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AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
CAPRI PARK HOMES  
OWNERS ASSOCIATION  
(including Association Bylaws)  
(An Age Restricted Community)

## HOUSING FOR OLDER PERSONS

*The following provisions create an "age restricted community" consistent with the Federal Fair Housing Laws. These provisions are drafted with the rights and interests of those persons 55 years of age or older in mind to provide the quality of life that Capri Park provides. As such it is the policy of the Capri Park Homes Owners Association to prohibit permanent residence of persons under 18 years of age as is permitted under an exemption of the Act. No condominium may be occupied by any person under eighteen years of age, except that such persons under eighteen may be permitted to visit for reasonable periods.*

# TABLE OF CONTENTS

## RECITALS

## ARTICLE I

### Definitions

Section 1.1: <i>Act</i> .....	7
Section 1.2: <i>Association</i> .....	7
Section 1.3: <i>Common Areas and Facilities</i> .....	7
Section 1.4: <i>Common Expenses</i> .....	7
Section 1.5: <i>Common Profits</i> .....	7
Section 1.6: <i>Declaration</i> .....	7
Section 1.7: <i>Family</i> .....	8
Section 1.8: <i>Fines</i> .....	8
Section 1.9: <i>Limited Common Areas and Facilities</i> .....	8
Section 1.10: <i>Management Committee or Committee</i> .....	8
Section 1.11: <i>Manager</i> .....	8
Section 1.12: <i>Mortgage</i> .....	8
Section 1.13: <i>Mortgagee</i> .....	8
Section 1.14: <i>Percentage Interest</i> .....	8
Section 1.15: <i>Person</i> .....	8
Section 1.16: <i>Project Documents</i> .....	8
Section 1.17: <i>Property or Project</i> .....	8
Section 1.18: <i>Record of Survey Map or Maps</i> .....	8
Section 1.19: <i>Resident</i> .....	8
Section 1.20: <i>Size</i> .....	8
Section 1.21: <i>Unit</i> .....	8
Section 1.22: <i>Unit Number</i> .....	9
Section 1.23: <i>Unit Owner or Owner</i> .....	9

## ARTICLE II

### Submission

Section 2.1: <i>Submission</i> .....	9
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## ARTICLE III

### Enforcement of Covenants, Conditions, Restrictions

Section 3.1: <i>Compliance</i> .....	9
Section 3.2: <i>Remedies</i> .....	9
Section 3.3: <i>Action by Owners</i> .....	10
Section 3.4: <i>Injunctive Relief</i> .....	10
Section 3.5: <i>Notification of First Mortgagee</i> .....	10

## ARTICLE IV

### Improvements

Section 4.1: <i>Description of Improvements</i> .....	10
Section 4.2: <i>Description and Legal Status of Units</i> .....	10
Section 4.3: <i>Contents of Exhibit "B"</i> .....	11

<b>ARTICLE V</b>	
<b>Common Areas; Unit Maintenance</b>	
Section 5.1: <i>Common and Limited Common Areas</i> .....	11
Section 5.2: <i>Unit Maintenance</i> .....	11
<b>ARTICLE VI</b>	
<b>General and Specific Easements</b>	
Section 6.1: <i>Easement for Encroachment</i> .....	12
Section 6.2: <i>Access for Repair of Common Areas</i> .....	12
Section 6.3: <i>Emergency Repairs</i> .....	12
Section 6.4: <i>Right of Ingress, Egress</i> .....	12
Section 6.5: <i>Pipes, Ducts, Cables, Wires, Etc</i> .....	13
Section 6.6: <i>Easement to Management Committee and Manager</i> .....	13
Section 6.7: <i>Easement for Utility Services</i> .....	13
<b>ARTICLE VII</b>	
<b>Use Restrictions</b>	
Section 7.1: <i>Use of Units - Residential Use</i> .....	13
Section 7.2: <i>No Obstruction of Common Areas</i> .....	13
Section 7.3: <i>Cancellation of Insurance</i> .....	13
Section 7.4: <i>Rules and Regulations</i> .....	14
Section 7.5: <i>Structural Alterations</i> .....	14
Section 7.6: <i>Window Coverings</i> .....	14
Section 7.7: <i>Signs</i> .....	14
Section 7.8: <i>Pets</i> .....	14
Section 7.9: <i>Storage and Parking of Vehicles</i> .....	15
Section 7.10: <i>Leasehold Restrictions</i> .....	15
Section 7.11: <i>Aerials, Antennas and Satellite Dishes</i> .....	17
Section 7.12: <i>Timeshares</i> .....	17
<b>ARTICLE VIII</b>	
<b>Management Committee; Powers; Composition</b>	
Section 8.1: <i>Status and General Authority of Management Committee</i> .....	17
Section 8.2: <i>Composition of Committee and Selection Thereof</i> .....	18
<b>ARTICLE IX</b>	
<b>Assessments</b>	
Section 9.1: <i>Covenant for Assessment</i> .....	19
Section 9.2: <i>Annual Budget &amp; Assessment</i> .....	19
Section 9.3: <i>Apportionment of Assessment</i> .....	20
Section 9.4: <i>Personal Obligation &amp; Costs of Collection</i> .....	20
Section 9.5: <i>Special Assessments</i> .....	20
Section 9.6: <i>Individual Assessments</i> .....	21
Section 9.7: <i>Nonpayment of Assessments</i> .....	21
Section 9.8: <i>Lien for Assessment</i> .....	21
Section 9.9: <i>Subordination of Lien to Mortgages</i> .....	21
Section 9.10: <i>Enforcement of Lien</i> .....	21
Section 9.11: <i>Suspension of Voting Rights</i> .....	22
Section 9.12: <i>Reserve Account</i> .....	22
Section 9.13: <i>Absentee Owner Failure to Pay Assessments</i> .....	22

<b>ARTICLE X</b>		
	<b>Insurance</b>	
	Section 10.1: <i>Insurance</i> .....	22
	Section 10.2: <i>Damage to Project</i> .....	25
<b>ARTICLE XI</b>		
	<b>Mortgagee Protection</b>	
	Section 11.1: <i>Mortgagee Protection</i> .....	25
<b>ARTICLE XII</b>		
	<b>Housing for Older Persons</b>	
	Section 12.1: <i>Compliance</i> .....	27
	Section 12.2: <i>Advertising, Marketing, and Sales</i> .....	28
	Section 12.3: <i>Approved Occupancy</i> .....	28
	Section 12.4: <i>Resale or Rental</i> .....	29
	Section 12.5: <i>Occupancy by at Least One Person 55 or Older per Condominium</i> .....	30
	Section 12.6: <i>Applicability</i> .....	31
<b>ARTICLE XIII</b>		
	<b>Miscellaneous</b>	
	Section 13.1: <i>Amendment</i> .....	31
	Section 13.2: <i>Consent Equivalent to Vote</i> .....	31
	Section 13.3: <i>Service of Process</i> .....	31
	Section 13.4: <i>Duty of Owner to Pay Taxes on Unit Owned</i> .....	31
	Section 13.5: <i>Covenants to Run with Lands; Compliance</i> .....	31
	Section 13.6: <i>Information Regarding Transferee of Unit</i> .....	32
	Section 13.7: <i>Indemnification of Management Committee</i> .....	32
	Section 13.8: <i>Invalidity</i> .....	32
	Section 13.9: <i>Waiver</i> .....	32
	Section 13.10: <i>Gender</i> .....	32
	Section 13.11: <i>Topical Headings</i> .....	32
	Section 13.12: <i>Conflicts</i> .....	32
	Section 13.13: <i>Effect of Recorded Instruments</i> .....	32
	Section 13.14: <i>Effective Date</i> .....	33
<b>EXHIBIT A</b>		
	Legal Description.....	34
<b>EXHIBIT B</b>		
	Description and Percentage Interest of Units.....	35
<b>EXHIBIT C</b>		
	Bylaws.....	38

**THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS and RESTRICTIONS** is made and executed on the date evidenced below by the Capri Park Homes Owners Association, a Utah Nonprofit Corporation, (hereinafter referred to as "the Association"), pursuant to the provisions of the Utah Condominium Ownership Act (the "Act"), Title 57-8-1 et seq. of the Utah Code (1953), as may be amended from time to time.

**RECITALS**

A. This Amended and Restated Declaration of Covenants, Conditions and Restrictions supercedes and replaces in its entirety that previously recorded Declaration recorded on July 29, 1974 as Entry No. 2639289, Book 3641 , Page 381 et seq., in the Salt Lake County Recorder's office and the Amendment thereto recorded on April 21, 1999, as Entry No. 7328351, Book 827, Page 517 et seq., in the Salt Lake County Recorder's office and any and all supplemental Declarations, Bylaws or Amendments thereto.

B. Association. The Association is the authorized representative of the owners of certain real property known as Capri Park Homes, located in Salt Lake County, Utah and more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Project");

C. Existing Project. The Project consists of twenty-eight (28) residential buildings consisting of a total of one hundred twenty (120) Units and certain Common Area and Facilities.

D. Binding Effect. These covenants, conditions, restrictions, easements and limitations shall run with the said real property and shall be binding on all parties having or acquiring any right, title or interest in the described real property or any part thereof and shall inure to the benefit of each owner thereof and are imposed upon said real property and every part thereof as a servitude in favor of each and every parcel thereof as the dominant tenement or tenements.

E. Purpose. It is intended that all Owners, guests, invitees and residents abide by these covenants, conditions and restrictions in order to maintain property values and a desirable living environment.

NOW, THEREFORE, for the benefit of the Project and the Unit Owners thereof, the Association hereby executes this Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Association, for and on behalf of all of the Unit Owners.

## ARTICLE I

### DEFINITIONS

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When used in this Declaration (including in that portion hereof headed "Recitals" and in the Bylaws attached hereto as **Exhibit "C"**) the following terms shall have the meaning indicated.

**1.1 Act** shall mean and refer to the Utah Condominium Ownership Act (Section 57-8-1, et seq., Utah Code Annotated, 1953), as amended from time to time.

**1.2 Association** shall mean and refer to the Capri Park Homes Owners Association. Every Unit Owner shall automatically be a member of the Association. Membership in the Association shall be appurtenant to the Unit in which the Owner has the necessary interest, and shall not be separated from the Unit to which it appertains. The property, business and affairs of the Association shall be governed by the Management Committee.

**1.3 Common Areas and Facilities** shall mean, refer to, and include:

(a) The real property and interests in real property which this Declaration submits to the terms of the Act.

(b) All Common Areas and Facilities designated as such in the Survey Map.

(c) All Limited Common Areas and Facilities.

(d) All foundations, roofs, columns, girders, beams, supports, and perimeter walls constituting a portion of or included in the improvements which comprise a part of the Project, and any entrances and exits which are designed for the use of more than one Unit.

(e) All installations for and all equipment connected with the furnishing of Project utility services, such as electricity, gas, water and sewer.

(f) In general all apparatus, installations, and facilities included within the Project and existing for common use.

(g) The Project outdoor lighting, fences, landscape, sidewalks, parking spaces, and roads.

(h) All portions of the Project not specifically included within the individual Units.

(i) All other parts of the project normally in common use or necessary or convenient to its use, existence, maintenance, safety, or management.

(j) All common areas as defined in the Act, whether or not enumerated herein.

**1.4 Common Expenses** shall mean and refer to all sums which are expended on behalf of all the Unit Owners and all sums which are required by the Management Committee to perform or exercise its functions, duties, or rights under the Act, this Declaration, the Management Agreement for operation of the Project, and such rules and regulations as the Management Committee may from time to time make and adopt.

**1.5 Common Profits** shall mean and refer to the balance of income, rents, profits and revenues from the Common Areas remaining after deduction of the Common Expenses.

**1.6 Declaration** shall mean and refer to this instrument and as it may be amended from time to time.

**1.7 Family** shall mean and refer to Family and/or "Single Family" as defined by the Salt Lake City zoning ordinances or any other applicable State or local laws.

**1.8 Fines** shall mean all sums levied for violations of these covenants and restrictions, the bylaws of the Association, and any rules and regulations duly adopted. Fines shall be collectable as an unpaid assessment.

**1.9 Limited Common Areas and Facilities** shall mean and refer to those Common Areas and Facilities designated herein or on the appropriate Record of Survey Map as reserved for the use of a certain Unit or Units to the exclusion of the other Units. Limited Common Areas consist of the patio areas adjacent to the Units indicated on the appropriate Record of Survey Map and the carport areas as are the entrances and exits of each Unit although not indicated on the appropriate Record of Survey Map.

**1.10 Management Committee or Committee** shall mean and refer to the Management Committee of Capri Park Homes as it exists at any given time.

