

When recorded return to:  
Capstone Homeowners Assoc.  
3369 Honeycut Rd.  
Salt Lake City, Utah 84106

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10/14/94 10:07 AM 77.00  
KATIE L. DIXON  
RECORDER, SALT LAKE COUNTY, UTAH  
CAPSTONE HOMEOWNERS ASSOC  
3369 HONEYCUT RD SLC UT 84106  
REC BY TV ASHBY ,DEPUTY - WI

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REVISED DECLARATION AND BY-LAWS  
OF THE  
CAPSTONE CONDOMINIUM PROJECT

At the May 9, 1994 Annual Association meeting, 46 of the 48 homeowners were present in person or by proxy. Revision of the February 15, 1977 Declaration and By-laws was approved by 44 (92%) homeowners.

I. PURPOSE/EFFECTUATION OF REVISION

1. The Management Committee recommended to the homeowners that the By-laws be updated and simplified and advised that due notice of proposal to revise was given in advance of the Meeting, that a quorum was present, that the By-laws may be revised upon a vote of 65% of owners, that the Meeting's secretary would record those voting for and against and would maintain that record with the Minutes of the Meeting.

2. Accordingly, in accordance with Title 57, Section 8, and Title 16, Chapter 10a, Utah Code Annotated (1953 as amended), the Declaration and By-laws were revised and amended to read as follows; and the Signers were authorized and instructed to sign and record the Revised Declaration and By-laws.

3. SURVEY MAPS: June 17, 1970, December 30, 1971 and February 15, 1977, Record of Survey Maps covering Phase No. 1, Phase No. 2, and Phases 3 and 4, respectively, were filed for record in office of Salt Lake County Recorder, State of Utah, in accordance with the Condominium Ownership Act.

4. EFFECTIVE DATE: This Revised Declaration and By-laws shall take effect upon recording in the Office of County Recorder, Salt Lake County, State of Utah.

II. DEFINITIONS

1. "Act" - Utah Condominium Ownership Act.

2. "Committee" - Management Committee of Capstone Condominium Project.

3. "Common Areas and Facilities":

a. real property recorded as the entirety of the tract belonging to the Capstone Condominium Project;

b. roofs and exterior surfaces of each home and exterior surfaces of patio fences;

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c. installations for and equipment connected with utility services such as electricity, gas, water and sewer including all pipes, wires, conduits or other utility lines running through each building and utilized by more than one Unit.

d. all other installations and facilities included within Capstone for common use such as swimming pool, tennis court, outdoor lighting, fences, landscaping, sidewalks, open parking spaces and streets.

4. "Unit" - one Home space, including garage, patio(s) and/or balcony.
5. "Owner" - home owner as defined by the Act.
6. "Building" - structure containing two Units.
7. "Common Expenses"- sums expended by Committee on behalf of Unit Owners to properly maintain Capstone.
8. "Capstone Home Owners Association" - Unit Owners acting as a group.
9. "Mortgage" - first mortgage as well as a deed of trust on any Condominium Unit.
10. "Mortgagee" - beneficiary under or holder of a deed of trust.
11. "Tract" - real property of Capstone Condominium Project.

### III. SUBMISSION

There is hereby submitted to the provisions of the Act the Tract associated with Capstone, situated in Salt Lake County, State of Utah.

See Exhibit "A" attached, incorporated herein by this reference.

TOGETHER WITH all easements, rights-of-way and other appurtenances and rights incident to, appurtenant to, or accompanying above-described parcel of real property.

All of the foregoing is subject to: all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; any Patent reservations or exclusions; any mineral reservations of record and rights incident thereto; and any easements or rights-of-way enforceable at law or in equity.

Street address of Capstone Condominium Project is 3369 South Honeycut Road, Salt Lake City, Utah. 84106

#### IV. COVENANTS, CONDITIONS, AND RESTRICTIONS

1. DESCRIPTION OF CAPSTONE: Twenty four buildings each comprising two homes, 48 fully enclosed two-car garages, asphalt roadways, open parking spaces, concrete sidewalks, wooden fences, concrete patios, cedar balconies, swimming pool, tennis court, poolhouse, outdoor lighting and landscaping.

