
- 3<sup>rd</sup> offense the fine will raise to one hundred (\$100.00) and vehicle may be towed.

### Article 3 Pets:

**Problem that now exists:** Many residents own pets which are allowed to run free and are not cleaned up after when taken outside.

**Amendment 1** Pet guidelines will coincide with the City Code of St. George, Utah ordinances for pets or animals. (Copies can be obtained at the animal shelter or city office).

**Amendment 2** No pet may be kept that poses, threatens to pose, or in the reasonable judgment or the Board of Directors may pose or create any unreasonable risk or harm to the community or create a nuisance, or any pet which is dangerous or known to have dangerous propensities. The following would be considered dangerous or a possible nuisance.

- a. Doberman Pincers      b. Pit Bulls      c. Any Snake

**Amendment 3** Pets running at large. It is unlawful for the owner or person having charge, care, custody, or control of any pet to allow such pet at any time to run at large. The owner or person charged with control of the pet shall be liable for a violation. (Prior code 100-1-10) All pets and/or animals must be under the owner's control at all times.

**Amendment 4** Sec.6-2-9 Nuisance Act designated. Any owner or person having charge, care, custody or control of an animal shall be in violation of this title and subject to the penalties provided in this title. (B) The following shall be deemed a nuisance:

1. Any animal which:
  - A. Causes damages to the property of anyone other than its owner.
  - B. Is a vicious animal or acts as such.
  - C. Causes unreasonable fouling of the air by odors.
  - D. Causes unsanitary conditions in enclosures or surroundings.
  - E. Defecates on any public property sidewalk, park or building, or on any private property without the consent of the owner.
    - a. The person having control of the animal must remove such defecates immediately and place them in the proper trash receptacle.
  - G. Barks, shines, howls, or makes other disturbing noises in as excessive continuous or untimely fashion.
2. Pets are prohibited in the clubhouse, swimming pool area or any community facility.
3. Should the Board be required to take legal action against any person violating any of these rules, the Board is entitled to recover all attorneys fees and costs associated with such action.

**Article 4 Resident Conduct:**

**Problem that now exists:** There have been many incidents of loud, unruly, illegal and disruptive behavior especially during late evening and early morning hours.

**Amendment 1** No resident will perform or permit any unlawful and/or immoral practice to be committed on the premises: nor shall he permit units to be used as a boarding or lodging house for rooming or school purposes. Nor for any purpose which will increase the insurance rate: nor shall he keep or use on the premises inflammable fluids or explosives without the consent of the Board, nor will he use the premise for any purpose which will injure the reputation or which will disturb the tenants of the building or the inhabitants of the complex.

**Amendment 2** If the need for maintenance or repair is caused through the willful or negligent act of an owner, family members, guests, lessees, license or invitee's the cost of repairs will shall be paid by such owner.

**Amendment 3** No unit owner or tenant shall permit anything to be done or kept in his/her unit or on the common area which would result in the cancellation of insurance on the buildings or contents thereof or which would be in violation of any public law, ordinance or regulation.

**Amendment 4** Quiet hours are from 10:00 P.M. to 7:00 A.M..

**Amendment 5** Use of Common area is restricted to owners or lessee and their guests.

Note: 1. Guests are to be limited to 4 people unless otherwise authorized by the board.

2. Scheduling of Common Area by a owner or lessee for a party may be permitted upon approval of the board.

**Amendment 6** No Occupant may alter the outside of their unit or its deck by placing screens, satellite dish, CB or Ham radio antenna, clothes lines or using it as a storage unit.

## Article 5 Leasing and Rental of Units

**Problem that now exists:** Many of the units are being sold to investors and used as rental property. Federal guidelines for planned development areas are such that if more than twenty five percent (25%) of the units are rentals many times loans for purchase of homes will be rejected by Federal Lending agencies.

**Statement of reasons and goals of the following amendments:**

To avoid the communal ills, including among other things, rules violations, abuse and destruction of community and private property and the consequent increase in insurance premiums, and the diminished safety of the owners, associated with a high levels of tenancy, the Association deems restricting and regulating the manner of renting and number of rentals within the Gardens South community necessary and in the best interest of the owners.

**Section 5, A. of existing CC&Rs.** Leasing and renting of units by owners shall be in accordance with this Article on Leasing and renting of units. "Leasing or renting" of a unit means the granting of a right to use or occupy a unit for a specific term or an indefinite term (with rent stated on a periodic basis), in exchange for the payment of rent (money, property or other goods or service of value).

**Amendment 1** Due to the fact that Gardens South (as of July 2005) reached the limit of twenty- five percent (25%) of units now owned by investors and are being rented. Units can no longer be sold to investors for rental purposes.