**1.11 Manager** shall mean and refer to the manager retained by the Management Committee to oversee the day-to-day operations of the Association and to enforce the covenants, conditions, and restrictions applicable to this community. A Manager may be a full-time employee/resident of the Project.

**1.12 Mortgage** shall mean any mortgage, deed of trust or other security instrument by which a Unit or any part thereof is encumbered.

**1.13 Mortgagee** shall mean a beneficiary of a deed of trust as well as named

Mortgagee.

**1.14 Percentage Interest** shall mean and refer to the undivided ownership interest of each Unit in the Common Areas as set forth in Exhibit "B" attached hereto.

**1.15 Person** shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

**1.16 Project Documents** shall mean and refer to the Declaration of Condominium, Bylaws and Rules and Regulations.

**1.17 Property or Project** shall mean and refer to the land, described in Exhibit "A," the buildings, all improvements and the structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property, belonging to the Association, intended for use in connection therewith.

**1.18 Record of Survey Map or Maps** shall mean and refer to the Record of Survey Maps filed herewith.

**1.19 Resident** shall mean and refer to any person living or staying at the Project. This includes but is not limited to all lessees, tenants, and the family members of Owners, tenants or lessees.

**1.20 Size** shall mean and refer to the square footage of each Unit, as depicted on the Map.

**1.21 Unit** shall mean and refer to one of the one-hundred twenty (120) Units which is designed as a Unit on the Record of Survey Map and in Exhibit "B" attached hereto (and incorporated herein by this reference). Unless a wall on the perimeter of a Unit separates and is common to two or



more Units, such perimeter wall shall constitute a part of the Unit to which it relates. All vertical and horizontal perimeters and boundaries within a Unit and the surfaces of any floors, ceilings, or coverings which bound it shall be part of the Unit. A Unit shall not include pipes, wires, conduits, or other utility lines running through it which are utilized for or which serve more than one Unit.

**1.22 Unit Number** shall mean and refer to the number, letter, or combination thereof which designates a Unit on the Map.

**1.23 Unit Owner or Owner** shall mean and refer to the owner of the fee in a Unit and the percentage of undivided interest in the Common Areas and Facilities which is appurtenant thereto. In the event a Unit is the subject of an executory Contract of sale, the contract purchaser shall, unless the seller and the purchaser have otherwise agreed and have informed the Committee in writing of such agreement, be considered the Unit Owner for purposes of voting and Committee membership.

## **ARTICLE II**

### ***SUBMISSION***

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#### **2.1 Property Submitted.**

There is hereby submitted to the provisions of the Act, as the Property initially associated with the Capri Park Homes, the real property situated in Salt Lake County, particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference, subject to the easements, reservations and other provisions set forth in said **Exhibit "A."**

## **ARTICLE III**

### ***ENFORCEMENT OF COVENANTS, CONDITIONS, RESTRICTIONS***

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#### **3.1 Compliance.**

Each Owner, tenant or occupant of a Unit shall comply with the provisions of this Declaration, the Bylaws, and the rules and regulations adopted pursuant to the Declaration and Bylaws and any applicable statute. Failure to comply therewith shall be grounds for sanctions (e.g., fines) and/or an action or suit maintainable by the Association or an aggrieved Owner.

#### **3.2 Remedies.**

Violation of any provisions of this Declaration, the Bylaws or any rules or regulations adopted pursuant to the Declaration or Bylaws, or of any decision of the Association made pursuant to such documents, shall give the Management Committee acting on behalf of the Association, in addition to any other rights set forth in this Declaration or the Bylaws, or under law, to do, any or all of the following after giving notice and an opportunity to be heard:

(a) After fifteen (15) days written notice, to enter any Unit which or as to which such violation exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the Management Committee shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished;

(b) To enjoin, abate, or remedy such thing or condition by appropriate legal

proceeding;

(c) To levy reasonable fines pursuant to a schedule of fines adopted by resolution of the Management Committee a copy of which has been delivered to each Owner, mailed to the mailing address of the Unit or mailed to the mailing address designated by the Owner in writing to the Association;

(d) If collectively metered and billed, to terminate the right to receive utility services paid for out of assessments or, except for the right to an assigned parking space, to terminate the right of access to and use of recreational and service facilities of the Association, until the correction of the violation has occurred; or

(e) To suspend the voting rights of the Owners, after notice and a hearing, for any infraction of any of the published rules and regulations of the Association or of this Declaration until such time as the infraction is cured.

(f) To bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration, the Bylaws and any rules or regulations adopted pursuant thereto.

### **3.3 Action by Owners.**

Subject to any limitation imposed under this Declaration, the Bylaw or Utah law, an aggrieved Owner may bring an action against such other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

### **3.4 Injunctive Relief.**

Nothing in this section shall prevent an Owner, the Association, or other interested party from resort to a court of competent

jurisdiction in those instances where injunctive relief may be appropriate.

### **3.5 Notification of First Mortgagee.**

The Management Committee may notify in writing any first Mortgagee of any individual Unit of any default in performance of the terms of this Declaration by the Unit Owner which is not cured within sixty (60) days provided such Mortgagee has requested in writing to be so notified.

## **ARTICLE IV**

### **IMPROVEMENTS**

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#### **4.1 Description of Improvements.**

The improvements included in the Project are now located on the Property described in said **Exhibit "A,"** and all such improvements are described on the appropriate Record of Survey Map. The significant improvements contained in the Project include covered parking stalls for the owners and uncovered parking stalls for visitors. The Project also contains other improvements of a less significant nature such as outdoor lighting and landscaping.

The buildings are composed of the following materials: wood frame with load and non-load bearing walls studded with wood; all floors composed of wooden joists covered with plywood and concrete; wooden truss joists roofs with plywood; roofs surfaced with membrane and/or asphalt shingles; interior walls surfaced with drywall; and exteriors surfaced with brick; designated parking stalls covered with membrane roofs and wood siding.

#### **4.2 Description and Legal Status of Units.**

The Map shows the Units and building designation, its location, dimensions from

which its area may be determined, those Limited Common areas which are reserved for its use, and the Common Areas to which it has immediate access. All Units shall be capable of being independently owned, encumbered, and conveyed.

#### **4.3 Contents of Exhibit "B" and Computation of Percentage Interests**

Exhibit "B" to this Declaration furnishes the following information with respect to each Unit: (a) The Unit Designation and (b) The percentage interest of undivided ownership interest in the common areas which is appurtenant to the Unit. With respect to Percentage Interest, to avoid a perpetual series of digits and to obtain a total of one hundred percent (100%), the last digit has been adjusted, and rounded up or down to a value that is most nearly correct.

### **ARTICLE V**

#### **COMMON AREAS; UNIT MAINTENANCE**

##### **5.1 Common and Limited Common Areas.**

(a) The Common Areas contained in the Project are described and identified in Articles I and II of this Declaration.

Neither the Percentage Interest nor the right of exclusive use of a Limited Common Area shall be separated from the Unit to which it appertains; and, even though not specifically mentioned in the Instrument of Transfer, the Percentage Interest and such right of exclusive use shall automatically accompany the transfer of the Unit to which they relate.

Each Unit Owner shall, at his own cost, keep the Limited Common Areas designed for exclusive use in connection with his Unit in a clean, sanitary and attractive condition at all times.

(b) The use of the Common Areas shall be limited to the Owners in residence and to their tenants in residence, and to their guests, invitees and licensees. The use of each of the Limited Common Areas shall be restricted to the Owner of the Unit to which it is appurtenant, to his tenants in residence, and to his guests, invitees and licensees.

The use of the Common Areas and Limited Common Areas shall be governed by the Declaration and the Rules and Regulations as initially established by Declarant and as adopted and amended from time to time by the Management Committee.

(c) Notwithstanding any other provision of this Declaration, any Limited Common Area to which a condominium Unit has sole access shall be for the exclusive use of the Owner of such condominium Unit. Such Unit Owner shall keep the Limited Common Area free and clean of snow, ice and any accumulation of water and shall make all repairs thereto.

##### **5.2 Unit Maintenance.**

Each Owner shall at his own cost and expense maintain, repair, paint, re-paint, tile, wax, paper or otherwise refinish and decorate the interior surfaces of the walls, ceilings, floors, windows, and doors forming the boundaries of his Unit and all walls, ceiling, floors, windows and doors within such boundaries.

In addition to decorating and keeping the interior of their Units in good repair and in a clean and sanitary condition, they shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heater, heating equipment, air conditioner, lighting fixtures, refrigerator, dishwasher, disposal equipment, range, or other appliances or fixtures that may be in, or connected with, his Unit. Each Unit shall be maintained so as not to detract from the appearance of the Project and so as not to affect adversely the value or use of any other Unit. Exterior doors and windows shall be maintained by owner but must accord with styles, shapes and colors approved by the Committee.

## **ARTICLE VI**

### ***GENERAL AND SPECIFIC EASEMENTS***

#### ***6.1 Easement for Encroachment.***

If any part of the Common Areas encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance for the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance shall and does exist. Such encroachments shall not be considered to be encumbrances either to the Common Areas or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the building(s) on the tract, by error in the appropriate Record of Survey Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

#### ***6.2 Access for Repair of Common Areas.***

Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of the other Units shall have the irrevocable right, to be exercised by the Management Committee, as its agent, to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas or to another Unit or Units. The Committee shall also have such rights independent of the agency relationship.

#### ***6.3 Emergency Repairs.***

Damage to the interior of any part of a Unit or Units resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Areas or as a result of emergency repairs within another Unit at the insistence of the Committee shall be the responsibility of the Association; provided, that if such damage is the result of negligence of the Owner of a Unit, then such Owner shall be financially responsible for all such damage. Such damage shall be repaired and the property shall be restored substantially to the same condition as existed prior to the damage. Amounts owing by Owners pursuant hereto shall be collected by the Committee by assessment of said Owner.

#### ***6.4 Right of Ingress, Egress.***

Each Owner, the tenant, guest or invitee, shall have the right to ingress and egress over, upon and across the Common Areas necessary for access to his Unit, and to the Limited Common Areas designated for use

in connection with their Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

**6.5 Pipes, Ducts, Cables, Wires, Conduits, Public Utility Lines, and Other Common Facilities Located Inside of Units; Support.**

Each Unit Owner shall have an easement in common with the Owners of all other Units to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Facilities located in any of the other Units and serving his Unit.

Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the pipes, ducts, cables, wires, conduits, public utility lines and other Common Facilities serving such other Units and located in such Unit.

The Management Committee shall have a right of access to each Unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the common areas contained therein or elsewhere in the buildings. Every portion of a Unit which contributed to the structural support of the building shall be burdened with an easement for the benefit of all other Units and the Common Areas.

**6.6 Easement to Management Committee and Manager.**

The Management Committee and Management Company, if any, shall have non-exclusive easements to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which they are obligated or permitted to perform pursuant to this Declaration.

**6.7 Easement for Utility Services.**

There is hereby created a blanket easement upon, across, over and under the property described in "Exhibit A" for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to, water, sewers, gas, telephones, electricity, and other utility services.

**ARTICLE VII**

***USE RESTRICTIONS***

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**7.1 Use of Units - Residential Use.**

Each of the Units in the Project is limited to residential use only. Each Unit and Owner is subject to the uses and restrictions imposed by such restrictions (including any parking restrictions).

**7.2 No Obstruction of Common Areas.**

There shall be no obstructions of the Common Areas by the Owners, their tenants, guests or invitees without the prior written consent of the Committee. The Committee may by Rules and Regulations prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all the Owners or protecting the Units or the Common Areas.

Nothing shall be kept or stored, on any part of the Common Areas without the prior written consent of the Committee, except as specifically provided herein. Nothing shall be altered on, constructed in or removed from the Common Areas except upon the prior written consent of the Committee.

**7.3 Cancellation of Insurance.**

Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would result in the cancellation of the insurance on the Project or any part thereof or

increase the rate of the insurance on the Project or any part thereof over what the Committee, but for such activity, would pay, without the prior written consent of the Committee.

Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Committee and the Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees.

No noxious, destructive or offensive activity shall be carried on in any Unit or in the Common Areas or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project.

#### **7.4 Rules and Regulations.**

No Owner shall violate the Rules and Regulations for the use of the Units and of the Common Areas as adopted from time to time by the Management Committee. Said Rules and Regulations shall be adopted and enforced pursuant to the terms of Utah's Condominium Act, as may be amended from time to time.

#### **7.5 Structural Alterations.**

No structural alterations to any Unit shall be made by any Owner without the prior written consent of the Committee.

