

# Introduction

This booklet contains the Governing Documents for the Venetian Gardens Association. They were developed in accordance with the best association planning available to enhance, and control the growth of Venetian Gardens during its lifetime. Their prime objective is to maintain the development in an orderly manner, to ensure the best possible lifestyle for each member, and to protect property values.

There are actually three discrete documents in the booklet. In addition to the historical articles of incorporation, the by-laws and the CC&R's establish the procedures for operating the Association as a business and establish guidelines for the officers and Directors to conduct operations.

The by-laws outline from a Board-of-Director's perspective the organization and operation of the Association. These by-laws may be amended by a simple majority of the total number of homeowners.

The CC&R's (A Declaration of Covenants, Conditions, and Restrictions) are the BINDING AGREEMENTS (or covenants) which outline what the individual homeowners is allowed to do—and is prohibited from doing—in accordance with what was thought best for the living may also be amended, by a majority vote of three-fourths of the membership is required to do so.

It is the hope of the Board of Directors that an understanding of these established codes by which we live with each other in the best possible harmony will make the operation of our Association both easier and more pleasant.

The Board of Directors  
January 1, 1999

# SEAL OF THE STATE OF CALIFORNIA



75 215

## OFFICE OF THE SECRETARY OF STATE

FRANCES EZEIL  
DEPUTY

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6/11/75

I, *MARCH FONG EU*, Secretary of State of the State of California, hereby certify:

That the annexed transcript has been compared with the RECORD on file in this office, of which it purports to be a copy, and that same is full, true and correct.

IN WITNESS WHEREOF, I execute  
this certificate and affix the Great  
Seal of the State of California this

JUN 8 - 1975

*March Fong Eu*

Secretary of State



737706

ENDORSED  
FILED

In the office of the Secretary of State  
of the State of California

JUN 6 1975

MARCH FONG EU, Secretary of State

Myrtle P. Reintsma  
Deputy

ARTICLES OF INCORPORATION

OF

VENETIAN GARDENS ASSOCIATION

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I

The name of this corporation shall be VENETIAN GARDENS ASSOCIATION.

II

The purposes for which this corporation is formed are:

A. The specific and primary purposes are to act as the property owners association of the Venetian Gardens Subdivision, Stockton, San Joaquin County, California, as provided by the Venetian Gardens Master Restrictions, hereinafter referred to as Restrictions, recorded in Official Records of San Joaquin County, California, on June 3 , 1975, as instrument no.25427 , as they may be amended from time to time.

B. The general purposes and powers are:

1. To have and to exercise all of the rights and powers and perform all of the duties and responsibilities set out in the Restrictions for the Venetian Gardens Association.

2. To have and to exercise all of the rights, powers and privileges of a corporation organized

under the General Non-Profit Corporation Law of the State of California, as may be provided for from time to time.

3. This corporation shall not exercise any rights or powers forbidden it by the Restrictions and shall not, except to an insubstantial degree, engage in any activity or exercise any rights or powers that do not further the specific and primary purposes of this corporation.

### III

This corporation is organized pursuant to the General Non-Profit Corporation Law of the State of California.

### IV

The county in this state where the principal office for the transaction of the business of this corporation is located is San Joaquin County.

### V

The number of directors shall be five (5). The names and addresses of the persons who are to act in the capacity of directors until the selection of their successors are:

A. BRYCE CAREY  
3610 Appleton Ct.  
Stockton, CA

ROBERT TURNER  
1112 Stratford Cir. #24  
Stockton, CA 95207

DUNCAN R. McPHERSON  
916 Bank of America Bldg.  
Stockton, CA 95202

THOMAS T. WELCH  
6202 Embarcadero Dr.  
Stockton, CA 95202

ECKHARD SCHMITZ  
3802 "14" Mile Drive  
Stockton, CA 95207

The officers of this corporation shall be managed by a Board of Directors who shall exercise all of the rights and powers and perform all of the duties and responsibilities set out in the Restrictions for the Board except that such rights, powers, duties and responsibilities may be delegated to officers of the Association and Committees of the Board as may be provided in the By-Laws of this corporation subject to the control of the Board and to a manager in the manner and under the conditions provided by the Restrictions.

#### VI

The Board of Directors shall be permitted to take any action authorized by Division 1 of the Corporations Code that it is not otherwise prohibited from taking, without a meeting, provided all members of the Board consent in writing to such action and such consent or consents are filed with the minutes of the proceedings of the Board. Any action of the Board taken pursuant to such written consent or consents shall have the same force and effect as a unanimous vote of the Directors.

#### VII

The qualifications of members of the corporation, the different classes of membership, if any, the property, voting and other rights and privileges, assessments and the method of their collection, are set forth in the Restrictions. Except as expressly set forth in the Restrictions, membership in this corporation is not assessable.

## VIII

The property of this corporation is irrevocably dedicated to the purposes set forth in Article II and no part of the net income or assets of this corporation shall inure to the benefit of a director, officer or member of this corporation or to the benefit of any private person except to the benefit as owners as set out in the Restrictions. Upon the dissolution or winding up of this corporation, its assets, remaining after payment, or provision for payment, of all the debts and liabilities of this corporation shall be distributed as follows:

A. If the Restrictions have not been terminated, such assets shall be paid over to the unincorporated association which shall succeed to the rights and powers and be delegated the duties and responsibilities of this corporation. Such association shall be governed by the Restrictions, these Articles, and the corporation By-Laws as provided in the Restrictions.

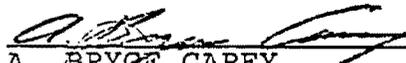
B. If the Restrictions have been terminated, such assets shall be distributed to the owners in the same proportion as they are then assessed for the maintenance assessment as provided in the Restrictions.

## IX

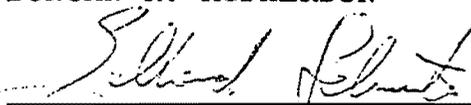
Amendment or repeal of these Articles of Incorporation shall require the approval by vote or written consent of

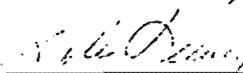
seventy-five percent (75%) of the members.

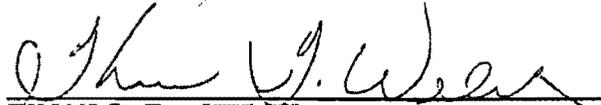
IN WITNESS WHEREOF, the undersigned, being the persons named above as the first directors, have executed these Articles of Incorporation this 5th day of June 1975.

  
A. BRYCE CAREY

  
DUNCAN R. MCPHERSON

  
ECKHARD SCHMITZ

  
ROBERT TURNER

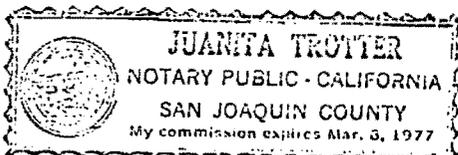
  
THOMAS T. WELCH

STATE OF CALIFORNIA )  
                                  )  
COUNTY OF SAN JOAQUIN)

On this 5th day of June 1975, before me, the undersigned, a notary public for the State of California, personally appeared A. BRYCE CAREY, DUNCAN R. MCPHERSON, ECKHARD SCHMITZ, ROBERT TURNER and THOMAS T. WELCH, known to me to be the persons whose names are subscribed to the written Articles of Incorporation, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have set my hand and affixed my official seal on the day and year first above written.

  
Notary Public in and for  
said County and State



BY-LAWS OF  
VENETIAN GARDENS ASSOCIATION

These By-Laws are made for the purpose of governing the affairs of the Venetian Gardens Association, the Owners Association of a subdivision, and are subject to the Venetian Gardens Master Restrictions, hereinafter referred to as Restrictions, as they may be amended from time to time and the Articles of Incorporation of this Corporation.

ARTICLE I  
OFFICES

Section 1.01. PRINCIPAL OFFICE.

The principal office for the transaction of business of the Corporation is hereby fixed and located at 6202 Embarcadero Drive, Stockton, San Joaquin County, California. The Board of Directors is hereby granted full power and authority to change the place of the principal office to another location within the City of Stockton, California.

ARTICLE II  
MEMBERS' MEETING

Section 2.01. PLACE OF MEETINGS.

All meetings of the members shall be held at the principal office of the corporation or at such other place within the City of Stockton, California designated from time to time by the Directors, but all such meetings shall be held within the Venetian Gardens subdivision or as close thereto as practicable.

Section 2.02. ANNUAL MEETINGS.

The annual meeting of the members shall be held on the first Saturday of May in each year, if not a legal holiday, and if a legal holiday, then on the next succeeding Saturday at the hour of 10:00 a.m., at which time the members shall elect by plurality vote a Board of Directors, consider reports of the affairs of the Corporation, and transact such other business as may properly be brought before the meeting.

Section 2.03. SPECIAL MEETINGS.

Special meetings of the members, for any purpose or purposes whatsoever, may be called at any time by the President, or by the Board of Directors, or by any two or more members thereof, or by one or more members holding not less than one-fifth (1/5) of the voting power of the Corporation.

Section 2.04. NOTICE OF MEETINGS.

Notice of meetings, annual or special, shall be given in writing to members entitled to vote by the Secretary or the Assistant Secretary, or if there be no such officer, or in a case of his neglect or refusal, by any director or member.

Such notices shall be sent to the member's address appearing on the books of the Corporation, or supplied by him to the Corporation for the purpose of notice, not less than ten (10) days before such meeting.

Notice of any meeting of members shall specify the place, the day and the hour of meeting, and in case of special meeting, in the manner provided by law, shall state the general nature of the business to be transacted. Notice of the business to be transacted shall also be given for any meeting at which the following matters are to be considered: Lease or transfer of all or substantially all of the corporation's assets, merger with another corporation, amendment of the Restrictions or articles, dissolution of the corporation, or plans for distribution of assets in connection with dissolution.

When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in case of an original meeting. Save, as aforesaid, it shall not be necessary to give any notice of the adjournment or of the business to be transacted at an adjourned meeting other than by announcement at the meeting at which such adjournment is taken.

Section 2.05. CONSENT TO MEMBERS' MEETINGS.

The transactions of any meeting of members, however called and noticed, shall be valid as though had at a meeting duly held after regular call and notice if a quorum be present either in person or by proxy, and if, either before or after the meeting, each of the members entitled to vote, not present in person or by proxy, sign a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Any action which may be taken at a meeting of the members, except the approval of agreements to merge or consolidate with other corporations, may be taken without a

meeting if authorized by a writing signed by all of the members who would be entitled to vote at a meeting for such purpose, and filed with the Secretary of the Corporation.

Section 2.06. QUORUM.