2. DESCRIPTION AND LEGAL STATUS OF UNITS. Survey Maps show Unit Number of each Unit, its location and dimensions and Common Areas and Facilities to which it has access.

3. COMPUTATION OF UNDIVIDED INTERESTS. Each home owner has a 1/48 interest in the Common Areas and Facilities.

4. CONVEYANCING. Any deed, lease, mortgage, deed of trust or other instrument conveying or encumbering a Unit shall describe the interest or estate involved substantially as follows:

Unit No. contained within Capstone Condominium Project as identified in Survey Maps recorded in Salt Lake County, Utah, as Entry No. 2357253, Book II at Page 27 and as Entry No. 2438958, Book KK at Page 83 (as said Record of Survey Maps may have heretofore been amended or supplemented) and in the Revised and Restated Declaration of Condominium of the Capstone Condominium Project recorded in Salt Lake County, Utah, as Entry No. 2930711, Book 6250 at Page 2743 (as said Declaration may have heretofore been amended or supplemented). TOGETHER WITH the undivided ownership interest in Capstone's Common Areas and Facilities appurtenant to said Unit. (the referenced Declaration of Condominium providing for periodic alteration both in the magnitude of said undivided ownership interest and in the composition of Common Areas and Facilities to which said interest relates).

Bylaws of the Capstone Home Owners Association ("Association"):

#### B Y L A W S

##### 1. POWERS/AUTHORITIES OF MANAGEMENT COMMITTEE

Capstone is managed, operated, and maintained by the Committee on behalf of Owners. The Committee, a legal entity, has power and authority to:

a. grant or create reasonable utility and similar easements over, under, across, and through Common Areas and Facilities;

b. execute and record amendments to the Declaration, Bylaws and Record of Survey Maps which have been approved by majority vote of home owners;

c. perform and/or engage proper and necessary accounting and administrative services; no formal legal action shall be commenced without the knowledge and approval of a majority of home owners;

d. enter into contracts involving normal maintenance or improvements costing no more than \$3,000 each. Additions/improvements in excess of \$3,000 must be detailed in proposed budget and authorized in advance by a majority (51%) of home owners; additions or improvements which would materially alter the nature of Capstone must, regardless of cost, be authorized by at least 65% of home owners;

e. purchase, otherwise acquire, and accept title to any interest in real property so long as majority vote obtained from home owners;

f. promulgate and enforce rules, regulations and procedures necessary to insure that Capstone is maintained and used in a manner consistent with the interests of owners;

g. perform any other acts and enter into any other transactions reasonably necessary to perform its responsibilities in behalf of home owners; and

h. delegate any of its duties or functions to any person or firm to act as Manager of any duty or function so delegated by written agreement, provided such delegation can be revocable upon written notice by the Committee. Any transfer of management functions must be approved by a majority vote of home owners.

## 2. RESPONSIBILITIES OF THE COMMITTEE

a. collection of dues and payment of expenses to keep Unit exteriors, common areas/facilities clean, functional, attractive, and generally in good condition and repair. Specific responsibilities include:

- (1) Preventive maintenance, repair/replacement of roofs on buildings/garages
- (2) Painting of building exteriors
- (3) Repair/replacement/painting of common area fences
- (4) Repair/replacement of patio fences and balcony/stair railings (Note: Owners are responsible for maintenance of all features added by owners after original construction including but not limited to:

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iron works, skylights, awnings, fences, decks, etc.)