#### **7.6 Window Coverings.**

Window coverings of any and all Units shall consist of wood shutters, mini-blinds, drapes, woven wood coverings, curtains or other customary coverings. The Management Committee may require that certain colors and types of window coverings be used.

Under no circumstances shall any cardboard, tinfoil, wood, sheets, tarps, etc. be used as window coverings in the Project.

#### **7.7 Signs**

No industry, business, trade or occupation of any kind, whether commercial, educational, charitable, or for other purposes shall be conducted, maintained or permitted on any part of the condominium property except as may be permitted by the Management Committee and subject to the rules and regulations of the Association. Nor shall any "For Sale" or "For Rent" signs or other window displays or advertising be maintained or permitted by a Unit Owner on any part of the condominium property or in any Unit therein, *EXCEPT* that the Association or Management Committee or its agents or representatives may place or expressly permit a "For Sale" sign on any Units or on the condominium property for the purpose of facilitating the sale of Unit by any Unit Owner, mortgagee, or the Association of Unit Owners.

#### **7.8 Pets**

It is intended that Capri Park Homes shall be an entirely pet free community. Dogs, cats or other household pets shall not be permitted. Nothing herein, however, shall be construed or enforced to violate any Fair Housing Laws regarding companion or assistance animals. Such pets shall be considered "authorized and permitted pets." Owners with "authorized and permitted pets," as of the date of the

recording of this Amended and Restated Declaration, shall register their pet with the Association evidencing that the pet has been vaccinated, is licensed with the municipality, and complies with all other pet rules adopted by the Management Committee. Owners of properly authorized and permitted pets shall be responsible in all respects to ensure that any odors, hair, dander, droppings or other matters associated with such pets (e.g., nuisances and disturbances) are promptly cleaned up and cause no damage to the common areas or unreasonably affect other unit owners.

### **7.9 Storage and Parking of Vehicles**

No inoperable, unlicensed nor uninsured motor vehicles or trailers, including but not limited to any commercial vehicles or trailers (either with or without wheels), camper trailers, boats or other water craft, boat trailers, or any other transportation devices (excluding motorcycles) of any kind may be parked or stationed in or in front of any parking stall, walkway, Unit or Common Area.

Each Unit will be assigned parking spaces as established and set forth in the attached Exhibit "B." The parking of additional vehicles, if any, shall be established by rules and regulations of the Committee.

Visitors may only park their motor vehicles temporarily in designated "guest" spaces in accordance with the Parking Rules and Regulations promulgated by the Management Committee.

No Owners or occupants shall repair or restore any motor vehicle of any kind upon any Unit or Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

Motor Vehicles parked in unauthorized areas, or in violation of the parking rules and regulations established by the Management Committee may, at owner's expense, be towed away.

All parking spaces shall be used for the purpose of parking motor vehicles and shall not be used as storage facilities as set forth and further defined in the rules of the Association.

### **7.10 Leasehold Restrictions**

A unit owner intending to make a bona fide sale or lease of a unit or any interest therein shall give to the management committee notice of such intention together with the name and address of the intended purchaser or lessee and such other information concerning the intended purchase or lease as the management committee may reasonably require. Provided, however:

(a) All Units in the Project must be owner-occupied and the leasing of Units is prohibited in order for the Association to: (1) protect the equity of the individual property owners at the Capri Park Homes Condominium Project (the "Project"); (2) carry out the purpose for which the Project was formed by preserving the character of the Project as a homogeneous residential community of predominantly owner-occupied Units and by preventing the Project from assuming the character of an apartment, renter-occupied complex; and (3) comply with the eligibility, requirements for financing in the secondary mortgage market insofar as such criteria provide that the project be substantially owner-occupied, leasing of a Unit or Units shall be prohibited, except in the case of undue hardship as provided below.

The term "owner-occupied" means occupied by the vested owner of record or his spouse, son, daughter, mother or father.

(b) Hardship Exception. The Management Committee, in its sole discretion, shall be empowered to allow reasonable leasing of Units upon written application to avoid undue hardship on an Owner.

(c) Application for Hardship Exception. Any Owner who believes that he must lease his Unit to avoid undue hardship shall submit a written application to the Management Committee setting forth the circumstances necessitating the leasing, a copy of the proposed lease, and such other information as the Management Committee may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Management Committee's written approval of the Owner's application. If a lease is approved, a copy of the lease, signed by the lessee and lessor, shall be submitted to the Management Committee within ten (10) days after it has been signed by both parties.

(d) General Leasing Restrictions. Rules and Regulations. The Management Committee shall have the power to make and enforce reasonable rules and regulations (and to levy fines for violations), in accordance with the Declaration and Bylaws, in order to enforce the provisions of this Section. Any transaction which does not comply with this Section shall be voidable at the option of the Management Committee. Any agreement for the leasing, renting, or occupying of a Unit (the "lease") shall be in writing and a copy thereof shall be delivered to the Management Committee upon request. By virtue of taking possession of a Unit, each resident agrees to be subject to and abide by these restrictive covenants, further agrees that any covenant violation shall be deemed to constitute a default under the lease.

The right to use the amenities (e.g. pool, golf course) is shared by the occupants of the Units, not the Owners. In other words, absentee Owners who rent out their Unit may not use the facilities and amenities during any time that they have tenants residing in their Unit.

If a hardship exception is granted, no Owner shall be permitted to lease his Unit for short term, transient, hotel, seasonal, vacation or corporate use purposes. Daily or weekly rentals are prohibited. No Owner may lease individual rooms to separate persons or lease less than his entire Unit.

In the event of a permitted rental, Owner shall be required to ensure that their tenants comply with all terms of the Declaration and Bylaws and Association rules. If within ten (10) days after delivery of written notice of a nuisance or material violation of these restrictive covenants by the occupants of his Unit, the Owner shall proceed promptly to take measures to abate the nuisance, cure the default or evict the occupants, and notify the Management Committee in writing of his intentions.

All permitted rentals shall be consistent with the age restrictions set forth in this Declaration.

(e) Grandfather Clause. Anything to the contrary notwithstanding, the foregoing restrictions shall not apply to the Units (the "Grandfathered Units") noted below. The Grandfathered Units may continue to be leased without restriction for so long as record title to said Units remains vested in the name of the respective Owner(s) thereof (the "Grandfathered Owner(s)"). The term "Grandfathered Owner" shall include a succeeding "Trust" or other legal "Person" (the "Qualified Successor Owner(s)") in which the Grandfathered Owner or such Owner's spouse, son, daughter, father or mother holds a beneficial interest in such



Qualified Successor Owner of at least fifty percent (50%). Upon the conveyance of the Grandfathered Unit by the Grandfathered Owner or Qualified Successor Owner, the said Unit shall immediately become subject to the restrictions, set forth above.

<u>Unit No.</u>	<u>Owner(s)</u>
33	Coles
39	Ekstrom
74	Leahy
76	Taylor
79	Lindquist
92	Ekstrom
94	Jewkes

**7.11 *Aerials, Antennas and Satellite Dishes.***

It is the intent that this policy not be inconsistent, incongruent or in conflict with applicable local, state and federal legislation. Aerials, antennas and satellite dishes shall be prohibited within the Project, except (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; (b) antennas or satellite dishes designed to receive video programming services via multipoint distribution services which are one meter or less in diameter or diagonal measurement. (hereafter referred to as "Permitted Devices") shall be subject to the following:

The Management Committee may adopt rules establishing a preferred hierarchy of alternative locations and require screening of all Permitted Devices, so long as such rules do not unreasonably increase the cost of installation, maintenance, or use of the Permitted Device. Anything to the contrary notwithstanding, no Permitted Device may be located in the common area without the express prior written consent of the Management Committee. Permitted Devices may only be installed in, on or

within property which a party owns or is subject to his exclusive use.

**7.12 *Timeshares.***

Timeshares are prohibited.

**ARTICLE VIII**

**MANAGEMENT COMMITTEE; POWERS; COMPOSITION**

**8.1 *Status and General Authority of Management Committee.***

Notwithstanding anything herein contained to the contrary, the Condominium Project shall be managed, operated, and maintained by the Management Committee exclusively as agent of, and in the name of, the Association and any act performed by the Management Committee pursuant to this Declaration or the Bylaws, as the same may be amended from time to time, shall be deemed to be performed by the Committee for and on behalf of the Association as its agent. The Management Committee shall have, and is hereby granted, the following authority and powers:

(1) The authority, without the vote or consent of the Unit Owners or of any other person(s) to grant or create, on such terms as it deems advisable, utility and similar easements over, under, across and through the Common Areas and Facilities.

(2) The authority to execute and record, on behalf of all the Unit Owners, any amendment to the Declaration or Record of Survey Map which has been approved by the vote or consent necessary to authorize such amendment.

(3) The power to sue and be sued.

(4) The authority to enter into contracts which in any way concern the Project, so long as any vote or consent of the Unit

Owners necessitated by the subject matter of the agreement has been obtained.

(5) The power and authority to convey or transfer any interest in real property authorized by the Owners having an interest therein.

(6) The power and authority to purchase, otherwise acquire, and accept title to, any interest in real property, so long as such action has been authorized by any vote or consent which is necessary under the circumstances.

(7) The authority to license persons not otherwise entitled to use any of the recreational areas and facilities to use the same from time to time as the Committee deems appropriate upon payment of fees prescribed by it to help defray the cost of maintenance thereof.

(8) The power and authority to borrow money, provided that no indebtedness for borrowed funds shall exceed at any given time the sum of \$5,000 without the prior approval of the majority of the Owners.

(9) The authority to promulgate such reasonable Rules and Regulations, and procedures as may be necessary or desirable to aid the Committee in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the interests of the Unit Owners and the authority to levy fines for infractions thereof.

(10) The power and authority to perform any other acts, and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions as agent of the Association.

Any instrument executed by the

Management Committee that recites facts which, if true, would establish the Committee's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.

(11) The Committee may carry out through a project manager any of its functions which are properly the subject of delegation. Any manager so engaged shall be an independent contractor and not an agent or employee of the Committee, shall be responsible for managing the Project for the benefit of the Committee and the Unit Owners, and shall, to the extent permitted by law and the terms of the agreement with the Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee itself. Any agreement for professional management of the Project which may be entered into by the Management Committee or the Association shall call for a term not exceeding three (3) years and shall provide that for cause such management agreement may be terminated by the Management Committee or by the Association upon not in excess of ninety (90) days written notice.

## ***8.2 Composition of Committee and Selection Thereof.***

The Management Committee shall be composed of not less than five (5) and not more than nine (9) members. At each annual Owners meeting, any vacant seat on the Committee shall be filled with a member elected for a two-year term. Members shall serve on the Committee until their successors are elected and qualify. Only the Unit owners shall be eligible for Committee membership. At the annual meeting each

Unit Owner may vote his percentage of undivided ownership interest in favor of as many candidates for Committee membership as there are seats on the Committee to be filled.

In cases of vacancy on the Committee, the remaining Committee members shall elect a replacement to sit on the Committee until the expiration of the term for which the member being replaced was elected. Committee Members may be removed from their position at any time upon a 60% vote of all owners. Such vacant seat shall then be filled at the same meeting by the majority vote of Owners for the balance of the unexpired term. Committee members shall be reimbursed for all expenses reasonably incurred in connection with Committee business.

## **ARTICLE IX**

### **ASSESSMENTS**

#### ***9.1 Covenant for Assessment.***

(a) Each Owner, by acceptance of a deed hereafter conveying any such Unit to it, whether or not so expressed in the deed or other conveyance, shall be deemed to have covenanted and agreed to pay the Association the following types of assessments:

(1) Annual assessments (the "Annual Assessment") as provided in Section 9.2 below.

(2) Special assessments ("Special Assessments") as provided in Section 9.5 below.

(3) Reserve Assessments ("Reserve Assessments") as provided in 9.12 below.

(4) Individual assessments

("Individual Assessments") as provided in Section 9.6 below.

(b) Assessments shall be established and collected as provided in this article.

(c) No Owner may exempt himself from liability for Assessments by abandonment of any Unit owned by such Owner.

#### ***9.2 Annual Budget and Assessment.***

(a) Annual Budget. The Management Committee shall prepare, or cause the preparation of, an annual budget for the Association, which shall provide, without limitation, for the maintenance of the landscaping and exteriors of Residences and for the administration, management and operation of the Association. If the Management Committee fails to adopt an annual budget, the last adopted budget shall continue in effect.

(b) Determination of Annual Assessment.

(1) The Management Committee of the Association shall fix the amount of the annual assessment ("Annual Assessment") against each Unit for each assessment period at least thirty (30) days in advance of the beginning of the period. Written notice of the Annual Assessments shall be sent to all members of the Association at least thirty (30) days in advance of the beginning of any assessment period.