Members having a majority of votes present in person, or represented by proxy, shall be a requisite to and shall constitute a quorum at all meetings of the members for the transaction of business except as otherwise provided by law, by the Restrictions, by the Articles of Incorporation, or by these By-Laws. If, however, such majority shall not be present or represented at any meeting of the members, the members entitled to vote, present in person, or by proxy, shall have power to adjourn the meeting from time to time, until the requisite number of votes shall be present. At such adjourned meeting at which the requisite number of votes shall be represented, any business may be transacted which might have been transacted at the meeting as originally notified.

Section 2.07. VOTING RIGHTS: CUMULATIVE VOTING.

Only members whose names stand on the records of the Corporation as entitled to vote on the day of any meeting of members, unless some other day be fixed by the Board of Directors for the determination of members of record, then on such other day, shall be entitled to vote at such meeting.

Every member entitled to vote shall be entitled to the votes as set out in the Restrictions, except that for the election of directors each member shall be entitled to a number of votes equal to the number of directors to be elected multiplied by the number of votes which he is entitled to vote.

*Cumulative voting* →

*(5 votes)  
but  
Majority  
voting*

Upon the demand of any member made before the voting begins, the election of directors shall be by ballot.

Section 2.08. PROXIES.

Every person entitled to vote or execute consents shall have the right to do so either in person or by an agent or agents authorized by written proxy executed by such person or his duly authorized agent and filed with the Secretary of the Corporation. The manner of execution, revocation, and use of proxies shall be governed by the general provisions of law.

Section 2.09. INDEPENDENT BOARD MEMBER.

If at any time the members other than Grantor do not have a sufficient percentage of voting power to elect at least one (1) director to the Board through the cumulation

6/2/75

*N = D x V  
5 = 5 x 1*

of all of their votes, Grantor at the annual election of the Board or at any other election of the entire Board, shall be allowed to vote for no more than one (1) less than the total number of directors positions on the board.

### ARTICLE III DIRECTORS; MANAGEMENT

#### Section 3.01. POWERS.

Subject to the limitation of the Restrictions, Articles of Incorporation, of the By-Laws and of the laws of the State of California as to actions to be authorized or approved by the members, all corporate powers shall be exercised by or under authority of, and the business and affairs of this Corporation shall be controlled by, a Board of Directors.

#### Section 3.02. NUMBER OF DIRECTORS.

The authorized number of directors of the Corporation shall be as set out in the Articles of Incorporation.

#### Section 3.03. ELECTION AND TENURE OF OFFICE.

*2-11-75 stamp!*  
The directors shall be elected by ballot at the annual meeting of the members, to serve for one year and until their successors are elected and have qualified. Their term of office shall begin immediately after election.

#### Section 3.04. VACANCIES.

Vacancies in the Board of Directors may be filled by a majority of the remaining directors, though less than a quorum, or by a sole remaining director, and each director so elected shall hold office until his successor is elected at an annual meeting of members or at a special meeting called for that purpose.

The members may at any time elect a director to fill any vacancy not filled by the directors, and may elect the additional directors at the meeting at which an amendment of the Articles is voted authorizing an increase in the number of directors.

A vacancy or vacancies shall be deemed to exist in case of the death, resignation or removal of any director, or if the members shall increase the authorized number of directors but shall fail at the meeting at which such increase is authorized, or at an adjournment thereof, to elect the additional director so provided for, or in case the members fail at any time to elect the full number of authorized directors.

If the Board of Directors accepts the resignation of a Director tendered to take effect at a future time, the

Board, or the members, shall have the power to elect a successor to take office when the resignation shall become effective.

No reduction of the number of directors shall have the effect of removing any director prior to the expiration of his term of office.

CC 722(b)  
Section 3.05. REMOVAL OF DIRECTORS.

The entire Board of Directors or any individual director may be removed from office in the manner provided by law, however, unless the entire Board is removed, an individual director shall not be removed if the number of votes against the resolution for removal exceed the quotient arrived at when the total number of votes entitled to be cast is divided by one plus the authorized number of directors.

336 = 56  
5+1  
In no case shall a director for whom the Grantor could not vote pursuant to the provision of the Section entitled "Independent Board Member" be removed by the votes of Grantor.

57 votes needed  
Section 3.06. PLACE OF MEETINGS.

Meetings of the Board of Directors shall be held at the principal office of the Corporation in the State of California, as designated for that purpose, from time to time, by resolution of the Board of Directors, or written consent of all the Members of the Board. Any meeting shall be valid, wherever held, if held by the written consent of all Members of the Board of Directors, given either before or after the meeting and filed with the Secretary of the Corporation.

Section 3.07. ORGANIZATION MEETINGS.

The organization meeting of the Board of Directors shall be held each year immediately following the adjournment of the annual meeting of the members.

Section 3.08. OTHER REGULAR MEETINGS.

Regular meetings of the Board of Directors shall be held immediately following the adjournment of the annual meeting of the members and at least quarterly at the principal office of the Corporation, on dates to be set from time to time by the Board of Directors. If said day for the meetings, except for the meeting that immediately follows the annual meeting of the members, shall fall upon a holiday, such meetings shall be held on the next succeeding business day thereafter. No notice need be given of such regular meetings, but the notice required for special meetings must be given on each setting or resetting of the dates of the quarterly meetings.

Section 3.09. SPECIAL MEETINGS--NOTICES.

Special meetings of the Board of Directors for any purpose or purposes shall be called at any time by the President or if he is absent or unable or refuses to act, by any Vice-President or by any two directors.

Written notice of the time and place of special meetings shall be delivered personally to the directors or sent to each director by letter or by telegram, charges prepaid, addressed to him at his address as it is shown upon the records of the Corporation, or if it is not so shown on such records or is not readily ascertainable, at the place in which the meetings of the directors are regularly held. In case such notice is mailed or telegraphed, it shall be deposited in the United States mail or delivered to the telegraph company in the place in which the principal office of the Corporation is located at least Ninety-six (96) hours prior to the time of the holding of the meeting. In case such notice is delivered as above provided; it shall be so delivered at least twenty-four (24) hours prior to the time of the holding of the meeting. Such mailing, telegraphing, or delivery as above provided shall be due, legal and personal notice to such director.

Section 3.10. WAIVER OF NOTICE.

When all the directors are present at any directors' meeting, however called or noticed, and sign a written consent thereto on the records of such meeting, or, if a majority of the directors are present, and if those not present sign in writing a waiver of notice of such meeting, whether prior to or after the holding of such meeting, which said waiver shall be filed with the Secretary of the Corporation, the transactions thereof are as valid as if had at a meeting regularly called and noticed.

Section 3.11. MEETINGS BY TELEPHONE.

With the consent of all the directors, meetings may be held by conference telephone or by other communication method which allows all directors to have vocal communication.

Section 3.12. NOTICE OF ADJOURNMENT.

Notice of the time and place of holding an adjourned meeting need not be given to absent directors if the time and place be fixed at the meeting adjourned.

Section 3.13 QUORUM.

A majority of the number of directors as fixed by the Articles or By-Laws shall be necessary to constitute a quorum for the transaction of business, and the action of a majority of the directors present at any properly held meeting at which there is a quorum, when duly assembled, is

valid as a corporate act; provided that a majority of the directors present, in the absence of a quorum, may adjourn from time to time, but may not transact any business.

#### ARTICLE IV OFFICERS

##### Section 4.01. OFFICERS.

The officers of the Corporation shall be a president, a vice-president, a secretary and a treasurer. The Corporation may also have, in the discretion of the Board of Directors, one or more additional vice-presidents, one or more assistant secretaries, one or more assistant treasurers, and such other officers as may be appointed in accordance with the provisions of this Article. One person may hold two (2) or more offices, except those of president and secretary.

##### Section 4.02. ELECTION.

The officers of the Corporation, except such officers as may be appointed in accordance with the provisions of the Section headed "Subordinate Officers, etc." or the Section headed "Vacancies" of this Article shall be chosen annually by the Board of Directors, and each shall hold office until he shall resign or shall be removed or otherwise disqualified to serve, or his successor shall be elected and qualified.

##### Section 4.03. SUBORDINATE OFFICERS, ETC.

The Board of Directors may appoint such other officers as the business of the Corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in the By-Laws or as the Board of Directors may from time to time determine.

##### Section 4.04. REMOVAL AND RESIGNATION.

Any officer may be removed, either with or without cause, by a majority of the directors at the time in office, at any regular or special meeting of the Board, or, except in case of an officer chosen by the Board of Directors, by any officer upon whom such power of removal may be conferred by the Board of Directors.

Any officer may resign at any time by giving written notice to the Board of Directors or to the President, or to the Secretary of the Corporation. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4.05. VACANCIES.

A vacancy in any office because of death, resignation, removal, disqualification or other cause shall be filed in the manner prescribed in the By-Laws for regular appointments to such office.

Section 4.06. PRESIDENT.

The president shall be the chief executive officer of the Corporation and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and officers of the Corporation. He shall preside at all meetings of the members and at all meetings of the Board of Directors. He shall be ex officio a member of all the standing committees, including the executive committee, if any, and shall have the general powers and duties of management usually vested in the office of president of a Corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or the By-Laws.

Section 4.07. VICE-PRESIDENT.

In the absence or disability of the president, the vice-presidents, in order of their rank as fixed by the Board of Directors, or if not ranked, the vice-presidents designated by the Board of Directors, shall perform all the duties of the president, and when so acting, shall have all the powers of, and be subject to all the restrictions upon the president. The vice-president shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board of Directors or the By-Laws.

Section 4.08. SECRETARY.

The Secretary shall keep, or cause to be kept, a book of minutes at the principal office or such other place as the Board of Directors may order, of all meetings of directors and members, with the time and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at directors' meetings, the number of votes present or represented at directors' meetings and the proceedings thereof.

The Secretary shall keep, or cause to be kept, at the principal office a register showing the names of the members and their addresses; the number of votes held by each; the number and date of any certificates issued for the same (if the corporation causes certificates to be issued to evidence membership in the corporation), and the number and date of cancellation of every certificate surrendered for cancellation.

Section 4.09. TREASURER.

The treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, surplus and any monies and funds handled for the members. The books of account shall at all reasonable times be open to inspection by any director.

The treasurer shall deposit monies and other valuables in the name and to the credit of the Corporation with such depositories as may be designated by the Board of Directors. He shall disburse the funds of the Corporation as may be ordered by the Board of Directors; shall render to the president and directors, whenever they request it, an account of all his transactions as treasurer and of the financial condition of the Corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or the By-Laws.

ARTICLE V  
EXECUTIVE AND OTHER COMMITTEES

Section 5.01. EXECUTIVE AND OTHER COMMITTEES.