- (5) Repair/replacement of common area sprinkler system
- (6) Care/replacement of common area shrubbery, trees and grounds.
- (7) Maintenance/repair/replacement of common area facilities (swimming pool, tennis court, parking areas, etc.)

b. enforcement of remedies available to collect delinquent home owner dues/special assessments for common expenses. Such action may be taken against Unit Owner or against the Unit. Any relief obtained, whether or not through foreclosure proceedings, shall include Association's cost and expenses and reasonable attorneys' fees.

c. enforcement of maintenance requirements by home owners, as outlined in subparagraph g, item 8 entitled "Responsibilities of Home Owners.

d. maintenance of up-to-date records on owners so as to have immediate access to owner, or designee, should an emergency arise.

e. development of an Annual Budget, annual Condition Report and Year-End Financial Statement to be presented prior to Annual Meeting of home owners. Budget to provide 1) itemization of fixed/proposed expenditures anticipated for upcoming year, (2) justification for any upcoming major expenditures and (3) report of and recommendation for schedule/amount of Reserve funds spent and projected. Condition Report to cover actions of Committee during past year, condition of project, future needs and solutions for existing or future problems. Year-end financial statement to provide breakdown of income received and disbursements made during fiscal year (September 1 through August 31) including any existing deficit or surplus.

f. determination of assessments or increases in monthly dues so as to sustain proper maintenance and operation of Capstone. Justification for special assessment or monthly dues increase must be presented in writing to home owners at Annual Meeting or, in event of a major emergency expenditure, ninety days prior to need.

g. scheduling of audit of books/records using standard auditing procedures. Audit to include, but not limited to: reconciliation of cash receipts/disbursements, unit accounts, write-offs, etc. Write-offs require approval of Committee/documentation in Minutes.

h. determination of and arrangement for extended insurance coverage: to adequately protect Association

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and owners from damage and destruction to property through fire or other insurable hazard, as directed by majority vote of owners (owners responsible for deductibles); to provide for full insurable replacement values of homes and common facilities/areas; to protect against any liability to the public or to owners incident to ownership and/or use of the property, including personal liability exposure of owners; fidelity bond to cover errors and omissions of Management Committee.

i. publication of rules on an annual basis prior to opening of swimming pool/tennis court.

j. appointment of and participation in the following Standing Committees:

- (1) Landscaping Committee
- (2) Maintenance Committee
- (3) Outdoor Lighting Committee
- (4) Snow Removal Committee
- (5) Annual Audit Committee
- (6) Welcoming Committee
- (7) Insurance Committee

Each Standing Committee shall consist of a Chairman and two or more members and include a member of the Management Committee.

3. MANAGEMENT COMMITTEE LIABILITY - No Committee member shall be liable for any mistake of judgment, negligence, or on other grounds except for willful misconduct or bad faith on the part of an individual member. Home owners shall indemnify and hold harmless each Committee member from and against all liability to third parties arising out of any contract entered into by the Committee on behalf of Owners.

4. COMPOSITION OF MANAGEMENT COMMITTEE - Five plus two alternate members. Term of each Committee member: at least one year. Members shall be elected at Annual home owners' meeting. Only home owners are eligible for Committee membership.

Any Committee member who fails to attend three successive meetings automatically forfeits his/her seat. Members to appoint replacements for seats vacated prior to completion of term. Members will be reimbursed for expenses incurred in management business, supported by invoices. Committee may fix such compensation for any member as may be reasonable in light of duties performed.

5. COMMITTEE OFFICERS/AGENTS

Officers and their respective duties and powers are:

a. President: exercises general supervision over Project/Committee affairs. Presides over all meetings,

executes all instruments on behalf of Committee/Owners;

b. Vice President: has all powers of the President should President be absent or unable to act;

c. Secretary: keeps Minutes of all meetings and maintains all necessary records/files;

d. Treasurer: has custody and control of Project funds. Upon request, will furnish Committee a bond in amount specified.

Offices of Secretary and Treasurer or Vice President and Treasurer may be held by the same Committee member.

6. COMMITTEE MEETINGS - For continuity of management, incoming President to call meeting of new/outgoing members within 48 hours after Annual Meeting. Meetings thereafter to be held at regular intervals, at discretion of Committee members. Quorum consists of a majority then in office.