(2) The omission by the Management Committee, before the expiration of any assessment period, to fix the amount of the Annual Assessment for that or the next period, shall not be deemed a waiver or modification in any respect of the provisions of this article or a release of any member from the obligation to pay the Annual Assessment, or any installment thereof, for that or any subsequent

assessment period. In the event of such omission, the Annual Assessment fixed for the preceding period shall continue until a new assessment is fixed.

### **9.3 Apportionment of Assessments.**

Assessments shall be apportioned as follows:

(a) Annual, Special and Emergency Assessments. Annual, Special and Emergency Assessments shall be apportioned among all the Units on the basis of their respective appurtenant percentages of undivided ownership interest as set forth in Exhibit B hereto.

(b) Individual Assessments. Individual Assessments shall be apportioned exclusively against the Units benefitted or to which the expenses are attributable as provided in Section 9.7.

(c) Payment of Assessments. Upon majority vote of the undivided interest in the common areas, installments of Annual Assessments may be levied and collected on a quarterly, semi-annual or annual basis rather than on the monthly basis. Any member may prepay one or more installments of any Assessment levied by the Association, without premium or penalty.

### **9.4 Personal Obligation and Costs of Collection.**

(a) Assessments imposed under this Declaration, together with interest at a rate to be established by resolution of the Management Committee, not to exceed the maximum permitted by law, and costs and reasonable attorneys' fees incurred or expended by the Association in the collection thereof, shall also be the personal obligation of the Owner holding title to any Unit at the time when the assessment became due.

(b) The personal obligation for any delinquent Assessment, together with interest, costs and reasonable attorneys' fees, however, shall not pass to the Owner's successor or successors in title unless expressly assumed by such successor or successors.

### **9.5 Special Assessments.**

In addition to the annual assessments authorized above, the Management Committee may levy in any assessment year a special assessment, payable over such a period as the Management Committee may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration.

This Section shall not be construed as an independent source of authority for the Management Committee to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections hereof.

Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to their respective Percentage Interests in the Common Areas. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given.

Any unpaid special assessment shall be subject to late fees and/or interest and adopted and published by the Management Committee from the date it becomes due and payable if not paid within thirty (30) days after such date. Notwithstanding anything to the contrary herein contained, additions or

capital improvements to the Project which cost no more than \$100 per unit (\$12,000.00 in aggregate) annually may be authorized by the Management Committee alone.

Additions or capital improvements the aggregate cost of which will exceed such amount must, prior to being constructed, be authorized by at least a majority of the total voting interests. Any addition or capital improvement which would materially alter the nature of the Project must, regardless of its cost and prior to being constructed, be authorized by a vote of Unit Owners in person or by proxy of not less than 51% of the total voting interests present at a meeting of the Association, special or annual, at which a quorum is present.

#### **9.6 Individual Assessments.**

(a) Any expenses benefitting or attributable to fewer than all of the Units may be assessed exclusively against the Units affected or benefitted ("Individual Assessment"). Individual Assessments shall include, but are not limited to:

(1) Assessments levied against any Unit to reimburse the Association for costs incurred in bringing the Unit or its Owner into compliance with the provisions of this Declaration or rules and regulations of the Association and for fines or other charges imposed pursuant to this Declaration for violation of this Declaration, the Bylaws or any rules and regulations of the Association.

(2) Any reasonable services provided to an unimproved or vacant Unit by the Association due to an Owner's failure to maintain the same in order to protect the health, safety and welfare of adjoining Unit owners and the Association in general.

#### **9.7 Nonpayment of Assessments.**

Any assessment or portion thereof not paid within thirty (30) days after the due date (which shall be established by resolution of the Management Committee):

(a) Shall be delinquent and shall bear interest from the due date at the rate of eighteen percent (18%) per annum,

(b) Shall be subject to a monthly late charge in such an amount as determined to be reasonable by the Management Committee in their discretion and evidenced by Committee resolution.

#### **9.8 Lien for Assessments.**

All Assessments imposed shall be a charge and continuing lien upon each of the Units against which the assessment is made in accordance with the terms and provisions of this Article IX and shall be construed as a real covenant running with the land.

#### **9.9 Subordination of Lien to Mortgages.**

(a) The lien of the Assessments provided for in this article shall be subordinate to the lien of any first mortgagees or deeds of trust now or hereafter placed upon the Unit subject to assessment, except as provided in subsection (b) of this section.

(b) The sale or transfer of any Unit pursuant to mortgage or deed of trust 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. Such sale or transfer shall not relieve the Unit from liability for any Assessments thereafter becoming due, nor from the lien of any future assessment.

#### **9.10 Enforcement of Lien.**

The Association may establish and enforce

the lien for any Assessment, including Annual, Special, Individual or otherwise, pursuant to the provisions of this Declaration. The lien is imposed upon the Unit against which the Assessment is made. The lien may be established and enforced for damages, interest, costs of collection, late charges permitted by law, and attorneys' fees provided for in this Declaration or by law or awarded by a court for breach of any provisions of this Declaration, the Bylaws or any rules and regulations of the Association. The lien may be foreclosed in the same manner as either deeds of trust, mortgages, or in any other manner permitted by Utah law. The collection remedies stated herein are cumulative and the use of one does not preclude the use of other remedies.

#### ***9.11 Suspension of Voting Rights.***

The Management Committee shall have the right to suspend any Owner's right to vote during any period of time that the Owner carries a past due assessment balance. In such cases, the Unit in question shall not be counted for purposes of establishing the total number of responses needed to pass or fail a measure being voted upon or decided.

#### ***9.12 Reserve Account***

The Association shall establish a reasonable reserve account for the funding of long term maintenance and/or replacement items in such amounts as in its best business judgment, it deems adequate and necessary. The Management Committee shall use reasonable efforts to fund said reserve account but shall not be held personally liable for a failure to fully fund said account as long as gross negligence or intentional misconduct is not proven in a court of law.

#### ***9.13 Absentee Owner Failure to Pay Assessments***

In the event that an absentee owner fails to pay any assessment obligation hereunder, then the Association may demand that the tenant(s) pay to the association any rent owing to said Owner. Said amount received shall be applied to the Owner's account and payments hereunder shall not constitute of the lease agreement between the Owner and Tenant. Any rent payments received by the Association shall not constitute a breach of the lease or rent agreement.

### **ARTICLE X** ***INSURANCE***

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#### ***10.1 Insurance.***

Unit Owners are required to carry and maintain adequate property and liability insurance on their Units. A Unit Owners' policy shall serve as primary insurance in the event any damage is caused to another Unit, Common Area, or Limited Common Area, so long as fault is attributable to the said Unit Owner. The Management Committee may request that Owners provide proof of adequate insurance.

Claims for damage from loss caused by fire, water damage or other hazards that (1) originate within the unit; (2) are caused by accident or the negligence of the unit owner, their tenant or guests; or (3) are caused by items that are the unit owner's responsibility to maintain, repair or replace are to be the unit owner's primary responsibility to insure. Anything to the contrary notwithstanding, the insurance coverage of a Unit Owner or resident shall be primary for the first \$20,000 of any covered loss and the insurance of the Association shall be secondary for loss that originates within the unit, or is caused by accident or negligence by the unit owner, their renters or guests or caused by items that are the responsibility of the unit owner to maintain, repair and replace. All unit owners shall have a minimum "COVERAGE A"

BUILDING for \$20,000 added to their individual unit owner's policies. If a unit owner fails to maintain insurance, unit owners will still be responsible for the first \$20,000 on any claim arising from losses that originate within their unit and/or from items that are their responsibility to repair or replace, including any improvement which is a permanent part of their unit. In the event a claim is filed on the Association policy involving a unit, it is the unit owner's responsibility to pay the Association deductible. Coverage for the Association deductible may be covered under the unit owner's policy. Insurance protection for personal property and personal liability is the sole responsibility of the unit owner.

The Management Committee shall secure and at all times maintain the following insurance coverage:

(a) A master or blanket policy of property insurance, with extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost).

Each such policy shall contain the standard mortgagee clause which must be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of mortgagees as their interests may appear. The insured shall be the Association as a trustee for the Unit Owners, or their authorized representative. Such insurance must provide protection against at least the following: loss by fire, casualty and other hazards covered by the standard extended coverage.

(b) A comprehensive policy of public liability insurance covering all of the Common Areas insuring the Association, the Committee, the Manager, and the Unit Owners against any liability incident to the ownership, use, or operation of the Common Areas and public ways of the Project or of any Unit which may arise among themselves, to the public, or to any invitees, or tenants of the Project, or of the Unit Owners. Limits of liability under such insurance shall be not less than One Million Dollars (\$1,000,000.00) covering all claims for personal property injury and for property damage arising out of a single occurrence, including protection against water damage liability, liability for non-owned and hired automobile and liability for property of others. Such insurance policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of the Association or other Unit Owners. The scope of coverage must include all other coverage in the kinds and amounts required by private institutional mortgage investors for similar projects in location, construction and use.

(c) The Association shall maintain fidelity coverage to protect against dishonest acts on the part of Committee Members, Manager (including, but not limited to, employees of professional managers) employees, or volunteers responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance must name the Association as the obligee and shall be written in an amount sufficient to provide protection which in no event shall be less than one-half of the insured's estimated annual operating expenses and reserves unless a greater amount is required by majority of the Mortgagees, or their designees.

In connection with such coverage any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. All fidelity bond coverage shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without a least 30 days' prior written notice to the service on behalf of Mortgagees.

The following additional provisions shall apply with respect to insurance:

(1) In addition to the insurance and bond coverage described above, the Committee shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with all condominium projects similar to the Project in construction, nature and use.

(2) Each hazard insurance policy shall be written by a company holding a financial rating of Class VI or better as designated in Best's Key Rating Guide. Each insurer must be specifically licensed to transact business within the State of Utah. Policies are unacceptable where (i) under the terms of the carrier's charter, bylaws or policy, contributions or assessments may be made against the Borrower or the Mortgagee, or its designee; or (ii) by the terms of the carrier's charter, bylaws or policy, loss or payments are contingent upon action by the carrier's Management Committee, policy holders, or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent the Mortgagee or the borrower from collecting insurance proceeds.

(3) The Management Committee shall have the authority to adjust losses.

(4) Insurance secured and maintained by the Committee shall not be

brought into contribution with insurance held by the individual Unit Owners or their mortgagees.

(5) Each policy of insurance obtained by the Committee shall provide: a standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Project is located; a waiver (if available) of the insurer's subrogation rights with respect to the Committee, the Manager, the Unit Owners, their respective agents and guests; that it cannot be canceled, suspended or invalidated due to the conduct of any member, officer or employee of the Committee or of the Manager without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Unit Owners; and that a mortgagee clause endorsement which must provide that the insurance carrier shall notify in writing any and all insureds, including the servicers on behalf of Mortgagees or designees thereof at least thirty (30) days in advance of the effective date of any substantial modification or cancellation of the coverage.

(6) Each Unit Owner shall obtain additional insurance at his own expense, as long as such additional insurance does not have the effect of decreasing the amount which may be realized under any policy maintained by the Committee. Each Unit Owner shall, upon the request of the Committee, supply the Committee with a copy of their most recent policy within 10 days of the request.

As stated above, the Unit Owner's insurance policy shall serve as primary insurance in the event any damage is caused to another Unit, Common Area, or Limited Common Area, so long as fault is attributable to the said Unit Owner.



This shall include, but is not limited to, Owners, their guests, tenants and invitees being held responsible for the damage or destruction of enclosed glass patio areas, due to their negligence or intentional misconduct.

(7) Insurance coverage required by this Article must not be prejudiced by (i) any act or neglect of the Unit Owners when such act or neglect is not within the control of the Association, or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Project over which the Association has no control.

(8) All policies of property insurance must provide that notwithstanding any provision affording the insurer the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable without the prior written approval of the Association (or any insurance trustee) or when in conflict with the provisions of any insurance trust agreement to which the insurance may be a party, or any requirement of law.

**10.2 Damage to Project.** In the event of damage of or destruction to all of the improvements in the Condominium Project, the following Procedures shall apply:

(a) If proceeds of the insurance maintained by the Management Committee are alone sufficient to repair or reconstruct the damage or destroyed improvement, such repair or reconstruction shall be carried out.

(b) If less than 75% of the Project's improvements are destroyed or substantially damaged, and if the proceeds of the insurance maintained by the Committee are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and all the Unit Owners shall be assessed for any deficiency on the basis of their respective Percentage Interest.