The Board of Directors may appoint an executive committee, and such other committees as may be necessary from time to time, consisting of at least two of its members and with such powers as it may designate, consistent with the Restrictions, the Articles of Incorporation and By-Laws and the General Non-Profit Corporation Laws of the State of California. Such committees shall hold office at the pleasure of the Board.

ARTICLE VI  
CORPORATE RECORDS AND REPORTS--INSPECTION

Section 6.01. RECORDS.

The Corporation shall maintain adequate and correct accounts, books and records of its business and properties, and the business and properties of the Owners with which it is entrusted. All of such books, records and accounts shall be kept at its principal place of business in the State of California, as fixed by the Board of Directors from time to time.

Section 6.02. INSPECTION OF BOOKS AND RECORDS.

All books and records provided for by statute

shall be open to inspection of the directors and members from time to time and to the extent expressly provided by statute, and not otherwise.

Section 6.03. CERTIFICATION AND INSPECTION OF BY-LAWS.

The original or a copy of these By-Laws, as amended or otherwise altered to date, certified by the Secretary, shall be open to inspection by the members of the corporation in the manner provided by law.

Section 6.04. CHECKS, DRAFTS, ETC.

All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Corporation, shall be signed or endorsed by such person or persons and in such manner as shall be determined from time to time by resolution of the Board of Directors.

Section 6.05. CONTRACTS, INSTRUMENTS--HOW EXECUTED.

The Board of Directors, except as in the By-Laws otherwise provided, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the Corporation. Such authority may be general or confined to specific instances. Unless so authorized by the Board of Directors, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement, or to pledge its credit, or to render it liable for any purpose or to any amount.

Section 6.06. ANNUAL REPORT.

The Board of Directors of the Corporation shall cause to be prepared and sent to the members within sixty (60) days of the last day of the period covered a balance sheet as of the last day of the period covered and operating (income) statement for the period covered as follows:

(a) For the period from the date of the closing of the first sale of a subdivision interest to a member of the Association, excluding Grantor to the last day of the month closest in time to six (6) months from the closing of such first sale, the operating statement for this period shall include a schedule of assessments received or receivable itemized by lot or unit number and by the name of the person or entity assessed.

(b) For the period of each of the corporation's fiscal years.

ARTICLE VII  
MEMBERSHIP

Section 7.01. MEMBERSHIP.

The classes and qualifications of members are set out in the Restrictions. It is the duty of each person who

becomes an owner of any property within the Venetian Gardens Subdivision or who ceases to become such an owner to notify the association in writing within thirty (30) days, giving the date and recording data of the instrument transferring title, a copy of such instrument, and addresses to which notices are to be sent. The change and transfer of memberships shall be made in a register kept at the principal office of the Corporation. In the case of any dispute, the Board of Directors shall decide, pursuant to the provisions of the Restrictions, who is a member of this Corporation.

Section 7.02. CLOSING OF MEMBERSHIP REGISTER.

The Board of Directors may close the membership register for a period not exceeding thirty (30) days preceding any meeting, annual or special, of the members and any such meeting shall be conducted and any vote taken on the basis of the membership shown in the register at the time of closing.

ARTICLE VIII  
CORPORATE SEAL

Section 8.01. CORPORATE SEAL.

The corporate seal shall be circular in form, and shall have inscribed thereon the name of the Corporation, the date of its incorporation, and the word "California".

ARTICLE IX  
AMENDMENTS TO BY-LAWS

Section 9.01. BY MEMBERS.

New By-Laws may be adopted or these By-Laws may be repealed or amended at their annual meeting, or at any other meeting of the members called for that purpose, by a vote of members entitled to exercise a majority of the voting power of the Corporation, or by the written assent of such members.

Section 9.02. RECORD OF AMENDMENTS.

Whenever an amendment or new By-Laws is adopted, it shall be copied in the Book of By-Laws with the original By-Laws, in the appropriate place. If any By-Laws or By-Law is repealed, the fact of repeal with the date of the meeting at which the repeal was enacted or written assent was filed shall be stated in said book.

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned, being all of the persons appointed in the Articles of Incorporation to act as the

first Board of Directors of Venetian Gardens Association hereby assent to the foregoing By-Laws, and adopt the same as the By-Laws of said Corporation.

*A. Bryce Carey*  
 A. BRYCE CAREY

*Duncan R. McPherson*  
 DUNCAN R. McPHERSON

*Eckhard Schmitz*  
 ECKHARD SCHMITZ

*Robert Turner*  
 ROBERT TURNER

*Thomas T. Welch*  
 THOMAS T. WELCH

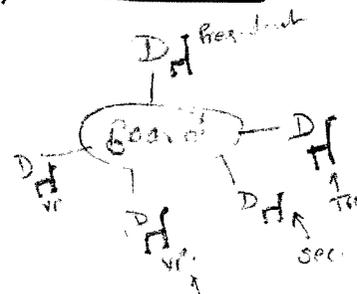
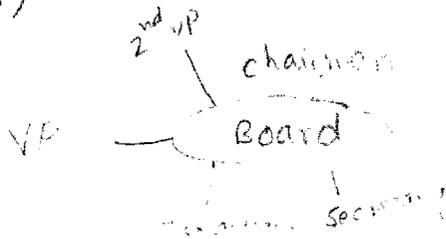
THIS IS TO CERTIFY:

That I am the duly elected, qualified and acting Secretary of Venetian Gardens Association and that the above and foregoing By-Laws were adopted as the By-Laws of said Corporation on the 12th day of September, 1975, by the persons appointed in the Articles of Incorporation to act as the first directors of said Corporation.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of September, 1975.

*Thomas T. Welch*  
 Secretary

*Chairman -> Board  
 President -> Association  
 Chairman & President interchangeable  
 (avoid confusion)*



-12-

*All Directors -  
 - Position called officers  
 initiated by Board  
 Board @ pleasure of Board.  
 Board can remove person @ Position  
 Rem. still is director of the board.*

*can have 15 Dired  
 only 5 positions  
 - non-elected member  
 can be appointed  
 officer (no  
 voting rights)*

VENETIAN GARDENS MASTER RESTRICTIONS

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## VENETIAN GARDENS MASTER RESTRICTIONS

A DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS

THIS DECLARATION is made this 30th day of May, 1975 by State Savings and Loan Association, a California corporation, and Schmitz Development, Inc., a California Corporation, as to that real property designated on Exhibit "A" which is attached to this Declaration and incorporated by reference and by each other person or entity having an interest in the real property described in Exhibit "A" who executes a consent to this Declaration.

It is hereby declared that all of the described real property is subject to the Venetian Gardens Master Restrictions, meaning the limitations, easements, restrictions, covenants, terms and conditions set forth in this Declaration, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement, and transfer of the described real property and are established and agreed upon for the purpose of enhancing and perfecting the value, desirability and attractiveness of the described real property and every part thereof. The Venetian Gardens Master Restrictions shall run with the described real property and shall be

binding upon and inure to the benefit of Grantor, the Association, as defined in this Declaration, each owner of the described real property or any part thereof, and each successor in interest of Grantor, the Association and any such owner.

ARTICLE 1

Definitions

Unless the context otherwise specifies or requires, the terms defined in this Article shall for the purposes of these Restrictions, have the meanings as herein defined.

Section 1.01 Association. The term "Association" shall mean the Venetian Gardens Association, a non-profit membership corporation, and any predecessor or successor incorporated or unincorporated association, as set forth in the Article entitled "Venetian Gardens Association".

Section 1.02 Board. The term "Board" shall mean the board of directors of the Association.

Section 1.03. Commercial Zone. The term "commercial zone" shall mean those parts of Venetian Gardens described in Exhibit "D" attached hereto and incorporated herein and any additional areas designated by Grantor as part of the zone on any annexation to Venetian Gardens.

Section 1.04. Common Area. The term "common area" shall mean any real property owned or controlled by the Association

intended for the common use and enjoyment of the Association members. In addition, common area includes for the purposes only of requiring the association's upkeep and maintenance of such areas, any berm or planter area or green strip within the subdivision within any street or public right of way.

Section 1.05. Fiscal Year. The term "fiscal year" shall mean the period from and including May 1st of each year through April 30th of the following calendar year.

Section 1.06. Feature Areas. The term "Feature Area" or "Feature Areas" shall refer to those areas within the commercial zone shown on Exhibit "C" attached hereto and incorporated herein to be maintained by the owner thereof as set out in the Article herein entitled "Maintenance of Feature Areas"; and any additional areas designated as feature area by Grantor on any annexation to Venetian Gardens. Such areas include green belts, water ways, berms, walkways, and signs or other subdivision entrance features.

Section 1.07. Grantor. The term "Grantor" shall mean State Savings and Loan Association, a California corporation, or Schmitz Development, Inc., a California corporation, and their successors and assigns, each independently having all of the powers and rights given to Grantor by these Restrictions.

Section 1.08. Improvements. The term "improvements" shall include buildings, out-buildings, roads, driveways, parking areas, fences, retaining walls, stairs, decks, hedges,

windbreaks, poles, antennas, signs, utility or communication installations (whether above or underground), bridges, docks, retaining structures, water ways, and any structures and excavations of any type or kind.

Section 1.09. Lot. The term "lot" shall mean any numbered or lettered lot shown on a subdivision map. "Lot" shall also mean any unit within a project and the project common area if a parcel separate from the unit. Upon the splitting of any lot or the consolidation of any lots, "lot" shall mean each parcel or unit into which such lot has been split or the parcel or unit consisting of the lots so consolidated, as the case may be.

Section 1.10. Membership; Member. The term "Membership" shall mean the membership in the Association by owners of lots and project units within the Residential Zone as set forth in the Article entitled "Venetian Gardens Association". The term "Member" shall mean the person or persons holding such membership.

Section 1.11. Mortgage; Mortgagee. The term "mortgage" shall mean a deed of trust or an assignment of a leasehold interest for security purposes as well as a mortgage; and the term "mortgagee" shall mean a beneficiary under or a holder of a deed of trust, or an assignee of a leasehold interest assigned for security purposes, as well as a mortgagee.

Section 1.12. Non Resident Membership. The term "Non Resident Membership" shall mean the voluntary non voting

membership in the Association that may be acquired by certain owners, tenants, and employees within the Commercial Zone as set out in the Article entitled "Venetian Gardens Association". The term "Non Resident Member" shall mean the person or persons holding a non resident membership.

Section 1.13. Notice. The term "notice" shall mean a notice delivered pursuant to Section 12.09.

Section 1.14. Operating Fund. The term "operating fund" shall mean the fund created pursuant to Section 9.02.