**Note:** When the number of rentals drops below the 25% figure purchase of property for investment will be considered on a priority basis. See Amendment2, 4 below. All units being rented at the present time will be grandfathered in.

### Amendment 2

**1. Lease-Rental Limit.** Owners of units shall be subject to the following restrictions:

- A. All Units are single family units and limited to two non family association approved occupants.
- B. No owner or lessor may lease or rent less than the entire Unit.
- C. No unit may be leased or rented for a period of time less than 6 consecutive months.
- D. No unit may be leased or rented if the lease or rental results in more than twenty five percent (25%) of Units in Gardens South (the Lease-Rental Limit) being leased or rented at any given time. (Except as permitted by the board on a individual basis, for a specified time, due to hardship.)

**2. Twelve Month Occupancy Requirement / Application and Approval.**

Prior to leasing any unit, an owner shall have owned, occupied or left vacant their unit for twelve (12) consecutive months the ("**Residency requirement**") and then can apply to the Board of Directors for utilization as a rental unit.

A. The Board shall review the application and make a determination of whether the Owner has met the twelve month residency requirement and whether the proposed lease will exceed the Lease Limit stated above.

1. Approve the application if it determines that the Owner meets the Residency Requirement and that rental or lease will not exceed the Lease-Rental Limit  
OR

2. Deny the application if it determines that the rental or lease of the Condo does exceed the Lease-Rental Limit and the Owner has not met residence requirements.

**3. Multiple Units Ownership Limitation.**

An Owner who owns more than one unit is not eligible to rent more than one unit until the pending applications of all owners who are not currently renting or leasing a unit has been approved.

**4. Application Form; Approval Process; Waiting List.**

Any owner may submit his/her name to be placed on a waiting list to rent the unit when the Rental Limit of 25% is not met.

**Amendment 3 Approved Lease Agreement.** All owners shall use and provide the Board of Directors with a copy of the Gardens South Association Approved Residential Lease Agreement which shall be kept on file with the books and records of the Association so that the Association may determine the number of units rented or leased. The Approved Lease Agreement shall be on a form prescribed by resolution of the Board.

**Amendment 4 Violations of Rental Restriction.** If an Owner fails to submit the required application, fails to use and submit a copy of the Approved Lease Agreement and rents /or leases any unit after the Board of Directors has denied the Owner's application, the Board of Directors may assess fines against the Owner and the Owner's unit in an amount to be determined by the Board pursuant to a schedule of fines adopted by the Board. In addition, regardless of whether any fines have been imposed, the Board of Directors may proceed with any other available legal or equitable remedies, including but not limited to, an action to terminate the rental or lease agreement and removal of any tenant or lessee.

**Amendment 5 Termination of Lease or Rental Agreement for Violations.** In addition to any other remedies available to the Association, the Board of Directors may require the Owner to terminate a lease or rental agreement if the Board determines that any lessee or tenant has violated any provision of this Declaration, the Articles of Incorporation, the Bylaws, or any amendments thereto, or the Rules and Regulations adopted thereto. Notwithstanding anything contained herein to the contrary, the Association shall have legal and equitable standing as a third party beneficiary to enforce the provisions of the Governing Documents against an Owner or its tenant, including without limitation, levying fines against the Owner and Tenant and termination of the lease agreement.

## Article 6 Garage Units

**Problem that now exists:** Many of the Garage units were not attached to the resident units. Thus when people sold the resident unit they maintained ownership of the garage, the use of streets and use of the common area; However they stopped paying the Association's monthly fees.

The original CC&R's state: The garage units designated and Units G-1 thru G-18 are available for sale to Unit owners. The "G" garage units may not be owned by anyone who is not also a unit owner and the garage units shall be deemed limited common area, appurtenant to the unit to which it is associated.

**Amendment 1** Garage Units designated as G-1 thru G-18 are deemed as common area in Gardens South. In order to own any common area not attached to a unit, the owner/lease must pay the full monthly HOA associations fee. Thus anyone who owns a "G" numbered garage that is not attached to a unit will be required to make these payments.

**Amendment 2** Failure to pay Association fees will result in a lien being placed on the property with a 12% collection fee charged. This money will be collected upon sale of the garage.



## Gardens South Residential Lease Agreement

All owners or their agents will complete this form and deliver it to the President of the Board of Directors for Gardens South Condominium Complex (currently Lee Scott 628-7132 ) for approval prior to Lessor or Renter taking occupancy in the complex. This form shall be kept on file with the books and records of the Association so that the Association may determine the number of units rented or leased and the identity of the occupants.