(c) If 75% or more of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish restoration, and if the Unit Owners within 100 days after the destruction or damage by a vote of at least 75% elect to repair or reconstruct the affected improvements, restoration shall be accomplished in the manner directed under subparagraph (b) above.

(d) If 75% or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Committee are insufficient to accomplish restoration, and if the Unit Owners do not, within 100 days after the destruction or damage and by a vote of at least 75%, elect to repair or reconstruct the affected improvements, the Management Committee shall promptly record with the Salt Lake County Recorder a notice setting forth such facts. Upon the recording of such notice the provisions of subsections (1) through (4) of Section 57-8-31, Utah Code Annotated (1953), shall apply and shall govern the rights of all parties having an interest in the Project or any of the Units.

Any reconstruction or repair which is required to be carried out by this Article regarding the extent of damage to or destruction of Project improvements shall be made by three MAI appraisers selected by the Management Committee. The decision of any two such appraisers shall be conclusive.

## ARTICLE XI

### *MORTGAGEE PROTECTION*

**11.1 Mortgagee Protection.** From and after the time a Mortgagee makes written request to the Management Committee or the Association of Unit Owners therefore, the Committee or the Association shall notify

such Mortgagee in writing in the event that the Owner of the Condominium Unit encumbered by the Mortgage held by such Mortgagee neglects for a period of thirty (30) or more days to cure any failure on his part to perform any of his obligations under this Declaration.

The lien or claim against a Condominium Unit for unpaid assessments or charges levied by the Management Committee or by the Association of Unit Owners pursuant to this Declaration or the Act shall be subordinate to the Mortgage affecting such Condominium Unit, and the Mortgagee thereunder which comes into possession of the Condominium Unit shall take the same free of such lien or claim for unpaid assessments or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the Mortgage, exercise of a power of sale available thereunder, or deed or assignment in lieu of foreclosure (except for claims for a pro rata share of such prior assessments or charges resulting from a pro rata reallocation thereof to all Condominium Units including the Condominium Unit in which the Mortgagee is interested). No assessment, charge, lien or claim which is described in the preceding sentence as being subordinate to a Mortgage or as not to burden a Mortgagee which comes into possession shall be collected or enforced by either the Management Committee or the Association from or against a Mortgagee, a successor in title to a Mortgagee, or the Condominium Unit affected or previously affected by the Mortgage concerned.

Unless at least seventy five percent (75%) of the Mortgagees (based upon one vote for each Mortgage) of the individual Condominium Units have given their prior written approval, neither the Management Committee nor the Association of Unit Owners shall be entitled, by act, omission, or otherwise:

(a) To abandon or terminate the Condominium Project or to abandon or terminate the arrangement which is established by this Declaration and the Record of Survey Map (except as provided in Article X, in the event of substantial destruction, substantial condemnation, or substantial obsolescence);

(b) To partition or subdivide any Unit;

(c) To abandon, partition, subdivide, encumber, sell, or transfer all or any part of the Common Areas and Facilities (except for granting of easements for utilities and similar purposes consistent with the intended use of the Common Areas, except as provided in Article X, of this in the event of substantial destruction, substantial condemnation, substantial obsolescence, and except as such matters arguable might result from conversion or all of the Convertible Lands);

(d) To use hazard insurance proceeds resulting from damage to any part of the Condominium Project (whether to Units or to the Common Areas) for purposes other than the repair, replacement, or reconstruction of such improvements, except as provided in Article X in the event of substantial destruction;

(e) To change the pro rata interests or obligations of any Unit which for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards and for (ii) determining the pro rata share of ownership of each Unit in the Common Areas and Facilities.

(f) To alter the provisions of Article VIII, Section 8.1(11) in such a way as to diminish the protections afforded to the Owners regarding the duration or terminability of agreements for managerial services; or

(g) To alter the provisions of Article X in such a way as to diminish the insurance protection required to be afforded to the parties designed to be protected thereby or to fail to maintain the insurance coverage described therein.

Any Mortgagee shall have the right, at its request and expense and upon reasonable notice, to examine the books and records of the Management Committee, of the Association of Unit Owners, or of the Condominium Project.

To the extent the same is reasonably possible and practical and is not inconsistent with the significant interests of the Association of Unit Owners, the Management Committee and the Association shall establish an adequate reserve to cover the cost of reasonably predictable and necessary major repairs and replacements of the Common Areas and Facilities and shall cause such reserve to be funded by regular monthly or other periodic assessments against the Units rather than by special assessments.

From and after the time a Mortgagee makes written request to the Management Committee or Association of Unit Owners thereof, the Committee or the Association shall notify such Mortgagee in writing in the event that there occurs any loss to or taking of the Common Areas involving an amount in excess of, or reasonably estimated to be in excess of, Ten Thousand Dollars (\$10,000.00). Said notice shall be given within ten (10) days after the Management Committee or said Association learns of such loss or taking.

In the event another provision or clause of this Declaration deals with the same subject matter or clause of Article XI, the provision or clause which results in the greatest protection and security for a Mortgagee shall control the rights, obligations, or limits of

authority, as the case may be, applicable to the Management Committee and Association of Unit Owners with respect to the subject concerned.

No amendment to this Article XI which has the effect of diminishing the rights, protection, or security afforded to Mortgagees shall be accomplished or effective unless at least seventy-five percent (75%) of the Mortgagees (based upon one vote for each Mortgagee) of the individual Units have given their prior written approval to such amendment. Any amendment to this Article XI shall be accomplished by an instrument executed by the Management Committee and filed for record in the office of the Salt Lake County Recorder. In any such instrument an officer of the Management Committee shall certify that any prior written approval of Mortgagees required by this Article XI as a condition to amendment has been obtained.

## ARTICLE XII

### HOUSING FOR OLDER PERSONS

***INTRODUCTION: The following provisions create an "age restricted community" consistent with the Federal Fair Housing Act (the "Act"). These provisions are drafted with the rights and interests of those persons 55 years of age or older in mind to provide the quality of life that Capri Park provides.***

***PLEASE NOTE: The community is an age restricted community but is NOT an assisted living community.***

#### ***12.1 Compliance.***

The policies and procedures governing the project as stated herein demonstrate the intent to provide housing for persons 55 years of age or older per condominium; that at least 80 percent of the condominiums shall be

occupied by at least one person 55 years of age or older.

The policies and procedures of the project qualify it as housing for older persons and exempt the project from regulation under the Act as provided by Section 3607 thereof.

Thus, to this end, all owners shall be bound by, and the Association shall manage the project in compliance with, this Amended Declaration and specifically this Article.

### ***12.2 Advertising, Marketing, and Sales.***

All advertising, marketing, and sales materials or displays of any kind shall reflect that the Project is intended for housing for older persons. All print ads shall contain the following language: **"The Capri Park Homes project is intended and operated for residents 55 years of age or older as defined in the Fair Housing Act. As such it is the policy of the Capri Park Homes Owners Association to prohibit permanent residence of persons under 18 years of age as such prohibition is permitted under an exemption of the Act."**

### ***12.3 Approved Occupancy.***

The project is intended to be managed for occupancy by persons 55 years of age or older, as set forth in the Act and regulations relating thereto. Sec. 24 C.F.R. 100.304 under the Act providing housing for older persons exempts the project from the prohibition against discrimination on the basis of familial status and thus permits the following restriction: **No condominium may be occupied by any person under eighteen years of age, except that such persons under eighteen may be permitted to visit for reasonable periods.** In order to assure that the project meets the age requirements for occupants set forth in the Act, the Association shall be responsible for enforcing

and carrying out the terms of the Amended Declaration, specifically including the following:

(a) Approved Occupant Status. No person shall be permitted to occupy a condominium in the Project unless such person is an "Approved Occupant" in accordance with the terms and provisions hereinafter set forth. If it is determined that an occupant has not obtained "Approved Occupant" status, the Association may pursue any remedies available to them under the Amended Declaration, including imposition of fines against a violator.

(b) Visitors. Persons who are not "Approved Occupants" shall not be permitted to occupy any condominium within the Association; however, visitors do not have to be approved as occupants and shall be permitted to visit for such reasonable periods of time, and upon such reasonable conditions, as provided for from time to time by a majority of the Management Committee.

(c) Procedure for Approving Occupants. Persons may become "Approved Occupants" based on the following terms and conditions:

(i) A person desiring to become an "Approved Occupant" shall submit to the Management Committee a written "Association Membership Application and Age Verification" form which is kept on file with the Association. Owners shall be permitted to request the issuance of an "Approved Occupants Identification Letter."

(ii) Within fifteen (15) days of receipt of such written application for an "Approved Occupant Letter," the Trustees shall determine whether such occupancy is consistent with the intent to manage the project as housing for older persons, and, if such occupancy were permitted, whether the project would continue to meet the

requirements of the exemption under Section 3607(b)(2)(C) of the Act, and regulations relating thereto. Sec. 24 C.F.R. 100.304: see also Preamble, 54 Fed. Reg. at pp. 3254.56. If such exemption requirements would continue to be met, the occupancy shall be approved. If not, the occupancy shall be denied.

(iii) Within said fifteen (15) day period, the Management Committee shall issue written notification to the applicant, and to the potential seller or lessor of the condominium the Applicant desires to purchase or lease, as to the outcome of the Management Committee' determination as set forth in Paragraph (ii) above.

(iv) Within ninety (90) days of the issuance of an approval by the Management Committee of an application for an "Approved Occupant," the Approved Applicant must request the issuance of an "Approved Occupants Letter," which request must be accompanied with written proof of said Applicant's legal right to occupy the condominium, either by virtue of a recorded deed conveying fee simple title, an executed lease, or other document indicative of said Applicant's right of occupancy, which may be due to gift, inheritance or other transfer document recognized under the laws of the State of Utah for transferring occupancy rights. Upon such timely request by the "Approved Applicant" and timely receipt of appropriate documentation, the Trustees shall issue, or cause to be issued, an "approved Occupant's Identification Letter."

(v) If an Approved Applicant fails to timely request an Approved Occupant's Identification Letter, and timely submit appropriate documentation, then such person shall not be permitted occupancy of the Unit. Said person must again apply to become an "Approved Occupant" in accordance with provisions as set forth in Subsections (i)

through (iv) above. An extension of the ninety (90) day period may be granted by the Management Committee under such circumstances as reasonably determined by the Trustees.

(vi) Within fifteen (15) days after written request by an Owner, Mortgagee or an other person who has been approved for occupancy, the Management Committee shall, without charge, provide a statement that such person is listed on the Association records as an "Approved Occupant" for such Unit as set forth in the Association's records.

(vii) The Association shall retain all documents and records relating to its consideration of an application for "Approved Occupant" status.

#### *12.4 Resale or Rental.*

(a) Obligation of Owner; Contents of Agreements. Should a current resident wish to sell or rent his or her condominium, the same procedures described above in Section 12.3, will be followed. The prospective buyer or renter will be required to complete a Membership Application and Age Verification form. Review of this form will be done pursuant to Section 12.3. Owners shall inform all prospective purchasers or renters of this procedure and shall provide the Management Committee with the information required in subsection (b)(i).

Any sale and rental agreement shall be in writing and shall (1) provide that occupancy of the property shall be subject to the provisions of the Amended Declaration, the Articles of Incorporation, Bylaws and Rules and Regulations of the Association and (2) state the following: **"The Capri Park Homes project is intended and operated for residents 55 years of age or older as defined in the Fair Housing Act. As such**

it is the policy of the Capri Park Homes Owners Association to prohibit permanent residence of persons under 18 years of age as is permitted under an exemption of the Act." In addition, rental agreements and deeds of trust shall provide that failure by the lessee or trustor to comply with the terms of this Amended Declaration, The Articles of Incorporation, Bylaws, and Rules and Regulations of the Association shall be in default under the agreement. Sale and Rental Agreements shall be approved by the Management Committee as to form and content prior to execution.

(b) Records. The Association shall maintain the following:

(i) A log or other accounting of all persons making inquiry with respect to the sale or rental of a condominium. This record shall reflect, for each inquiry, the name(s) of such person(s), current address, the age of each prospective occupant, and the date of inquiry.

(ii) For all persons who execute a purchase or lease agreement with an owner, the name of each such person(s), their current address and prospective address in the project, the age of each proposed occupant of the dwelling together with a copy of the documents provided to verify their ages, and the date of the agreement.

(iii) A log or other record of all persons occupying a condominium. Such record to be updated quarterly and shall include names, address, and ages.

(iv) For each subsequent transfer of a condominium, a log or other record identifying the transferor, the transferee, the address of the dwelling, the names and ages of the new occupants, the documentation provided to verify those ages, the method of

transfer (sale, lease, devise, etc.), and the date the transfer was approved and by whom.