Section 1.15. Owner. The term "Owner" shall mean the person or persons, including Grantor, holding the beneficial ownership of the fee (including the purchaser under a contract of sale) and shall not include persons holding only a security interest; provided, however, that for the purposes of the Article entitled "Property Classification and Use", unless the context otherwise requires, "owner" shall include the family, invitee, licensees, subtenant and lessees of any owner. The term "owner" shall refer only to owners of property within the Residential Zone unless the context specifically includes the owners of property within the Commercial Zone.

Section 1.16. Planning Committee. The term "Planning Committee" shall mean the committee created pursuant to the Article entitled "Planning Committee".

Section 1.17. Planning Committee Rules. The term "Planning Committee Rules" shall mean rules adopted by the Planning

Committee pursuant to authority given to them by these Restrictions. Such rules shall apply only to the Residential Zone.

Section 1.18. Project; Project Committee. The term "project" shall mean any condominium project, any planned unit development and any other multiple unit residential or commercial development consisting of units of real property capable of being owned or controlled by different owners, plus jointly owned or controlled common areas. A "project" shall not include any development where the units in whole or in part consist of detached single family or duplex dwellings. The term "project committee" shall mean the governing body of any project.

Section 1.19. Project Area. The term "project area" shall mean all of the real property within Venetian Gardens lying within the boundaries of any project.

Section 1.20. Project Unit. The term "project unit" or "unit" shall be defined as the individually owned or controlled portion of a project including units of a condominium and the individual lots in a planned unit development that are not common areas of the project.

Section 1.21. Record; Recorded. The term "record" or "recorded" shall mean, with respect to any document, that the document shall have been recorded in the Office or Offices of the Recorder of the county or counties in which the real property to which the document relates is located.

Section 1.22. Residential Zone. The term "Residential Zone" shall mean any area within the Venetian Gardens not part of the Commercial Zone.

Section 1.23. Setback. The term "setback lines" means the distance between a dwelling house, or other structure referred to and the given street or side or rear lines of the particular lot, unit or site. The setback lines established in subdivision maps executed by Grantor, or the planning committee or by project maps or plans approved by the governing agency having jurisdiction, for any dwelling house or other structure from any street or lines shall be deemed and construed to be the minimum distance between said dwelling house or other structure and the street or line closest thereto.

Section 1.24. Street. The term "street" shall mean and refer to any street, highway, or other thoroughfare shown on a subdivision map, of any land now or hereafter subjected to these Restrictions or contiguous to the real property designated on any of said maps, whether designated thereon as street, avenue, boulevard, drive, place, court, road, terrace, way, circle, lane, walk, path, or otherwise.

Section 1.25. Subdivision Map. The term "subdivision map" shall mean any final subdivision or parcel map, including final condominium plans.

Section 1.26. Subdivision Rules. The term "Subdivision Rules" shall mean the rules made by the Board pursuant to the authority granted by these Restrictions as they are from time to time in effect.

Section 1.27. Venetian Gardens Master Restrictions. The terms "Venetian Gardens Master Restrictions", "Subdivision Restrictions", "these Restrictions" or "this Declaration" shall mean, with respect to all property within Venetian Gardens, the limitations, restrictions, covenants, and conditions set forth in this Declaration, as such Declaration may from time to time be amended, and with respect to any property within Venetian Gardens which is annexed as these Restrictions may from time to time be supplemented or modified by the provisions of a declaration, if any, recorded with respect to such annexed property.

ARTICLE 2

Property Subject To Restrictions

Section 2.01. Initial Development. All of that certain real property located in the City of Stockton, San Joaquin County, California described in Exhibit "A" attached hereto and incorporated herein shall constitute Venetian Gardens.

Section 2.02. Venetian Gardens: Annexation of Subsequent Developments. Grantor may, pursuant to the following provisions of this section, from time to time and in its sole discretion, annex to Venetian Gardens all or any part of the real property not then constituting a part of Venetian Gardens in the City of Stockton, San Joaquin County, California that is described in Exhibit "B" attached hereto and incorporated herein, owned by Grantor or other persons with the permission of such other persons.

(a) The annexation of any such property shall become effective when Grantor shall have recorded the following:

(1) A declaration, which may consist of more than one document and which shall, among other things, (i) describe the real property which is to be annexed to Venetian Gardens, (ii) set forth or refer to such additional or other limitations, restrictions, covenants and conditions, applicable to such property, as provided in paragraph (d) below, (iii) describe any areas to be included within the commercial zone, feature areas and common areas, and (iv) declare that such property is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved, subject to the Venetian Gardens Master Restrictions; and

(2) A subdivision map with respect to the real property described in said declaration.

(b) Grantor shall not annex to Venetian Gardens any property designated on a subdivision map as lots or project area if such annexation is to be effected more than five (5) years after the date hereof, if such annexation is the first to occur hereunder, or more than five (5) years after the date of the last previous annexation; unless and until such annexation has been approved by a sixty-seven percent (67%) vote or written consent of the Owners, other than Grantor.

(c) Upon any annexation becoming effective the property covered by such annexation shall become and constitute

a part of Venetian Gardens, and the Association shall have and shall accept and exercise jurisdiction over such property as a part of Venetian Gardens.

(d) The declaration referred to in paragraph (a) above may, with respect to all or any part of the property described in said declaration provide for, any or all of the following which shall become part of these Restrictions as applicable to such property:

(1) Such new land classifications not then provided for by these Restrictions, and such limitations, restrictions, covenants and conditions with respect to the use as Grantor deems appropriate for the development of such property; and

(2) With respect to the land classification provided for by these Restrictions, such additional or different limitations, restrictions, covenants and conditions with respect to use as Grantor deems appropriate for the development of such property; provided, however, that such additional or different limitations, restrictions, covenants and conditions applicable to common area lying within such annexed property shall not discriminate between Owners.

### ARTICLE 3

#### Property Classification and Use

Section 3.01. Purposes of Land Classification and Use. The purposes of these limitations and restrictions and the other

controls in this Article are to enhance, protect, establish and maintain the character, value, desirability and attractiveness of the real estate within Venetian Gardens and to insure its development as a subdivision.

Section 3.02. Land Classification. All land within Venetian Gardens is classified into one of two (2) areas, the Residential Zone or the Commercial Zone. The lots within both zones may be further classified into common area or project area.

Section 3.03. Uses and Restrictions Applicable to Both Residential and Commercial Zones. Each lot and project area in both Residential and Commercial Zones shall be for the exclusive use and benefit of the Owner or Owners thereof, subject, however, to all of the following rights, limitations and restrictions. The term "Owner" as used in this Section shall refer to owners of property as defined by these Restrictions, in both the Residential Zone and Commercial Zone.

(a) The Association, or its duly authorized agents, shall have the right at any time, and from time to time, without any liability to the Owner for trespass or otherwise, to enter upon any lot for the purpose (1) of maintaining such lot as provided for in these Restrictions, (2) of maintaining project common areas and feature areas, and (3) of enforcing all of the restrictions set forth in this Article applicable to such lot.

(b) Improvements and work where regulated and controlled by this Article may be done only in strict compliance

with the provisions of this Article.

(c) Improvements and development within Venetian Gardens shall be limited to houses and dwellings, apartments, projects (residential or commercial), roads and parking areas, retail shops, service shops, vehicle service stations, restaurants and food service outlets, hotels and motels, professional and other offices, medical clinics, entertainment and recreation facilities, all public or quasi-public service and utility facilities related to such uses including, but not limited to, sewer, gas, water, electric, and communication facilities, and in the Commerical Zone, other uses allowed by applicable zoning and land use laws. In no event shall such lands be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth, or be used in any other way inconsistent with these Restrictions.

(d) Each lot and project area and any and all improvements from time to time located thereon, including landscaping, shall be maintained by the Owner or Owners thereof in good condition and repair, all at such Owner's sole cost and expense.

(e) No noxious or offensive activity shall be carried on upon any lot. No light shall be emitted from any property which is unreasonably bright or causes unreasonable glare; no sound shall be emitted on any property which is

unreasonably loud or annoying; no odor shall be emitted on any property which is noxious or offensive to others; nor shall anything be done or placed thereon which may be or become a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to other Owners in the enjoyment of their property or in their enjoyment of the common area. This paragraph shall not be construed as prohibiting any lights, noise or activity in connection with any shopping center, apartment house or any commercial or office area that is normal or reasonable for such activity or area, or of limiting Grantors rights provided by these Restrictions.

(f) No accessory structures or buildings shall be constructed, placed, or maintained upon any property prior to the construction of the main structure; provided, however, that the provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of the main structure of a residence or other improvement.

(g) No mobile home or similar facility or structure shall be kept, placed, or maintained upon any property at any time; unless it is unoccupied and not used for dwelling purposes and is placed so that it is screened from neighboring property. The Planning Committee can by rule provide for the placement and screening of such mobile homes or similar facilities. The provisions of this paragraph and of Section 3.03(f) shall not apply to temporary construction shelters or facilities

maintained during, and used exclusively in connection with, the construction of any work or improvement permitted by this Article, and shall not apply in commercial areas or shopping centers to temporary structures or trailers used for offices, stores or businesses used only while awaiting or during the construction of permanent facilities and improvements.

(h) Outside clothes lines or other outside clothes drying or airing facilities, above ground trash and garbage receptacles and other maintenance and service facilities shall be maintained exclusively within a fenced service yard in such a way as not to be visible from neighboring property.

(i) No garbage, clippings from trees, shrubs or lawns, trash, ashes or other refuse may be thrown, dumped or allowed to accumulate on any property. There shall be no burning of refuse out of doors, except for the burning of natural materials in connection with fire control. Each Owner shall provide suitable receptacles for the collection of refuse. Such receptacle shall be enclosed and screened from public view and protected from disturbance.

(j) No animals, livestock, horses, insects or poultry of any kind shall be kept, raised or bred, however domesticated; dogs, cats and other household pets may be kept providing they are not kept, raised or bred for commercial purposes. Such household pets must be restrained on a leash

or otherwise under the control of an individual when in public areas. Any animal not so restrained or controlled in violation of this subsection may be picked up and impounded by Grantor or the Association without liability, at the Animal Owner's expense and may be turned over to any appropriate pound animal shelter or animal control officer. This paragraph shall not prevent the operation of a pet shop keeping household pets for sale or a veterinary clinic in the commercial zone provided such business is conducted indoors and not in violation of law.

(k) All vacant areas are to be kept free of debris and weeds and are not to be used for the storage of materials except for materials being used for authorized current construction on the areas where stored. No lawn clippings or other garden refuse shall be placed in streets or public view more than twenty-four (24) hours prior to the scheduled pick up time and all such material shall be bagged or in containers.