#### 7. UNIT OWNERS MEETINGS

a. Annual Meeting: second Monday in September each year at place and time designated by Management Committee. Written notice, preliminary Agenda, Financial Statement and proposed Budget to be delivered to owners at least 10 but not more than 15 days before Annual Meeting.

b. Special Meetings: can be called by written notice of Committee president, any two Committee members, or by written request to the Committee from one-fourth of Owners. Specifics of matters to be discussed to be provided owners at least 10 but not more than 15 days prior to meeting.

c. Voting - One vote per Unit. Owner may designate another as proxy or agent in writing, signed by owner and filed with Committee before commencement of meeting.

d. Quorum - majority (51%) of owners must be present at owners' meetings; otherwise, meeting to be adjourned and rescheduled within 30 days.

#### 8. RESPONSIBILITIES OF HOME OWNERS

a. USE: Unit shall be occupied and used only as a private residence. Common areas/facilities to be used in a manner consistent with their community nature and use restrictions.

b. LIMITATIONS: No Unit shall be used, occupied, or altered so as to: 1) detract from appearance or value of any other Unit; 2) create a nuisance; or 3) interfere with the rights of any owner in a way which would result in an

increase in insurance costs covering Capstone as a whole. Owner shall not make or permit to be made any structural alteration, improvement or addition to h's Unit without prior written approval of the Committee.

c. AUTOMOBILES/VEHICLES: shall not be parked at an entrance to or in front of a garage or walkway or at any other location within Capstone which would impair vehicular or pedestrian access.

d. PETS: should pet become offensive to other Owners because of noise, odors or other objectionable conditions, pet owner shall eliminate pet from Capstone if directed to do so by the Committee. Pets to be kept on a leash or in a cage when taken outside home or patio area. Owners to clean up after pets (dogs especially - POOPER SCOOPERS). Pets not properly controlled may be turned over to a governmental animal control authority by any Owner/Occupant.

e. MONTHLY DUES: Unit's share 1/48th of common expenses. Payment to the Association due on the first day of each month. Past due on the 15th day of each month at which time a late fee of \$15.00 will be charged.

f. TRANSFER FEE: Payment to the Association of a \$60 transfer fee, to be paid within 30 days after date of purchase or when legal title passes from seller to new Owner.

g. MAINTENANCE: must keep interior of home and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition. Responsible for maintenance, repair and/or replacement of:

- (1) garage interior, garage door and door opener
- (2) plumbing fixtures (interior)
- (3) water heater
- (4) furnace
- (5) interior light fixtures and appliances/  
fixtures: refrigerator, dishwasher, disposal,  
range, etc.
- (6) air conditioner
- (7) interior surfaces, stairs, doors including  
exterior doors/windows
- (8) patio and balcony interiors
- (9) features added by owners: iron works, sky-  
lights, awnings, fences, decks, etc.
- (10) interior damage to be covered by home  
owner insurance. Deductibles paid  
by homeowner.

h. FIRE EXTINGUISHER/SMOKE ALARMS: At least one extinguisher on each level in home and maintained by home owner. Rating of 1A-10-BC acceptable. Extinguishers to be light weight, easy to use, and able to provide needed





EXHIBIT "A"

The "Tract" which is referred to in and affected by said Declaration is situated in Salt Lake County, State of Utah, and is described as follows:

Phase One

BEGINNING at a point North  $89^{\circ}53'40''$  West along the Section line 1008.90 feet from the Southeast Corner of Section 28, Township One South, Range One East, Salt Lake Base and Meridian, and running thence North  $89^{\circ}53'40''$  West along said Section line 232.01 feet to the East line of 1850 East Street; thence North  $0^{\circ}54'10''$  West along said East line 330.30 feet to the Southwest corner of the parcel described in the Record of Survey Map of "Capstone" (Phase No. 2) recorded in Book KK at Page 83; thence South  $89^{\circ}53'40''$  East along the Southerly boundary of said parcel 223.82 feet; thence South  $0^{\circ}06'20''$  West 81.00 feet; thence North  $89^{\circ}53'40''$  West 11.00 feet; thence South  $0^{\circ}06'20''$  West 185.25 feet; thence South  $89^{\circ}53'40''$  East 25.00 feet; thence South  $0^{\circ}06'20''$  West 64.00 feet to the point of BEGINNING.