(v) For the sale, lease, or other transfer of a condominium rejected by the Association, a log identifying the persons involved in the proposed transfer and their current addresses, the ages of the prospective occupants, the reasons for the rejection, and the date of the rejection.

***12.5 Occupancy by at Least One Person 55 Years of Age or Older per Condominium.***

The Management Committee will not approve any applicant if the granting of "Approved Occupant" status will defeat the primary purpose of the project which is to provide housing for older persons within the meaning of the Act or is done pursuant to a policy of setting aside a certain number of housing units for persons under 55 years of age. To maintain the exemption under the Act for housing of older persons, at least 80 percent of the condominiums must be occupied by at least one person 55 years of age or older. The primary purpose for permitting 20 percent of the units to be occupied by persons younger than 55 is to prevent the disruption of the lives of surviving spouses and cohabitants under age 55 when the over age 55 member of the household dies or otherwise leaves the condominium. Notwithstanding the above, the 20 percent allowance described herein shall not be used for potential buyers who do not otherwise meet the age requirements established and required by this Declaration. The Department of Housing and Urban Development (HUD), has indicated in the preamble to its regulations that so long as the 80 percent rule is not violated, occupancy of a condominium can be approved, in the following situations, where there is no occupant over age 55: (1) the individual has relatives in the project who would benefit

from their residence nearby; (2) the individual inherited the property from a former occupant; (3) the individual is the surviving spouse or cohabitant of a former occupant; (4) the individual is a nurse or other medical professional whose presence would be beneficial to a resident. It is expressly provided that the Association shall not set aside a certain number of condominiums for persons under 55 years of age.

#### **12.6 Applicability.**

The provisions of this Article shall not apply to prohibit the occupancy of any person presently occupying a condominium in the project before the date of this Declaration or prohibit the occupancy by any child born to such occupant while that occupant is a resident of the project, so long as the 80 percent rule is not violated. Any sale or rental of the condominium by such occupant, however, must be in accordance with the provisions of this Amended Declaration, specifically including this Article.

### **ARTICLE XIII**

#### **MISCELLANEOUS**

**13.1 Amendment.** Except as provided below, the affirmative vote of at least two-thirds (2/3) of the total votes of the Association represented by Owners in person or represented by proxy at a meeting of the Association at which a quorum is present shall be required to amend this Declaration or the Map. Any amendment so authorized shall be accomplished by recording an instrument executed by the Management Committee. In such instrument the Committee shall certify that the vote required by this Paragraph for amendment has occurred.

**13.2 Consent Equivalent to Vote.** In those cases in which the Act or this Declaration

requires the vote of a stated percentage of the Project's undivided ownership interest for the authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Unit Owners who collectively hold at least the necessary percentage of undivided ownership interest.

**13.3 Service of Process.** John D. Richards III, whose address is 2040 E. Murray-Holladay Rd., Suite 102, Salt Lake City, UT 84117 is the person to receive service of process in cases authorized by the Act. The Management Committee shall, however, have the right to appoint a successor or substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the office of the County Recorder of Salt Lake County, State of Utah.

**13.4 Duty of Owner to Pay Taxes on Unit Owned.** It is understood that under the Act each Unit Project is subject to separate assessment and taxation of each taxing authority and the special district for all types of taxes and assessments authorized by law, and that as a result thereof, no taxes will be assessed or levied against the Project as such, except for certain personal properties thereof. Accordingly, each Unit Owner will pay and discharge any and all taxes and assessments which may be assessed against him on his Unit.

**13.5 Covenants to Run With Lands; Compliance.** This Declaration and all the provisions hereof shall constitute covenants which run with the land and constitute equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of The Association, all parties who hereafter acquire any interest in or occupy a Unit or any part of in the Project, and their respective grantees, transferees, heirs,

devises, personal representatives, successors, assigns, guests and invitees. Each Owner or occupant of a Unit shall comply with, and all interests in all Units shall be subject to, the terms of the Act, the terms of this Declaration, the Bylaws, and the provisions of any rules, regulations, agreements, instruments, and determinations adopted pursuant thereto (hereinafter referred to collectively as the "Declaration"), and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Committee on behalf of the Association, or, in a proper case, by an aggrieved Unit Owner. By acquiring any interest in a Unit each Unit Owner or occupant consents and agrees to be bound by and subject to each and every provision of the Declaration. Should the Association be required to take action hereunder or by applicable law, whether such remedy is pursued by filing a lawsuit or otherwise, the Association may recover all costs and expenses, including a reasonable attorney's fee, which may arise or accrue.

**13.6 Information Regarding Transferee of Unit.** Any Unit Owner who sells, leases (if permitted), or otherwise disposes of his Unit shall submit to the Committee pertinent information concerning the transferee or new occupant pursuant to the policies of the Association.

**13.7 Indemnification of Management Committee.** Each member of the Management Committee shall be indemnified and held harmless by the Unit Owners against all costs, expenses, and fees, reasonably incurred by him in connection with any proceeding to which he may become involved by reason of his being or having been a member of said Committee except for cases of intentional wilful misconduct.

**13.8 Invalidity.** The invalidity of any provisions of this Declaration, or any portion thereof, shall not be deemed to impair or affect in any manner the validity, enforceability, or effect of the remainder of this Declaration and, in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

**13.9 Waiver.** No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**13.10 Gender.** The use of the masculine gender in this Declaration shall be deemed to refer to the feminine gender and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

**13.11 Topical Headings.** The headings appearing at the beginning of the paragraphs of this Declaration are only for convenience of reference and are not intended to describe, interpret, define, limit, extend, or otherwise affect the content, meaning or intent of this Declaration or any paragraph or provision hereof.

**13.12 Conflicts.** This Declaration is set forth to comply with the requirements of the Act. In the event of any conflict between this Declaration and the provisions of the Act, the provisions of the latter shall control.

**13.13 Effect of Recorded Instruments.** At any point in time, the Declaration and the Record of Survey Map concerning each phase which is then a part of the Project shall constitute but constituent parts of a single Declaration and Record of Survey Map affecting the Project. Accordingly, in the



event the provisions of the separate instruments conflict irreconcilably, the terms of that instrument which is last recorded shall control.

**13.14 Effective Date.** This Declaration shall take effect upon recording in the office of the Salt Lake County Recorder.

IN WITNESS WHEREOF, the Capri Park Homes Owners Association has caused this Declaration to be executed by its duly authorized officers on the 18 day of December, 2008.

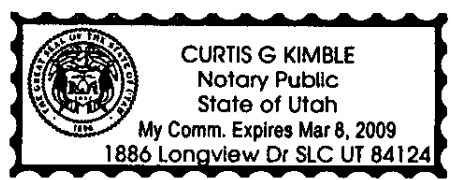
**Capri Park Homes Owners Association**

Jerry M. Matheson  
By:  
Its President

Gail Galerneau  
By:  
Its Secretary

STATE OF UTAH     )  
  ) ss.  
County of Salt Lake    )

On this 18 day of December, personally appeared before me Jerry M. Matheson, and Gail Galerneau who being by me duly sworn, did say that they are the authorized agents of Capri Park Homes, to execute this Declaration.



Curtis G Kimble  
Notary Public for Utah

**EXHIBIT "A"**

**(Legal Property Description)**

The land described in the foregoing document is located in Salt Lake County, Utah and is described more particularly as follows:

Beginning at the Northeast Corner of Lot 14, Block 20, Ten Acre, Plat A, Big Field Survey and running thence S 0° 11' 03" W 57.57 feet; thence S 89° 58' 47" W 300.00 feet; thence S 0° 11' 03" W 805.86 feet; thence N 89° 59' 45" W 464.90 feet; thence N 0° 11' 21" E 575.48 feet; thence S 89° 59' 13" W 305.94 feet; thence N 0° 11' 29" E 287.69 feet; thence N 89° 58' 42" E 305.93 feet; thence N 0° 11' 21" E 282.75 feet; thence N 89° 58' 10" E 562.92 feet, thence S 0° 11' 12" W 167.79 feet; thence N 89° 58' 30" E 19.52 feet; thence S 0° 11' 07" 47.11 feet; thence N 89° 58' 36" E 5.31 feet; thence S 0° 11' 12" W 65.53 feet, thence N 89° 58' 50" E 177.00 feet; thence S 0° 11' 03" W 2.43 feet to the point of beginning.

**EXHIBIT "B"**

<b>Building Units:</b>				
<u>Unit No</u>	<u>Building</u>	<u>Fraction Ownership Common Area</u>	<u>Percentage Interest</u>	<u>Carport(s) - Assigned Limited Common Area</u>
1	1	1/120	.833	South 14
2	1	1/120	.833	South 15
3	1	1/120	.833	South 13    South 16
4	1	1/120	.833	West 2
5	2	1/120	.833	West 13
6	2	1/120	.833	West 4    West 9
7	2	1/120	.833	West 7    West 8
8	2	1/120	.833	West 16
9	3	1/120	.833	West 12
10	3	1/120	.833	West 20    West 21
11	3	1/120	.833	West 10    West 11
12	3	1/120	.833	West 5    West 17
13	4	1/120	.833	West 18
14	4	1/120	.833	West 25
15	4	1/120	.833	West 6    West 19
16	4	1/120	.833	West 26
17	5	1/120	.833	West 28    West 29
18	5	1/120	.833	West 30
19	5	1/120	.833	West 27
20	5	1/120	.833	West 1    West 23
21	6	1/120	.833	West 32    West 33
22	6	1/120	.833	West 36    West 37
23	6	1/120	.833	West 31
24	6	1/120	.833	West 38    West 39
25	12	1/120	.833	South 8    South 9
26	12	1/120	.833	South 10
27	12	1/120	.833	South 12    West 3
28	12	1/120	.833	South 11
29	12	1/120	.833	South 6    South 7
30	12	1/120	.833	South 5
31	12	1/120	.833	East 56    East 59
32	12	1/120	.833	East 49
33	13	1/120	.833	West 14
34	13	1/120	.833	West 15
35	13	1/120	.833	East 47
36	13	1/120	.833	East 45
37	14	1/120	.833	West 22
38	14	1/120	.833	West 24    West 47
39	14	1/120	.833	East 29
40	14	1/120	.833	East 30    East 60

41	15	1/120	.833	West 34	
42	15	1/120	.833	West 35	
43	15	1/120	.833	East 26	East 27
44	15	1/120	.833	East 28	
45	18	1/120	.833	South 3	South 4
46	18	1/120	.833	East 55	
47	18	1/120	.833	South 1	South 2
48	18	1/120	.833	East 57	East 61
49	19	1/120	.833	East 53	East 58
50	19	1/120	.833	East 50	
51	19	1/120	.833	East 52	
52	19	1/120	.833	East 51	
53	20	1/120	.833	East 54	
54	20	1/120	.833	East 46	
55	20	1/120	.833	East 48	
56	20	1/120	.833	East 44	
57	21	1/120	.833	East 42	East 43
58	21	1/120	.833	East 38	
59	21	1/120	.833	East 40	East 41
60	21	1/120	.833	East 39	
61	22	1/120	.833	East 35	
62	22	1/120	.833	East 34	
63	22	1/120	.833	East 36	East 37
64	22	1/120	.833	East 33	
65	23	1/120	.833	East 31	
66	23	1/120	.833	East 22	
67	23	1/120	.833	East 18	
68	23	1/120	.833	East 19	East 32
69	23	1/120	.833	East 23	East 25
70	23	1/120	.833	East 24	
71	23	1/120	.833	East 16	East 17
72	23	1/120	.833	East 20	East 21
73	7	1/120	.833	West 40	West 41
74	7	1/120	.833	West 45	West 46
75	7	1/120	.833	West 42	
76	7	1/120	.833	West 43	West 44
77	16	1/120	.833	West 50	
78	16	1/120	.833	West 51	West 54
79	16	1/120	.833	East 11	
80	16	1/120	.833	East 10	East 14
81	24	1/120	.833	East 8	East 9
82	24	1/120	.833	East 5	East 15
83	24	1/120	.833	East 12	
84	24	1/120	.833	East 6	
85	25	1/120	.833	East 4	
86	25	1/120	.833	East 3	
87	25	1/120	.833	East 7	

88	25	1/120	.833	East 1	
89	26	1/120	.833	East 2	
90	26	1/120	.833	Center 1	Center 2
91	26	1/120	.833	Center 5	
92	26	1/120	.833	Center 4	
93	8	1/120	.833	West 53	
94	8	1/120	.833	West 68	
95	8	1/120	.833	West 49	
96	5	1/120	.833	West 52	West 56
97	9	1/120	.833	West 59	
98	9	1/120	.833	West 61	
99	9	1/120	.833	West 57	West 58
100	9	1/120	.833	West 60	
101	10	1/120	.833	West 63	West 64
102	10	1/120	.833	West 66	
103	10	1/120	.833	West 62	
104	10	1/120	.833	West 65	West 69
105	11	1/120	.833	West 55	
106	11	1/120	.833	North 2	
107	11	1/120	.833	North 4	West 67
108	11	1/120	.833	North 1	North 3
109	17	1/120	.833	Center 6	
110	17	1/120	.833	North 6	North 7
111	17	1/120	.833	Center 3	
112	17	1/120	.833	North 5	
113	27	1/120	.833	North 11	
114	27	1/120	.833	North 12	
115	27	1/120	.833	North 8	North 14
116	27	1/120	.833	North 9	North 13
117	28	1/120	.833	North 10	North 16
118	28	1/120	.833	North 15	
119	28	1/120	.833	North 17	
120	28	1/120	.833	North 18	

**EXHIBIT "C"**

**BYLAWS**

**OF**

**THE CAPRI PARK HOMES  
OWNERS ASSOCIATION, INC.**

**(AN AGE RESTRICTED COMMUNITY)**

## **ARTICLE I**

### ***PLAN OF UNIT OWNERSHIP***

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#### ***1.1 Condominium Submission.***

The Property is located in Salt Lake County, Utah, has been submitted to the provisions of the Act by a Declaration recorded in the Office of the County Recorder of Salt Lake County, Utah, simultaneously herewith, and shall hereafter be referred to as the "Condominium."