(l) There shall be no open storage of boats, motor homes, trailers, mobile homes, campers, commercial vehicles over one (1) ton or inoperative vehicles. This provision shall not be construed to prevent customary customer and employee parking in shopping centers and commercial areas. There shall be no overhauling or rebuilding of any vehicle or machine in any driveway or street, or in any area

exposed to neighboring property or public view.

(m) No radio, television or other aerial, antenna, tower, whether for transmitting or receiving or any support thereof shall be erected, installed, placed or maintained, except those devices which may be erected, installed, placed or maintained and used entirely under the eaves or enclosed within a building or structure and accept radio or radio telephone antennas used by Grantor or such antennas installed in the commercial area with the written permission of the Planning Committee.

(n) Except for temporary lines used during construction all utility lines, including, but not limited to, electrical, gas, telephone, cable television, and other communications shall be underground.

(o) Air conditioning, heating, solar energy gathering devices and other machinery may be maintained in or on roof areas, but they must be shielded from neighboring property and public view by screening or covering that blends with the improvement and structure to which it is attached.

Section 3.04. Uses and Restrictions Applicable to Lots and Project Areas Within the Residential Zone. The following additional standards, limitations and restrictions are applicable to the Residential Zone and to the construction, reconstruction, alteration and refinishing of any and all

improvements from time to time existing or to be built on any lot or within any project area within the Residential Zone, but excluding common areas.

(a) No lot or project area shall be used for any purpose other than residential use and shall not be used in whole or part for any commercial, manufacturing, mercantile or other non-residential purposes and no residence or project unit shall be used as a boarding house or apartment, except by Grantor pursuant to rights reserved by these Restrictions. This paragraph shall not be construed to prevent the rental or lease of residences or project units by their respective Owners.

(b) No more than one residence shall be constructed on any lot designed for residential purposes unless the lot is specifically designated for project, duplex or triplex construction on Grantor's master plan as it may be amended from time to time, and zoned for such purpose.

(c) All improvements shall be constructed either in accordance with applicable building setback lines shown on a subdivision map, deeds, project maps or plans executed by Grantor or by project maps or plans approved by the governmental agency having jurisdiction or, if the applicable subdivision map or deeds does not include setback lines, in accordance with setback lines approved by the Planning Committee provided such setback lines are uniform for like

situated property; provided, however, that if permissible by law, the Planning Committee may permit a variance from such lines shown on a subdivision map upon a determination that such a variance is necessary to facilitate the use of the lot involved and that it does not unreasonably impair the use of any road, common area, or other lot.

(d) No reflective finishes (other than glass) shall be used on exterior surfaces (other than surfaces of hardware fixtures), including, but without limitation, the exterior surfaces of any of the following: roofs, all projections above roofs, retaining walls, doors, trim, fences, pipes, equipment, mailboxes and newspaper tubes. All exterior finishes shall be earth tones or other subdued colors that will not clash with the exterior color of other structures. All exterior colors and finishes must comply with the Planning Committee Rules.

(e) All exterior lighting of any sort, the light source of which is visible from neighboring property, shall be approved in writing by the Planning Committee prior to installation.

(f) Unless first specifically authorized by the Planning Committee, no facilities for vehicular parking other than garages and driveways connecting garages to the street shall be constructed on any lot. This paragraph shall not prevent parking areas within project areas whether open or closed.

(g) Each single family dwelling including zero lot line houses, duplexes, triplexes and fourplexes shall contain a minimum of 1100 square feet of floor space, excluding garages, porches and patios and each such dwelling having in excess of one story shall contain a minimum of 800 square feet on the ground floor; project units shall contain a minimum of 900 square feet of interior floor space, excluding garages, porches and patios. Structures shall not be in excess of two (2) stories in height unless approved by the Planning Committee.

(h) All lots and project areas shall be landscaped and open areas not covered by patios, porches, driveways and flower beds shall be planted in grass, or other ground cover approved by the Planning Committee, in all areas visible from the street. No yards visible from the street shall be covered with rock, gravel or other non-growing ground cover unless specifically approved by the Planning Committee. All dead vegetation shall be removed within thirty (30) days and dead trees shall be removed and replaced with trees of the same variety within that same period. All grass, mass plantings and other plantings shall be mowed, trimmed and cut as necessary at regular intervals to maintain them in a neat and attractive manner.

(i) Fences, hedges and mass plantings shall not exceed six (6) feet in height except that those on property lines between houses with zero lot line set back may exceed

six (6) feet but not seven (7) feet in heighth. No fence, hedge or mass planting within five (5) feet of any street shall exceed three and one half (3 1/2) feet in height.

(j) Mail boxes and newspaper tubes are to be attached to the residence or structure they serve. If, however, in any area mail or newspaper service is provided to street curb mail boxes or to clusters of boxes the Planning Committee shall have authority by rule to prescribe the design, color and location of any such mail box or newspaper tubes.

(k) Any approved outhouse, detached shed or building must be painted to blend with the structure with which it belongs, and may be no more than one (1) story in heighth. The right to construct any such structure and the design or other requirements for such structures may be set by Planning Committee rule.

(l) No basketball standards or fixed sports apparatus shall be placed in a front yard or attached to the front of any dwelling or unit where it is visible from the street unless it is attached to the dwelling and matches it in color.

(m) No signs that are visible from neighboring lots, project areas, common areas, or streets shall be erected or maintained upon any lot or project area except:

(1) Such signs as may be required by legal

proceedings or are useful for such proceedings.

(2) During the time of construction of any structure or other improvement, one (1) job identification sign having a maximum face area of six (6) square feet per sign for each single family or duplex dwelling and twenty-four (24) square feet for each project; and

(3) Not more than one "for sale" or "for rent" sign having a maximum face area of three (3) square feet.

Section 3.05. Restrictions Applicable to Golf Course Lots.

Those lots whose yards directly adjoin the golf course maintained on common area are subject to the following additional restrictions:

(a) Back yards shall be planted in grass or other plant ground cover unless otherwise approved by the Planning Committee. This paragraph does not prohibit the construction of approved patios, swimming pools and walkways if they otherwise conform to these Restrictions.

(b) Fences in back and side yards located within twenty (20) feet of the golf course must not exceed five (5) feet in height and must be of a type approved by the Planning Committee.

(c) No structure shall be placed within twenty (20) feet of the golf course without Planning Committee approval.

(d) Grantor or the Association reserves the right to construct on or near the property line of Golf Course Lots adjoining the golf course a fence if Grantor, the association or their insurance carriers believe such a fence is necessary for the protection of lives or property.

Section 3.06. Common Area: Uses; Restrictions. The use of common area shall be reserved equally to all Owners of property within the Residential Zone, subject, however, to the following limitations and restrictions:

(a) The use of common area shall be subject to the subdivision rules including without limitation rules as to times and dates of operation and the uses that can be made of any recreational facility.

(b) The use of common area shall be subject to (i) such easements as may have been offered for dedication to public use on a subdivision map, (ii) such easements, licenses and rights of use as may have been reserved at the time of the conveyance of common area by Grantor to the Association, (iii) such easements or other interests as may from time to time be taken under power of eminent domain, (iv) such other easements as may from time to time be granted or conveyed by the Association pursuant to its powers pursuant to these Restrictions, (v) the maintenance of entry features and signs.

(c) Except to the extent otherwise permitted pursuant to easements, licenses and rights of use referred

to above, the use of common areas, shall be limited to recreational uses.

Section 3.07. Common Area: Construction and Alteration of

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Improvements. Except to the extent otherwise permitted pursuant to easements, licenses and rights of use, no improvement, or other work which in any way alters common area from its existing state on the date it was conveyed by Grantor to the Association shall be made or done except upon compliance with the provisions of this section.

(a) Subject to Grantor's reserved rights pursuant to the Article entitled "Rights of Grantor", no person other than the Association, or, during the first two (2) years following conveyance of common area by Grantor to the Association, Grantor, shall construct, reconstruct, refinish, alter, or maintain any improvement upon, or shall make or create any excavation or fill upon, or shall change the natural or existing drainage of, or shall destroy or remove any tree, shrub, or other vegetation upon common area, except as necessary for proper maintenance and replacement of such trees, plants and vegetation.

(b) If the Association or Grantor proposes to construct, reconstruct, or alter the exterior of, any improvement located or to be located upon common area, or do any act that could result in any change in the topography thereof, the Association shall first obtain the Planning Committee's approval pursuant to the procedures, requirements, and provisions as provided for improvement of lots and project areas. The Planning Committee shall approve the plans and

specifications submitted to it pursuant to this paragraph only if it finds that such improvement (i) is reasonably necessary for any utility installation serving any property within Venetian Gardens, (ii) is desirable in order to provide or improve access to or to enhance the use and enjoyment of common area, (iii) is desirable to protect, support or preserve any property within Venetian Gardens, or (iv) is desirable for the construction of a recreational facility, and (v) is necessary or desirable because of a change of use of the property within Venetian Gardens.

Section 3.08. Residential Zone: Construction and Alteration of Improvements; Approval of Plans. The right of an Owner to construct, reconstruct, refinish, alter, or maintain any improvement upon, under, or above any lot or project area excepting common areas or to make any change in the natural or existing surface drainage thereof, or to install any utility line (wire or conduit) thereon or thereover, shall be subject to all of the following limitations and conditions of this section:

(a) Except to the extent permitted by Subsection (e) below, any construction or reconstruction of improvements and structures, or the recoloring, refinishing or alteration of any part of the exterior of, any improvement or structure upon any lot or project area is absolutely prohibited until

and unless the Owner thereof first obtains the approval therefor from the Planning Committee and otherwise complies with all of the provisions of this section. The Association may on thirty (30) day written notice to the Owner thereof remove or cause to be removed or brought into conformity with these Restrictions, any improvement constructed, reconstructed, refinished, altered or maintained in violation of this section, or require and compel the Owner thereof to do so, and the Owner thereof shall reimburse the Association for all expenses incurred in connection therewith, including attorney's fees and court costs.

(b) Any Owner or Project Committee proposing to construct or reconstruct improvements or structures, or to recolor, refinish or alter any part of the exterior of any improvement or to perform any work which requires the prior approval of the Planning Committee, shall apply to the Planning Committee for approval. The Owner or Project Committee shall make application by submitting to the Planning Committee for approval in duplicate such plans and specifications for the proposed work as the Planning Committee may from time to time request, including, when deemed appropriate by the Planning Committee, the following:

(i) floor plans; (ii) colors of exterior materials and colors, with samples if required by the Planning Committee; (iii) specifications; (iv) building plan or

plans; (v) wall sections; (vi) exterior elevations; (vii) roof plan; (viii) landscaping plans; (ix) graphics and exterior furnishings; (x) the Owner's proposed construction schedule.