Phase Two

ALSO: BEGINNING at a point North  $0^{\circ}04'$  East 330.25 feet and North  $89^{\circ}53'40''$  West 945.10 feet from the Southeast Corner of Section 28, Township 1 South, Range 1 East, Salt Lake Base and Meridian (said point lying on the projection of the Northerly boundary of the parcel described in the Record of Survey Map of "Capstone" (Phase No. 1) recorded in Book II at Page 27) and running thence North  $89^{\circ}53'40''$  West along the projection and Northerly boundary of said parcel 300.90 feet to the Northwest corner of said parcel; thence North  $0^{\circ}54'10''$  West 212.03 feet; thence South  $89^{\circ}56'$  East 394.49 feet; thence South  $0^{\circ}04'$  West 84.00 feet; thence North  $89^{\circ}56'$  West 26.00 feet; thence South  $0^{\circ}04'$  West 107.20 feet; thence North  $89^{\circ}56'$  West 64.00 feet; thence South  $0^{\circ}04'$  West 21.00 feet to the point of BEGINNING.

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EXHIBIT "A"

Phase Three

BEGINNING at a point N89° 53'40"W 869 feet along the section line from the southeast corner of section 28, Township 1 South, Range 1 East, Salt Lake Base and Meridian; and running thence N89° 53'40"W 139.90 feet along the section line to the Southeast corner of "Capstone - Phase No. 1", a Utah condominium project as filed in the office of the Salt Lake County Recorder; thence along the following five courses along the eastern boundary of said "Capstone - Phase No. 1"; NO° 06'20"E 64.00 feet, N89° 53'40"W 25.00 feet, NO° 06'20"E 185.25 feet, S89° 53'40"E 11.00 feet, NO° 06'20"E 81.00 feet to the Northeast corner of said "Capstone - Phase No. 1", which point also lies on the southern boundary of "Capstone - Phase No. 2", a Utah condominium project as filed in the office of the Salt Lake County Recorder; thence along the following five courses along the southern and eastern boundaries of the said "Capstone - Phase No. 2": S89° 53'40"E 77.08 feet, NO° 04'00"E 21.00 feet, S89° 56'00"E 64.00 feet, NO° 04'00"E 107.20 feet, S89° 56'00"E 26.00 feet to the southeast corner of said "Capstone - Phase No. 2" which point also lies on the western boundary of "East Millcreek Subdivision"; thence along the western boundary of said "East Millcreek Subdivision" SO° 04'00"W 121.00 feet to the southwest corner of said subdivision; thence N89° 56'00"W 13.18 feet; thence SO° 06'20"W 337.50 feet to the point of beginning. Containing 1.298 acres.

Phase Four

BEGINNING at a point on the eastern boundary of "Capstone Condominiums - Phase Three", a Utah condominium project as filed in the office of the Salt Lake County Recorder. said point being N89° 53'40"W 869.00 feet and NO° 06'20"E 224.72 feet from the southeast corner of Section 28, Township 1 South, Range 1 East, Salt Lake Base and Meridian; and running thence NO° 06'20"E 112.94 feet along the eastern boundary line of said "Capstone Condominiums - Phase Three" to a point on the south boundary line extended of "East Mill Creek Subdivision"; thence S89° 56'E along said line 353.38 feet to a point 6.24 feet more or less N89° 56'W from the southeast corner of lot 14 of said subdivision; thence SO° 06'20"W 113.18 feet; thence N89° 53'40"W 353.38 feet to the point of beginning. Containing 0.917 acres