#### ***1.2 Bylaws Applicability.***

The Provisions of these Bylaws are applicable to the Project as the same may be expanded as provided in the Declaration and the use, occupancy, sale, lease or other transfer thereof. All Owners of any fee or leasehold interest, all occupants or users of the Condominium, and the agents and servants of any of them are subject to the provisions of the Declaration, these Bylaws, and the Rules and Regulations.

#### ***1.3 Personal Application.***

All present and future Owners, tenants, future tenants, their guests, licensees, servants, agents, employees and any other person or persons who shall be permitted to use the facilities of the Condominium, shall be subject to these Bylaws and to the Rules and Regulations of the Condominium. Acquisition, rental or occupancy of any of the Condominium Units in the Condominium shall constitute an acknowledgment that such Owner, tenant or occupant has accepted and ratified these Bylaws, the provisions of the Declaration and the Rules and Regulations and will comply with them.

#### ***1.4 Office.***

The office of the Condominium and of the Management Committee shall be located at

the Condominium or at such other place as may be designated from time to time by the Management Committee (hereinafter sometimes called the "Committee").

## **ARTICLE II**

### ***ASSOCIATION***

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#### ***2.1 Composition.***

All of the Unit Owners of the Capri Park Homes, acting as a group in accordance with the Act, the Declaration and these Bylaws, shall constitute the Association. Except as to those matters which the Act specifically requires to be performed by the vote of the Unit Owners, the administration of the Condominium shall be performed by the Committee.

#### ***2.2 Voting.***

There shall be one-hundred twenty (120) votes in the Association; each Unit Owner shall have one vote. Since a Unit Owner may be more than one person, if only one of such persons is present at a meeting of the Association that person shall be entitled to cast the vote appertaining to that Unit. But if more than one of such persons is present, the vote appertaining to that Unit shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the vote appertaining to that Unit without protest being made forthwith by any of the others to the person presiding over the meeting.

Since a person need not be a natural person, the word "person" shall be deemed for the purposes of this Section to include, without limitation, any natural person having authority to execute deeds on behalf of any person, excluding natural persons, which is, either alone or in conjunction with another person or persons, a Unit Owner.

Except where a greater number is required by the Act, the Declaration, or these Bylaws, a majority of the votes of Unit Owners present in person or represented by proxy in good standing and entitled to vote is required to adopt decisions at any meeting of the Association.

### **2.3 *Place of Meeting.***

Meetings of the Association shall be held at the principal office of the Condominium or at such other suitable place as may be designated by the Committee and stated in the notice of the meeting.

### **2.4 *Annual Meeting.***

Annual meetings for any other purpose than the election of the Management Committee may be held at any time on call of the President of the Committee, by a majority of the Committee or by Unit Owners representing thirty percent (30%) of the Unit Owners. Notice of such meeting shall be given in accordance with the provisions of Section 6 of this Article II.

Thereafter, the annual meetings of the Association shall be held during the first week of August of each succeeding year. At such annual meetings the Committee shall be elected by ballot of the Owners in accordance with the requirements of these Bylaws. The Association may transact such other business as may properly come before them at such meetings.

### **2.5 *Special Meetings.***

It shall be the duty of the President to call a special meeting of the Association if so directed by resolution of the Committee or, after all of the Committee has been elected by Unit Owners, upon a petition signed and

presented to the Secretary by Owners having not less than thirty percent (30%) of the votes of all Owners. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

### **2.6 *Notice of Meetings.***

It shall be the duty of the Secretary to mail, by United States mail, postage prepaid, or hand deliver to the door of the owner's unit, a notice of (a) each annual meeting of the Owners, at least twenty (20) days in advance of such meeting and (b) each special meeting of the Owners at least ten (10) days in advance of such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Owner of record, at the address of their respective Units and at such other address as each Owner may have designated by notice in writing to the Secretary. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

### **2.7 *Voting Requirements.***

An Owner shall be deemed to be in "good standing" and "entitled to vote" at any annual meeting or at any special meeting of the Association if, and only if, he shall have fully paid all due installments of assessments made or levied against him and his Unit by the Committee as hereinafter provided, together with all interest, costs, attorney's fees, penalties and other expenses, if any, properly chargeable to him and against his Unit, at least three (3) days prior to the date fixed for such annual or special meeting.

### **2.8 *Proxies.***



The votes appertaining to any Unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Unit Owner, or, in cases where the Unit Owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual notice to the person presiding over the meeting, by the Unit Owner or by any of such persons, that it be revoked. Any proxy shall be void if it is not dated, if it purports to be revocable without notice as aforesaid. The proxy of any person shall be void if not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Any proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy, and must be filed with the Secretary prior to the beginning of any meeting.

#### **2.9 Absentee Ballots.**

(a) A Member who is incapacitated, or who will be absent, on the date set for balloting may cast an absentee ballot at the place or time of balloting, or by mail, in the manner required by the Election Committee, but in no event shall the vote be cast more than fourteen (14) days prior to the voting date.

(b) Ballot boxes containing absentee votes shall be opened and the ballots tabulated at the same time and place and under the same conditions as the regular ballots.

#### **2.10 Mail-in Ballots.**

(a) A majority of the Management Committee may authorize the use and implementation of mail-in ballots at any election or vote on an issue it deems appropriate, including the election of Directors.

(b) When mail-in ballots are authorized by the Management Committee, said ballots shall be prepared and mailed to Voting Members no more than thirty (30) days prior to the date of the election or vote on an issue. The date set for the tabulation of the ballots shall be stated on the ballot. Ballots received on or after the date set for tabulation of the ballots shall not be counted.

(c) A combination of mail-in ballots and "in person" ballots may be used.

#### **2.11 Unanimous Written Consent in Lieu of Vote.**

In any case in which these Bylaws or the Declaration require for authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes of the Owners present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from every Owner entitled to cast a vote. The following additional provisions shall govern any application of this Section:

(a) All necessary consents must be obtained prior to the expiration of sixty (60) days after the first consent is given by any Member.

(b) Any change in ownership of a Unit which occurs after consent has been obtained from the Member having an interest therein shall not be considered or taken into account for any purpose.

#### **2.12 Quorum.**

Except as may otherwise be provided herein or by statute, more than fifty percent (50%) of the Owners shall constitute a quorum for the adoption of decisions. If, however, such quorum shall not be present or represented at

any meeting the Owners entitled to vote thereat, present in person, represented by proxy or absentee ballot, shall have power to adjourn the meeting and reschedule for a time no earlier than 48 hours, and no later than thirty, (30) days after the time set for the original meeting. No notice of such rescheduled meeting shall be required except an announcement thereof at the original meeting. A quorum for the transaction of business at the rescheduled meeting shall be thirty percent (30%) of the Owners in person or represented by proxy or absentee ballot.

### **2.13 Order of Business.**

The order of business at all meetings of the Association shall be as set forth on the agenda distributed at the meeting(s).

### **2.14 Title to Unit.**

Title to Units may be taken in the name of natural person or in the names of two or more natural persons, or in the name of a corporation, partnership, association or other entity capable of holding title to real property, or any combination thereof. However, nothing contained herein shall contradict the rental restrictions set forth in this Declaration.

### **2.15 Conduct of Meeting.**

The President, or in his absence the Vice-President, shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a Minute Book all resolutions adopted by the meeting as well as a record of all transactions occurring thereat.

## **ARTICLE III**

### **Management Committee**

#### **3.1 Powers and Duties.**

The affairs and business of the Association shall be managed by the Committee which shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provisions of the Declaration and may do all such acts and things as are not by the Act or by these Bylaws directed to be exercised and done by the Association.

The Committee shall have the power from time to time to adopt any Rules and Regulations deemed necessary for the enjoyment of the Condominium provided such Rules and Regulations shall not be in conflict with the Act, the Declaration or these Bylaws. The Committee shall delegate to one of its members the authority to act on behalf of the Committee on all matters relating to the duties of the Managing Agent, if any, which might arise between meetings of the Committee. Subject to any limitations or provisions contained in the Declaration, the Committee shall be responsible for the following:

(a) Preparation of an annual budget, in which there shall be established the contribution of each Owner to the Common Expenses;

(b) Making assessments against Owners to defray the cost and expenses of the Condominium, establishing the means and methods of collecting such assessments from the Owners, and establishing the period of the installment payment of the annual assessment for Common Expenses. Unless otherwise determined by the Committee, the annual assessment against each Owner for his proportionate share of the Common Expenses shall be payable in equal monthly installments, each such installment to be due and payable in advance on the first day of each month for said month.

(c) Providing for the operation,

care, upkeep, replacement, maintenance and surveillance of all of the Common Areas and services of the Condominium.

(d) Designating, hiring and dismissing the personnel necessary for the maintenance, operation, repair and replacement of the Common Area, and providing services for the Property, and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed the common property of the Owners.

(e) Collecting the assessments against the Owners, depositing the proceeds thereof in a bank depository or credit union which it shall approve, and using the proceeds to carry out the administration of the Property.

(f) Making and amending Rules and Regulations respecting the use of the Property.

(g) Opening of bank accounts on behalf of the Condominium and designating the signatories required therefor.

(h) Making, or contracting for the making of, repairs, additions, and improvements to, or alterations of, the Property and repairs to, and restoration of, the Property, in accordance with the Declaration and other provisions of these Bylaws, after damage or destruction by fire or other casualty.

(i) Enforcing by legal means the provisions of the Declaration, these Bylaws and the Rules and Regulations for the use of the Property adopted by it, and bringing any proceedings which may be instituted on behalf of the Owners.

(j) Obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof.

(k) Paying the cost of all services rendered to the condominium and not billed to Owners of individual Units.

(l) Keeping books with detailed accounts of the receipts and expenditures affecting the Property, and the administration of the Condominium, specifying the maintenance and repair expenses of the common Areas and any other expenses incurred. The said books and vouchers accrediting the entries thereupon shall be available for examination by the Owners, their duly authorized agents or attorneys, during general business hours on working days at the times and in the manner that shall be set and announced by the Committee for the general knowledge of the Owners. All books and records shall be kept in accordance with generally accepted accounting practices, and the same, upon resolution of the Committee shall be audited by an outside auditor employed by the Committee who shall not be a resident of the Condominium, or an Owner therein. The cost of such audit shall be a Common Expense.

(m) To do such other things and acts not inconsistent with the Act, the Declaration or the Bylaws or by a resolution of the Association.

### **3.2 *Manager.***

The Committee may, in its sole discretion, employ for the Condominium a Manager at a compensation rate established by the Committee, to perform such duties and services as the Committee shall authorize, including, but not limited to, the duties listed in Section I of this Article III.

The Committee may delegate to the Manager all of the powers granted to the Committee by these Bylaws; provided that any actions by the Manager with respect to the powers set forth in paragraphs (b), (f), (g) and (i), of Section I of this Article III shall require the written consent of the Committee.

### **3.3 Number of Committee Members.**

The Committee shall be composed of not less than five (5) nor more than nine (9) persons, all of whom shall be Unit Owners.