The Planning Committee may require that the submission of plans and specifications be accompanied by a plans inspection fee in an amount set by the Committee from time to time to defray the actual cost of the examination of plans and construction but in no event to exceed one-tenth of one percent (1/10 of 1%) of the estimated cost of constructing the proposed improvement.

(c) The Planning Committee shall approve the plans, drawings, and specifications submitted to it only if the following conditions shall have been satisfied:

(1) The Owner has submitted the materials required by the Planning Committee;

(2) The Planning Committee finds that the proposed improvement conforms to these Restrictions.

All such approval shall be in writing and may be conditioned upon the submission by the Owner, if any, of such additional plans and specifications as the Planning Committee shall deem appropriate for the purpose of insuring that the construction of the proposed improvement shall be in accordance with the approved plans. Applications made in accordance with this section which have been neither approved, rejected,

or additional information requested within thirty (30) days from the date of submission thereof to the Planning Committee shall be deemed approved. One set of plans as finally approved and bearing the endorsement of the Planning Committee shall be returned to the Owner for his permanent records.

(d) Upon receipt of the approval from the Planning Committee, the Owner or Project Committee shall, as soon as practicable, satisfy all conditions of that approval and diligently proceed with the commencement and completion of all construction, reconstruction, refinishing and alterations pursuant to the approved plans within one (1) year from the date of such approval or within such longer time as the Planning Committee may grant on the application of such Owner or Project Committee. If the Owner or Project Committee shall fail to comply with this paragraph, any approval given shall be deemed revoked and the improvement may be treated as having been constructed in violation of this Section unless upon the written request of the Owner made to the Planning Committee prior to the expiration of said one (1) year or longer period granted by the Planning Committee and upon a finding by the Planning Committee that there has been a good faith start of construction by Owner or that there has been no change in circumstances, the time for such commencement is extended in writing by the Planning Committee. Such extension shall be given as a matter of course when delays in completion of construction are caused by strikes,

unavailability of materials, fire, storms, acts of God or similar events not within the control of the particular Owner or Project Committee.

(e) Upon the completion of any construction or reconstruction of, or the alteration or refinishing of the exterior of, any improvement, or upon the completion of any other work for which approved plans are required under this section, Owner shall give notice thereof to the Planning Committee, and within thirty (30) days thereafter the Planning Committee, or its duly authorized representative, may inspect such improvement to determine whether it was constructed, reconstructed, altered, or refinished in substantial compliance with approved plans. If the Planning Committee finds that such construction, reconstruction, alteration, or refinishing was not done in substantial compliance with approved plans, it shall notify the Owner of such non-compliance within sixty (60) days from the notice of completion and shall require the Owner to remedy such non-compliance. If upon the expiration of sixty (60) days from the date of such notification by the Planning Committee the Owner shall have failed to remedy such non-compliance, the Planning Committee shall notify the Association of such failure, and the Association, at its option, may either remove the improvement or remedy the non-compliance, and the Owner shall reimburse the Association

for all expenses incurred in connection therewith. If for any reason the Planning Committee fails to notify the Owner of any such non-compliance within sixty (60) days after receipt of such notice of completion thereof from the Owner, the improvement shall be deemed to have been completed in accordance with the approved plans.

(f) If any improvement or work is completed or done without compliance with this Section, such improvement or work shall be deemed to have been done in compliance with this Section if no action has been commenced to enforce the provisions of this Section against such improvement or work within one (1) year of its completion.

#### ARTICLE 4

##### Planning Committee

Section 4.01. Planning Committee: Organization; Power of Appointment and Removal of Members. There shall be a Planning Committee called the Venetian Gardens Association Planning and Architectural Committee, organized as follows:

(a) The Planning Committee shall consist of five (5) members. The following persons are hereby designated as the initial members of the Planning Committee:

- (1) J. FOSTER FLUETSCH
- (2) A. BRYCE CAREY
- (3) ECKHARD SCHMITZ
- (4) JAMES EVERETT
- (5) THOMAS T. WELCH

Each of such persons shall hold his office until such time as he has resigned or he has been removed or his successor has been appointed, as set forth herein.

(b) Except as provided in paragraph (c) below, the right from time to time to appoint and remove members of the Planning Committee shall be, and hereby is, reserved to and vested solely in Grantor.

(c) The right from time to time to appoint and remove members of the Planning Committee shall be reserved to and vested in the Association (i) if Grantor fails to exercise its rights hereunder or records a declaration waiving such rights, or (ii) from and after any time at which persons other than Grantor own ninety percent (90%) or more of the lots then within the Residential Zone of Venetian Gardens, unless Grantor's percentage ownership is increased to ten percent (10%) or more of the lots within the Residential Zone by reason of the annexation of property to Venetian Gardens. For the purpose of this Section only, Grantor's percentage of ownership shall be computed by including as lots owned by Grantor all lots owned by a joint venture in which Grantor is a joint venturer, and all lots owned by a partnership in which Grantor is a general partner. If a lot in the Residential Zone is designated on the Grantor's master plan for Venetian Gardens as a site for a project for the purposes of this section only, Grantor's percentage of

ownership shall be computed as including as lots owned by Grantor the number of project units designated on the Master Plan to be built on such lot.

(d) Any member of the Planning Committee may at any time resign from the Planning Committee upon written notice delivered to Grantor or to the Association, whichever then has the right to appoint and remove members.

Section 4.02. Planning Committee: Duties. It shall be the duty of the Planning Committee to consider and act upon such proposals or plans from time to time submitted to it pursuant to these Restrictions, to adopt Planning Committee rules, and to perform such other duties from time to time delegated to it by these Restrictions.

Section 4.03. Planning Committee: Meetings; Action; Compensation and Expenses. The Planning Committee shall meet from time to time as necessary to perform its duties properly hereunder. The vote or written consent of any three (3) members shall constitute an act by the Planning Committee unless the unanimous decision of its members is otherwise required. The Planning Committee shall keep and maintain a record of all action from time to time taken by the Planning Committee at such meetings or otherwise. Unless authorized by the Grantor during the period Grantor retains the power to appoint the members of the Planning Committee shall not receive any compensation for services rendered.

Section 4.04. Planning Committee Rules. The Planning Committee shall have the exclusive power to adopt, amend and repeal, from time to time and by unanimous vote, rules and regulations, to be known as "Planning Committee Rules", which interpret or implement the provisions of Article III. The Planning Committee Rules shall apply only to the Residential Zone. A copy of the Planning Committee Rules, as they may from time to time be adopted, amended, or repealed, certified by any member of the Planning Committee, shall be maintained with the corporate records of the Association and shall be available for inspection by any Owner.

Section 4.05. Non-Waiver. The approval by the Planning Committee of any plans, drawings, or specifications for any work done or proposed, or in connection with any other matter requiring the approval of the Planning Committee under the Venetian Gardens Restrictions, shall not be deemed to constitute a waiver of any right to withhold approval as to any similar plan, drawing, specification, or matter whenever subsequently or additionally submitted for approval.

Section 4.06. Estoppel Certificate. Within thirty (30) days after written demand therefor is delivered to the Planning Committee by any Owner, and upon payment therewith to the Association of a reasonable fee from time to time to be fixed by the Association, the Planning Committee shall provide Owner with an estoppel certificate executed by any one of its members, and acknowledged certifying with respect

to any lot of said Owner, that as of the date thereof either (a) all improvements and other work made or done upon or within said lot by the Owner, or otherwise, comply with the Venetian Gardens Master Restrictions, or (b) such improvements and work do not so comply, in which event the certificate shall also (i) identify the non-complying improvements and work and (ii) set forth with particularity the cause or causes for such non-compliance. Any purchaser from the Owner, or mortgagee or other encumbrancer shall be entitled to rely on the certificate with respect to the matters therein set forth, such matters being conclusive as between Grantor, the Association, and all Owners and such purchaser, mortgagee, or other encumbrancer.

Section 4.07. Liability. Neither the Planning Committee nor any member thereof shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of (i) the approval of any plans, drawings, and specifications, whether or not defective, (ii) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications, (iii) the development, or manner of development of any property within Venetian Gardens, or (iv) the execution and recording of any estoppel certificate whether or not the facts therein are correct; provided, however, that such member has, with the actual knowledge possessed by him,

acted in good faith. Without in any way limiting the generality of the foregoing, the Planning Committee, or any member thereof, may, but is not required to, consult with or hear the Association or any Owner with respect to any plans, drawings, or specifications, or any other proposal submitted to the Planning Committee.

#### ARTICLE 5

##### Maintenance of Feature Areas

Section 5.01. Obligation to Maintain Feature Areas. Each Owner within the Commercial Zone that has on his property a feature area has the duty and obligation to maintain so much of the feature area or areas that is on his property in the condition as conveyed to such owner by Grantor and to rebuild or reconstruct such feature if necessary to maintain it in such condition. If a feature area is under the ownership of two or more Owners each is responsible for maintenance of their portion of the feature and if work must be done that affects more than one lot each Owner shall participate in payment of the cost thereof in proportion as such Owner owns the feature requiring the work. If a dispute occurs between two (2) or more Owners as to whether repairs or other work on feature areas is necessary or the proportion of costs to be borne by each Owner, any such Owner may submit the matter to the Planning Committee which will hold a hearing within sixty (60) days with at least twenty(20) days notice to each

party and whose decision in the matter shall be final and conclusive.

Section 5.02. Use of Feature Areas. Feature areas are expressly for the beautification of Venetian Gardens and the Owners who have an easement and right for their maintenance and use in the condition in which they were conveyed by Grantor or in a condition subsequently authorized by the Planning Committee. Feature areas may be used by the Owners thereof only for recreational purposes consistent with the nature of the feature and for no other purpose. Feature areas, whether green belts, water ways, berms, walkways or signs and other subdivision entrance features, shall be kept in good repair, maintenance and condition and if covered with grass or other ground cover or plants shall be kept clipped, trimmed and properly cultivated and all dead vegetation shall be promptly removed and replaced. Feature areas shall be kept clean and clear of rubbish, litter and debris and all water ways in feature areas shall be kept clean, filled with water and the water properly maintained. Trees, plants and improvements shall not be allowed to block signs and other subdivision entrance features.

Section 5.03. Association Rights. The Association, or its duly authorized agents, shall have the right at any time, and from time to time, without liability to the Owner or Owners for trespass or otherwise upon thirty (30) days

written notice to enter upon any feature area (and if necessary to enter through the Owner's adjoining property) for the purpose of maintaining (including reconstruction) such feature area in the condition as provided by this Article. Any costs to the Association pursuant to this section may be charged to such Owner assessed by the Association against the Owners of such feature area and against their lot as provided for special assessments pursuant to the Article entitled "Funds and Assessments".