**Termination of Lease or Rental Agreement for Violations.** In addition to any other remedies available to the Association, the Board of Directors may require the Owner or his/her authorized agent, to terminate a lease or rental agreement if the Board determines that any lessee or tenant has violated any provision of this Declaration, the Articles of Incorporation, the Covenants, Conditions & Regulations (CC&Rs), or the Rules and Regulations adopted thereto. Notwithstanding anything contained herein to the contrary, the Association shall have legal and equitable standing as a third party beneficiary to enforce the provisions of the lease.

### Residential Rental Agreement

Rent for the period from \_\_\_\_\_ to \_\_\_\_\_.

**Term:** The term hereof shall commence on \_\_\_\_\_ and continue as agreed in the lease/rental agreement between the two parties.

### PERSONAL DATA

Gardens South address \_\_\_\_\_ Landlord \_\_\_\_\_

Tenant \_\_\_\_\_ Date of Birth \_\_\_\_\_  
Social Security No. \_\_\_\_\_

Co-Tenant \_\_\_\_\_ Date of Birth \_\_\_\_\_  
Social Security No. \_\_\_\_\_

Home Tele. No. \_\_\_\_\_ Business or Work No \_\_\_\_\_

Previous Address \_\_\_\_\_

How Long \_\_\_\_\_ Landlord \_\_\_\_\_ Tele No. \_\_\_\_\_

Occupants

And ages \_\_\_\_\_

Car/Cars make \_\_\_\_\_ Year \_\_\_\_\_ Model \_\_\_\_\_ License No \_\_\_\_\_

**OCCUPATION**

Present Occupation \_\_\_\_\_  
 Employer \_\_\_\_\_  
 Type of Business \_\_\_\_\_  
 Name of Superior \_\_\_\_\_  
 How Long Employed \_\_\_\_\_  
 Prior Occupation \_\_\_\_\_  
 Co-tenants Occupation \_\_\_\_\_  
 Employer \_\_\_\_\_

**REFERENCES**

Relative:  
 Relationship \_\_\_\_\_ Tele. Phone \_\_\_\_\_ Address \_\_\_\_\_

Non Relative (2)  
 Tele. Phone \_\_\_\_\_ Address \_\_\_\_\_  
 Tele. Phone \_\_\_\_\_ Address \_\_\_\_\_

Have you ever been evicted from a tenancy? \_\_\_\_\_ If yes, explain why.  
 \_\_\_\_\_

Have you in the last 5 years been arrested for violation of a felony crime? \_\_\_\_\_

I have read the CC&Rs governing conduct of occupants living in Gardens South and agree to live by them \_\_\_\_\_.

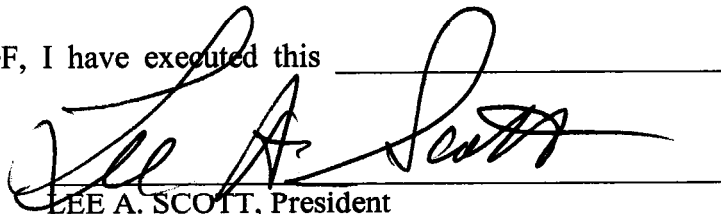
I agree that the Landlord, his Agent, and/or Third Party Gardens South Board of Directors may terminate any agreement entered into in reliance on any false information given in the above statements. \_\_\_\_\_.

I agree that the Landlord, his Agent, and/or Third Party Gardens South Board of Directors may terminate the lease agreement if any of the occupants are arrested for any felony while living in Gardens South Complex. \_\_\_\_\_.

I agree that repeated acts (3) of violations of the CC&Rs of Gardens South Complex can be considered by the Board of Directors as reason to have lease or rental agreement terminated. \_\_\_\_\_.

**I DECLARE THE FOREGOING TO BE TRUE UNDER THE PENALTY OF PERJURY.** Signed \_\_\_\_\_ Lessee.

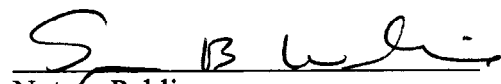
IN WITNESS WHEREOF, I have executed this  
this 19 day of January, 2006.

  
LEE A. SCOTT, President  
Garden South Homeowners Association

STATE OF UTAH                    )  
  :SS.  
WASHINGTON COUNTY    )

On the 18 day of January, 2006, personally appeared before me Lee A. Scott, as President of the Garden South Homeowners Associatio, who is personally known to me or who has proven to me upon satisfactory evidence to be the same person who executed the foregoing instrument, and who duly acknowledged before me that he executed the same.



  
Notary Public