### **3.4 Selection and Term of Office of the Committee.**

Unless appointed under the provisions of Section 11 of this Article III, Committee members shall be elected in two year cycles. Thereafter, all elected Committee member terms shall be for two years.

### **3.5 Organization Meeting.**

The first meeting of the members of the Committee following the annual meeting of the Association shall be held within ten (10) days after the annual meeting at such place as shall be fixed by the Committee at the meeting at which such Committee-persons were elected, and no notice shall be necessary to the newly elected Committee Members in order legally to constitute such meeting provided that majority of the whole Committee shall be present thereat.

### **3.6 Regular Meetings.**

Regular meetings of the Committee may be held at such time and place as shall be determined, from time to time, by a majority of the Committee, but at least six (6) such meetings shall be held during each fiscal year after the first annual meeting of the Association. Notice of regular meetings of the Committee shall be given to each

Management Committee member, personally, by mail or by telephone, at least three (3) business days prior to the day named for such meeting. Notice of the regularly scheduled Management Committee meetings shall be posted.

### **3.7 Special Meetings.**

Special meetings of the Committee may be called by the President or Vice-President upon three (3) business days' notice to each member. Such notice shall be given personally, by mail, by telephone, or by confirmed electronic mail, and such notice shall state the time, place and purpose of the meeting. Special meetings of the Committee shall be called by the President or Secretary in like manner and on like notice on the written request of at least three (3) Committee Members.

### **3.8 Open Meetings, Executive Sessions.**

(a) Open Meetings. Except as provided in Subsection (b) of this section, all meetings of the Committee shall be open to Unit Owners. However, no Owner shall have a right to participate in the Committee meeting unless the Owner is also a member of the Committee. The president shall have the authority to exclude an Owner who disrupts the proceedings at a Committee meeting.

(b) Executive Sessions. In the discretion of the Committee, the following matters and any other matters deemed sensitive by the Committee may be considered in executive session, including, but not limited to:

(1) Consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation or criminal matters;

(2) Personnel matters, including salary negotiations and employee discipline;

(3) The negotiation of contracts with third parties;

(4) Collection of unpaid assessments; and

(5) Enforcement actions of the Owners.

(c) Executive Session Procedure.

(1) Except in the case of an emergency, the Committee shall vote in an open meeting whether to meet in executive session. If the Committee votes to meeting in executive session, the president or other presiding officer shall state the general nature of the action to be considered and, as precisely as possible, when and under what circumstances the deliberations can be disclosed to owners. The statement, motion, or decision to meet in executive session must be included in the minutes of the meeting.

**3.9 Waiver of Notice.**

Before or at any meeting of the Committee, any Committee Member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Committee Member at any meeting of the Committee shall be a waiver of notice by him of the time and place thereof. If all the Committee Members are present at any meeting of the Committee, no notice shall be required and any business may be transacted at such meeting.

**3.10 Committee's Quorum.**

At all meetings of the Committee, a majority of the Committee shall constitute a quorum for the transaction of business, and the acts of the majority of the Committee present at a meeting at which a quorum is present shall be

the acts of the Committee. If, at any meeting of the Committee, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

**3.11 Vacancies.**

Vacancies in the Committee caused by any reason other than removal of a Committee Member by a vote of the Association shall be filled by vote of the majority of the remaining Committee Members, at a special meeting of the Committee held for that purpose promptly after the occurrence of any such vacancy, even though the Committee Members present at such meeting may constitute less than a quorum of the Committee; and each person so elected shall be a Committee Member for the remainder of the term of the Committee Member so replaced and until a successor is elected at the next annual meeting of the Association.

**3.12 Removal of Committee Member.**

(a) A Committee Member may be removed with or without cause, and his successor elected, at any duly called regular or special meeting of the Association at which a quorum is present, by an affirmative vote of the majority of the votes represented and voting. Any Committee Member whose removal has been proposed by the Owners shall be given at least thirty (30) days written notice of the calling of the meeting and the purpose thereof and shall be given a reasonable opportunity to be heard at the meeting.

(b) Any Committee Member who fails on three successive occasions to attend Committee meetings (whether regular or special) or who has failed to attend at least

25% of all Committee meetings (whether regular or special) held during any twelve month period shall forfeit his membership on the Committee unless excused by the Committee.

### **3.13 Compensation.**

No Committee member shall receive any compensation from the Condominium for acting as such.

### **3.14 Conduct of Meetings.**

The President shall preside over all meetings of the committee and the Secretary shall keep a Minute Book of the Committee recording therein all resolutions adopted by the Committee and a record of all transactions and proceedings occurring at such meetings.

### **3.15 Report of Committee.**

The Committee shall present at each annual meeting, and when called for by vote of the Association at any special meeting of the Association, full and clear statement of the business and condition of the Condominium.

### **3.16 Fidelity Bonds.**

The Committee shall require that all officers, agents (including professional Manager and its employees) and employees of the Association handling or responsible for funds furnish adequate fidelity bonds. The premiums on such bonds shall constitute a Common Expense. The Committee shall provide a fidelity insurance coverage as required by the Declaration.

### **3.17 Dispensing with Vote.**

Any action by the Committee required or permitted to be taken at any meeting may be taken without a meeting if all the members of the Committee shall individually or

collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Committee.

### **3.18 Liability of the Committee.**

The members of the Committee shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the Committee Members from and against all contractual liability to others arising out of contracts made by the Committee on behalf of the Owners unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these Bylaws.

## **ARTICLE IV**

### **OFFICERS**

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#### **4.1 Designation.**

The principal officers of the Condominium shall be a President, Vice President, Secretary, and a Treasurer, all of whom shall be elected by the Committee.

The Committee may appoint assistant secretaries and such other officers as in its judgment may be necessary. With the exception of the President, no officer need be a member of the Committee. Two or more offices may be held by the same person, except that the President shall not hold any other office.

#### **4.2 Election of Officers.**

The officers of the Condominium shall be elected annually by the Management Committee at the organization meeting of each Committee and shall hold office at the

pleasure of the Committee. Any vacancy in an office shall be filled by the Committee at a regular meeting or special meeting called for such purpose.

Nevertheless, the Committee Members may serve as the officers of the Association, with such positions therein determined amongst themselves.

#### **4.3 Removal of Officers.**

The officers shall hold office until their respective successors are chosen and qualify in their stead. Any officer elected or appointed by the Committee may be removed at any time by the affirmative vote of a majority of the whole committee, and his successor may be elected at any regular meeting of the Committee, or at any special meeting of the Committee called for such purpose.

#### **4.4 President.**

The President shall be the chief executive officer; he shall preside at meetings of the Association and the Committee and shall be an ex officio member of all committees; he shall have general and active management of the business of the Condominium and shall see that all orders and resolutions of the Committee are carried into effect.

#### **4.5 Vice President.**

The Vice President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Committee or the President shall prescribe. If neither the President nor the Vice President is able to act, the Committee shall appoint a member of the Committee to do so on an interim basis.

#### **4.6 Secretary.**

The Secretary shall attend all sessions of the Committee and all meetings of the Association and record all votes and the minutes of all proceedings in a book to be kept by him for that purpose and shall perform like duties for committees when required. He or she shall give, or cause to be given, notice of all meetings of the Association, the Committee and committees and shall perform such other duties as may be prescribed by the Committee.

The Secretary shall compile and keep current at the principal office of the Condominium a complete list of the Owners and their last known post office addresses. This list shall be open to inspection by all Owners and other persons lawfully entitled to inspect the same, at reasonable hours during regular business days. The Secretary shall also keep current and retain custody of the Minute Book of the Association, containing the minutes of all annual and special meetings of the Association and all sessions of the Committee including resolutions.

#### **4.7 Treasurer.**

The Treasurer shall have the custody of all funds and securities that are not under the control of the Managing Agent, and, with the assistance of the Managing Agent, shall keep full and accurate records of receipts and disbursements, shall prepare all required financial data, and shall deposit all moneys and other valuable effects in such depositories as may be designated by the Committee. He or she shall disburse funds as ordered by the Committee taking proper vouchers for such disbursements, and shall render to the President and committee members, at the regular meetings of the Committee, or whenever they may require it, an account of all of his transactions as Treasurer and of the financial condition of the Condominium.

**4.8 Agreement, Contracts, Deeds, Checks, etc.**

All agreements, contracts, deeds, leases, checks and other instruments of the Condominium shall be executed by two authorized officers of the Committee or by such other persons as may be designated by the Committee.

**4.9 Compensation of Officers.**

No officer shall receive any compensation from the Committee for acting as such.

**ARTICLE V**  
**FISCAL YEAR**

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**5.1 Fiscal Year.**

The fiscal year of the Association shall consist of the twelve month period commencing on January 1 of each year and terminating on December 31 of the same year. The fiscal year herein established shall be subject to change by the Committee should it be deemed advisable or in the best interests of the Association.

**ARTICLE VI**  
**AMENDMENT TO BYLAWS**

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**6.1 Amendments.**

Except as otherwise provided in this Section, these Bylaws may be modified or amended either (i) by an affirmative vote of at least two-thirds percent (2/3%) of the Percent Interests in the Project at any regular or special meeting at which a quorum is present, provided that Notice of the proposed amendment shall have been given to each Owner simultaneously with the notice of such meeting, or (ii) pursuant to a written instrument duly executed by at least two-thirds percent (2/3%) of the Unit Owners.

**6.2 Recording.**

A modification or amendment of these Bylaws shall become effective only if such modification or amendment is recorded in the office of the County Recorder of Salt Lake County, Utah.

**6.3 Conflicts.**

No modification or amendment of these Bylaws may be adopted which shall be inconsistent with the provisions of the Act or with the provisions of the Declaration. A modification or amendment once adopted and recorded as provided for herein shall then constitute part of the official Bylaws of the Condominium and all Owners shall be bound to abide by such modification or amendment.

**ARTICLE VII**  
**NOTICE**

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**7.1 Manner of Notice.**

All notices, demands, bills, statements or other communications provided for or required under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by U.S. Mail, first class postage prepaid, (i) if to an Owner, at the address of his Unit and at such other address as the Owner may have designated by notice in writing to the Secretary, or (ii) if to the Committee or the Manager, at the principal office of the Manager or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section.

**7.2 Waiver of Notice.**

Whenever any notice is required to be given under the provisions of the statutes, the Declaration or of these Bylaws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether



signed before or after the time stated therein, shall be deemed equivalent thereto, unless such waiver is ineffective under the provisions of the Act.

## **ARTICLE VIII**

### ***COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS***

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#### **8.1 Compliance.**

These Bylaws are set forth in compliance with the requirements of the Act.

#### **8.2 Conflict.**

These Bylaws are subordinate and subject to all provisions of the Declaration and to the provisions of the Act. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration or the Act. In the event of any conflict between these Bylaws and the Declaration, the provisions of the Declaration shall control; and in the event of any conflict between the Declaration and the Act, the provisions of the Act shall control.

#### **8.3 Severability.**

These Bylaws are set forth to comply with the requirements of the State of Utah. In case any of the Bylaws are in conflict with the provisions of any of its statutes, the provisions of the statutes will apply. If any provisions of these Bylaws or any section, sentence, clause, phrase, or word, or the application thereof in any circumstance is held invalid, the validity of the remainder of these Bylaws, shall not be affected thereby, and to this end the provisions hereof are declared to be severable.

#### **8.4 Waiver.**

No restriction, condition, obligation or provision of these Bylaws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

#### **8.5 Captions.**

The captions contained in these Bylaws are for convenience only and are not part of these Bylaws and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws.

#### **8.6 Gender, etc.**

Whenever in these Bylaws the context so requires, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.

#### NOTES:

IN WITNESS WHEREOF, the Capri Park Homes Owners Association has caused these Bylaws to be executed by its duly authorized officers on the date first stated above.

Capri Park Homes Owners Association

By: Jerry M. Matheson

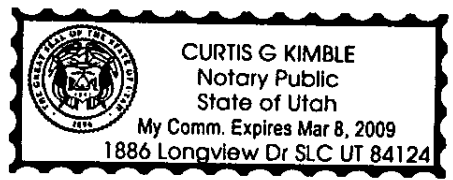
Its: president

By: Saul Salameh

Its: SECRETARY

STATE OF UTAH )  
 ) ss.  
County of Salt Lake )

On this 18 day of December, personally appeared before me Jerry M. Matheson, and Saul Salameh, who being by me duly sworn, did say that they are the authorized agents of Capri Park Homes to execute these Bylaws on behalf of the Capri Park Homes Owners Association.



Curtis G. Kimble  
NOTARY PUBLIC  
Residing at Salt Lake City, Utah