#### ARTICLE 6

##### Provisions Relating to Zero Lot Line Houses

Section 6.01. Application. If any single family dwellings not part of a project are constructed on lots in the Residential Zone in such a manner that parts of two (2) or more of such dwellings share a common wall or roof or other common parts, or if a structural part of the dwelling is on or abuts the lot line, the lots containing such dwellings and any lot adjoining the lot line on which the structural part of any such dwelling is on or abuts shall be subject to the provisions of this Article.

Section 6.02. Obligation of Owners. It is the obligation of each such Owner to keep his structure in good condition and repair and to repair or replace any damage to the common elements of both dwellings caused by his negligence or willful act. Each Owner shall cooperate in the repair and

replacement of common elements not caused by the negligence or willful acts of one of the Owners and shall pay one half (1/2) the cost of such repairs or replacement.

Section 6.03. Easement for Repair and Maintenance. Each such Owner has an easement to enter onto the adjoining property of the other at reasonable times for the purpose of construction maintenance, repair and reconstruction of his dwelling and utilities provided that the property of the other Owner is returned to the condition in which it was found and that there is no undue delay in the completion of the work.

Section 6.04. Easement for Roof Overlap. Each owner has an easement to maintain any roof and eave overhang over the adjoining property not exceeding three (3) feet and for drainage and run off from such roof.

Section 6.05. Design and Color. No such Owner shall change the design of his dwelling as it affects the common elements or the exterior colors of his dwelling without the consent of the other Owners and the Planning Committee. The color of any such units shall at all times be uniform unless otherwise approved by the Planning Committee.

Section 6.06. Planning Committee as Arbitrator. If a dispute arises between any such Owners as to the need for any repairs or renovation of the common elements, the color or design of the dwellings or the liability for the cost

of any such repairs or renovation, any such Owner may submit the matter to the Planning Committee, who after a hearing with at least thirty (30) days written notice to all parties can render a decision on such disputes binding on all such Owners.

#### ARTICLE 7

##### Streets, Easements, Reservations and Rights of Way

Section 7.01. Nature of Reservations. Easements, reservations and rights of way shall be reserved on and across the subdivision for the erection, construction and maintenance of:

(a) Wires and conduits for the transmission of electricity, power lighting, telephone, television, and other purposes, pipes and mains for water, gas and heating, and for other utilities and services and their necessary and proper attachments.

(b) Public and private sewers, storm drains, and land drains.

(c) Driveways and pedestrian paths.

(d) Waterways, parkways and berms.

(e) Any other method of conducting or performing any public or quasi-public utility, function, or use beneath the surface of the ground.

Section 7.02. How Reservations are Made. Such easements, reservations and rights of way are as designated on the subdivision map, and additional easements, reservations and

rights of way may in addition be reserved by the Grantor, in any conveyance it may make of property within Venetian Gardens.

Section 7.03. Consent of Planning Committee. No house, building or other structure of any kind shall be built, erected, or maintained upon any such easement, reservation or right of way without the express consent of the Planning Committee, and such easements, reservations and rights of way shall, at all times, be open and accessible to public and quasi-public utilities, and to Grantor, all of whom shall have the right of ingress and egress thereto and therefrom, and the right and privilege of doing whatever may be necessary in, under and upon said locations for the carrying out of any of the purposes for which said easements, reservations and rights of way are hereby reserved, or may hereafter be reserved.

Section 7.04. Extinguishing Such Reservations. The Association, or Grantor with the consent of the Association, shall have the right at any time to extinguish such easements, reservations and rights of way provided that the consent of the holder or owner of any such easement or right of way has been obtained.

Section 7.05. Clearing Reserved Area. Declarant, or the Association, shall have the right at any time to cut and remove any trees or branches from such easements, reservations and rights of way as may be necessary for their use.

ARTICLE 8

Venetian Gardens Association

Section 8.01. Organization.

(a) The Association shall be organized as a non-profit membership corporation charged with the duties and empowered with the rights herein set forth; its affairs shall be governed by these Restrictions and to the extent not inconsistent herewith its Articles of Incorporation and By-Laws.

(b) In the event that the Association as a corporate entity is not formed or after formation loses its corporate powers or is dissolved, a non-profit, unincorporated association shall forthwith and without further action or notice be formed and succeed to all the rights and obligations of the Association hereunder until a qualified non-profit corporation is formed. Said unincorporated association shall be known as Venetian Gardens Association and its affairs shall be governed by these Restrictions and, to the extent not inconsistent therewith, by said Articles of Incorporation and By-Laws, respectively, as if they were created for the purpose of governing the affairs of an unincorporated association.

(c) The governing body of the Association shall be elected at an annual or special meeting not later than six (6) months from the sale by Grantor of the first lot subject to these Restrictions.

Section 8.02. Membership.

(a) Each Owner by virtue of being an Owner (except for the Association) and for so long as he is an Owner, shall be a member of the Association, or a member of the preceding or succeeding unincorporated association taking its place, except that an Owner shall not be a member by virtue of owning common areas, project common areas, property owned or dedicated to government or public bodies or property exempted from assessment.

(b) The rights, duties, privileges, and obligations of an Owner as a member of the Association or its preceding or succeeding unincorporated association shall be those set forth in, and shall be exercised and imposed in accordance with, the provisions of these Restrictions and the Association's Articles and By-Laws.

(c) In the event of the failure to incorporate the Association on the dissolution of the Association and the formation of an unincorporated association, each member of the unincorporated association shall have an equal, underlying beneficial interest in all of the Association's property transferred to or for the account or benefit of said unincorporated association in direct proportion to the number of lots owned by such member; provided, however, that there shall be no judicial partition of such property, or any part thereof, nor shall any such member or other person

acquiring any interest in said property, or any part thereof, seek any such judicial partition.

Section 8.03. Classes of Membership. The Association shall have two (2) Classes of Membership, Class I and Class II.

Class I. All members shall be Class I members except the Grantor and shall be entitled to one (1) vote for each lot or unit owned.

When more than one person holds an interest in any lot or unit, all such persons shall be members. The vote for such unit shall be exercised as such owners determine, and in no event shall such multiple Owners vote more votes than they are entitled by the lots or units owned.

Class II. The Grantor shall be the only Class II member and shall be entitled to three times the votes as set out under Class I above, for each unit owned by Grantor prior to the initial conveyance of such unit by Grantor (the assignment or conveyance of all of Grantor's interest in the project shall not be such an initial conveyance). The Class II membership of Grantor arising from Grantor's ownership of property originally within the Residential Zone of Venetian Gardens shall be converted to Class I membership on the first happening of either of the following events: when the total votes in Class I membership arising from such property exceed the total votes in Class II membership arising from

such property; three (3) years from the recording of these Restrictions. The Class II membership of Grantor arising from Grantor's ownership of property within each separate annexation of property to the Residential Zone of Venetian Gardens shall be converted to Class I membership on the first happening of either of the following events: when the total votes in Class I membership arising from such annexed property exceed the total votes in Class II membership arising from such annexed property; three (3) years from the date of the recording of the declaration annexing such property.

Section 8.04. Membership Voting Rights Each member shall be entitled to one vote for each lot owned by such Owner as set out in Section 8.03 on all matters properly submitted for vote to the membership of the Association; provided, however, that every Owner entitled to vote at any election of the members of the Board may cumulate his votes and give any one or more candidates a number of votes equal to the number of lots owned by the Owner multiplied by the number of directors to be elected. The right to vote may not be severed or separated from any lot, and any sale, transfer, or conveyance of the beneficial interest of the fee of any lot to a new Owner shall operate to transfer the appurtenant vote without the requirement of any express reference thereto. Voting may not be done by project committees for

Project Owners but voting may be by written proxy. No project unit shall be treated as a separate lot for voting purposes until it has first been subdivided and a final subdivision map or condominium plan or condominium restrictions dividing the property recorded.

Any provision of these Restrictions requiring a vote by Owners shall be satisfied if the required number of Owners give their written consent. In any election held pursuant to the requirements of these Restrictions, ballots may be transmitted to Owners in the manner provided for the giving of notice by these Restrictions. If at any time the members other than Grantor do not have a sufficient percentage of voting power to elect at least one (1) director to the Board through the cumulation of all of their votes, Grantor at the annual election of the Board or at any other election of the entire Board shall be allowed to vote for no more than one (1) less than the total number of directors positions on the board.

Section 8.05. Rights of Residential Members to Use Common Areas. Residential members and members of their families who actually reside with them within the Residential Zone have a right to use the common areas on a non-exclusive basis subject to the Subdivision Rules.

Section 8.06. Non-Resident Membership. Any Owner of property within the Commercial Zone, any tenant of such owner or any permanent employee working full time in any business or office located within the Commercial Zone is entitled to

purchase a non-resident membership in the Venetian Gardens Association. Non-resident members shall have no voting rights but shall be entitled to use all Association recreational areas on the same basis as residential members. The right to purchase a non-resident membership shall cease when the person who requests the right ceases to be a person entitled to such membership. There shall be two classes of non-resident membership, individual membership and family membership. A person entitled to non-resident membership has the option of purchasing either. The individual membership entitles the individual who purchases the membership alone to use the Association's recreational facilities while the family member allows the individual purchasing the membership, plus his spouse and children to use the recreational facilities. Guests of non-resident members may use the Association facilities on the same basis as the guests of other members. Non-resident membership cannot be transferred or used by another. Individual membership cost is one (1) assessment unit of the maintenance assessment provided in Section 9.03 and family membership cost is two (2) assessment units of the maintenance assessment provided in Section 9.03. The board can by uniform rule provide for the purchase of non-resident membership for less than a full year on such basis as it sees fit. The board can limit non-resident memberships so that the total number of persons having the right to use

the recreational facilities of the Association under non-resident memberships does not exceed 400. Such limit shall be applied on a first come basis with Owners having first preference and persons already non-resident members having second preference to the membership. The rights to the non-resident membership are reserved to the owners of property in the Commercial Zone and the right to non-resident membership shall not be limited or abridged unless with the written consent of all owners of property within the Commercial Zone.

Section 8.07. Duties and Obligations of the Association.

The Association shall have the obligation and duties, subject to these Restrictions, to do and perform each and every of the following for the benefit of the Owners and for the maintenance and improvement of Venetian Gardens.

(a) The Association shall accept as part of Venetian Gardens all property annexed to Venetian Gardens, shall accept all Owners as members of the Association, and shall allow all persons having the right the privilege of becoming a non-resident member.

(b) The Association shall accept from Grantor the fee or leasehold estate in all common areas and the common area dedicated to the city as shown on Exhibit "E" from time to time transferred to it, subject to the reservation of all easements, licenses and rights to use taxes, bonds and

assessments and the rights of Grantor.

(c) Immediately prior to any dissolution or incapacity of the Association as a corporate entity the Association shall transfer its estate in common area to an independent corporate trustee to hold common area in trust for the benefit of the unincorporated association formed pursuant to this Article and for the benefit of the Owners. If for any reason this is not done, it shall immediately be done by the succeeding unincorporated association and such conveyance may be compelled by any Owner.

(d) The Association shall maintain, or provide for the maintenance of, common area and all improvements thereon including, without limitation, recreational facilities, in good order and repair, provided, that the Association shall have no maintenance responsibility with respect to improvements installed by other than the Association, pursuant to easements, licenses and rights of use.

(e) The Association may enter upon and maintain, or provide for the maintenance of, any lot or project area within the Residential Zone and any feature area, lot or project area within the Commercial Zone which is not maintained by the Owner or Project Committee thereof in accordance with the requirements of these Restrictions, at the expense of any such Owner or Project Committee.

(f) To the extent not assessed to or paid by the Owners, the Association shall pay all real property taxes

and assessments levied upon common area.

(g) The Association shall obtain and maintain in force the following policies of insurance:

(1) Fire and extended coverage insurance for the full insurable replacement value of all improvements owned by the Association and from time to time located on common area;

(2) Bodily injury liability insurance with limits of not less than Five Hundred Thousand Dollars (\$500,000.00) per person and Seven Hundred Fifty Thousand Dollars (\$750,000.00) per occurrence insuring against any and all liability with respect to common area, or arising out of the maintenance or use thereof; and

(3) Property damage liability insurance with a deductible of not more than Five Hundred Dollars (\$500.00) and a limit of not less than One Hundred Thousand Dollars (\$100,000.00) per accident.

Each policy of fire and extended coverage insurance and all other policies of insurance obtained by the Association whether or not required to be obtained pursuant to the provisions of these Restrictions, shall expressly waive any and all rights of subrogation against Grantor, its representatives and employees, the Association and any Owner. The policy or policies referred to above shall name the Grantor, Association, their representatives, members and employees, and the Owners

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as insureds, and such policy or policies shall protect each of the insureds, as if each were separately insured under separate policies; provided, however, that such policy or policies shall not require the insurer or insurers thereof to pay any amount in excess of the maximum limits stated therein. Each year the Association shall review the policy or policies carried pursuant to this paragraph, and shall take such action as may be necessary to assure that the amount of insurance adequately covers the risks of loss against which such policy or policies insure.

(h) If the Association's estate in common area is a leasehold estate, the Association shall pay to the Lessor of such estate, or its successors or assigns, such payments, including, without limitation, ground rent, taxes and assessments, as may be due pursuant to the terms of any lease or leases under which the Association holds such leasehold estate.

(i) The Association shall from time to time make, establish, promulgate, amend, and repeal the Subdivision Rules.

(j) The Association shall hire professional management to maintain and operate any golf course located on common area.

(k) The Association shall pay the City of Stockton for the additional maintenance of street lights within Venetian Gardens over the cost of maintenance of standard

street lights.

(1) The Association shall take such action, whether or not expressly authorized by these Restrictions, as may reasonably be necessary to enforce or carry out the restrictions, limitations, covenants and conditions of these Restrictions and the Subdivision Rules.

Section 8.08. Powers and Authority of the Association. The Association shall have all of the powers set forth in its Articles of Incorporation, together with its general powers as a non-profit corporation, subject only to the limitations upon the exercise of such powers as are expressly set forth in its Articles of Incorporation, its By-Laws and in these Restrictions, to do any and all lawful things which may be authorized, required, or permitted to be done by the Association under and by virtue of these Restrictions and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association or for the peace, health, comfort, safety, and general welfare of Owners and members. Provided, that any contract for services shall be limited to a duration of one year unless approved by a majority vote of the Owners. Without in any way limiting the generality of the foregoing:

(a) In fulfilling any of its obligations or duties under these Restrictions, including, without limitations, its obligations or duties for the maintenance, repair,

operation, or administration of common area, the Association shall have the power and authority:

(1) To contract and pay for, or otherwise provide for, the maintenance, restoration, and repair of the common area and all improvements of whatever kind and for whatever purpose from time to time located upon common area and procure all necessary utility and other services therefor;

(2) To obtain, maintain, and pay for such insurance policies or bonds, whether or not specifically required by this Article, as the Association shall deem to be appropriate for the protection or benefit of Venetian Gardens, the Association, the members of the Board, or Owners;

(3) To incur indebtedness; but any indebtedness and the terms of such indebtedness in excess of \$3,000.00, in any one fiscal year, or any indebtedness to be repaid over a period longer than one year must be approved by a majority vote of the Class I members and have the written approval of the Class II member.

(4) To contract and pay for, or otherwise provide for, the services of architects, engineers, attorneys, and certified public accountants, and such other professional and non-professional services as the Association deems necessary;

(5) To contract and pay for, or otherwise provide for, such materials, supplies, furniture, equipment,

and labor as and to the extent the Association deems necessary;

(6) To pay and to discharge any and all liens from time to time placed or imposed upon any common area, or on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation, or administration; and

(7) To purchase, lease or contract for the use of land and improvements for recreational or other purposes to the extent the Association deems necessary. The purchase or construction of any capital improvement costing in excess of \$3,000.00 in any one fiscal year must be approved by a majority vote of the Class I members and have the written approval of the Class II members.

(b) With respect to its estate in common area, the Association shall have the power and authority from time to time to grant and convey easements or rights of way, in, on, over, or under any common area, for the purpose of constructing, erecting, operating, and maintaining utility lines and facilities and other lines or facilities for the benefit of Venetian Gardens or Owners.

(c) The Association may employ the services of a professional manager to manage the affairs of the Association and any part of its common area, and, to the extent not inconsistent with the laws of the State of California and

upon such conditions as are otherwise deemed advisable by the Association, the Association may delegate to the manager any of its powers under these Restrictions. Any contract with such a professional manager shall be considered a service contract and subject to the provisions of these Restrictions relating to such contracts.

(d) The Association shall have the right from time to time to pay, compromise, or contest any and all taxes and assessments levied against all or any part of common area or upon any personal property belonging to the Association.

(e) The Association shall have the power and authority from time to time, in its own name, and on its own behalf or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of these Restrictions and to enforce, by mandatory injunction or otherwise, all of the provisions of these Restrictions.

Section 8.09. Limitation on the Power of the Association.

The Association shall engage in no political or other activity that would cause it to lose its non-profit or any tax exempt status nor shall it engage in any activity directly or indirectly to prevent Grantor or its grantees and successors from developing Venetian Gardens in accordance with Grantor's Master Plan as it may be amended from time to time.

Section 8.10. Subdivision Rules.

(a) The Association may, from time to time, and subject to the provisions of these Restrictions, adopt, amend, and repeal rules and regulations, to be known as the

"Subdivision Rules" governing:

(1) The use of common area and recreational facilities; provided members and their families residing with them (and the purchaser and tenant of any lot or unit who is granted member's use in place and stead of such member) and persons entitled to use under non-resident memberships shall be treated on a non-discriminatory basis and shall not be deprived of use except for suspension of their rights as set out in (2) below, subject to regulations as to time and method of use, reasonable restrictions based on age, rules necessary or convenient for safety and administration and the payment of any green fee imposed for use of the golf course; and

(2) The suspension of the voting rights and the use of common area and facilities of a member, whether residential or non-resident, and all persons using such members privileges by the Board for violation of the project restrictions, the Association's Articles and By-Laws, or the subdivision rules, such suspension to be limited to a period of ninety (90) days; and similar suspension of voting rights and use for the failure to pay assessments extending for the entire period of non-payment. An opportunity for hearing will be given any member whose privileges are so suspended prior to the effective date of the suspension.

(b) The Subdivision Rules may without limitation and to the extent deemed necessary by the Association regulate

the use of the common areas subject to the rights of members and members families set forth in Paragraph (a) (1) above, and Grantor's rights which shall not be limited, and which rules may entirely exclude use of such areas to invitees of members and others not having rights to use on a non-discriminatory basis.

(c) A copy of the Subdivision Rules, as they may from time to time be adopted, amended, or repealed, shall be mailed to each member and posted but the failure to properly mail and post shall not invalidate the Subdivision Rules or prevent their enforcement.

Section 8.11. Liability of Members of Board. No member of the Board shall be personally liable to any Owner, Project Committee, or to any other person, including Grantor, for any error or omission of the Association, its representatives and employees, the Planning Committee, or the manager; provided, however, that such member has, with the actual knowledge possessed by him, acted in good faith.

#### ARTICLE 9

##### Funds and Assessments and Delinquency

Section 9.01. Creation of Lien and Personal Obligation for Assessments. Grantor for each lot and project unit owned by it hereby agrees to pay, and each owner of any lot or project unit within both the Residential and Commercial

Zones as those zones may from time to time be added to by annexation by the acceptance of a deed or contract of sale therefor, whether or not so expressed in any such deed or contract or other conveyance is deemed to agree to pay to the Association for the lots and project units against which such assessments and charges are assessable: (1) maintenance assessments; (2) special assessments; (3) assessments for capital improvements; (4) all other fees or other moneys due to the Association from such owner. The maintenance assessment, special assessment and assessment for capital improvements, plus interest, late charges, costs and attorney's fees, shall be a charge against the land and shall be a continuing lien upon the lot against which each such assessment is made, and shall also be the personal obligation of the owner or owners of such property at the time such assessment became due. The personal obligation to pay assessments shall not pass to successors in title unless expressly assumed by them. Maintenance assessments and assessments for capital improvements are not assessable against property within the Commercial Zone.

Section 9.02. Operating Fund. There shall be an operating fund, into which the Association shall deposit all moneys paid to it as:

- (a) Maintenance assessments;
- (b) Special assessments;
- (c) Assessments for capital improvements;
- (d) Miscellaneous income; and
- (e) Income and profits attributable to the operating fund;

and from which the Association shall make disbursements in performing the functions for which such assessments are levied.

Section 9.03. Maintenance Assessment.

(a) Within thirty (30) days prior to the commencement of each fiscal year the first day of which shall be the assessment date, the Association shall estimate the costs and expenses to be incurred by the Association during such fiscal year in performing its functions under Article 8 (including a reasonable provision for contingencies and replacements), except those functions which relate to the purchase or development of capital improvements which must be approved by the members, and shall subtract from such estimate an amount equal to the anticipated balance (exclusive of any reserves for contingencies and replacements) in the operating fund at the start of such fiscal year and the estimated revenue from non-resident memberships.

The sum or net estimate so determined shall be assessed to all Owners within the Residential Zone not exempt by dividing the sum or net estimate by the total number of assessment units within the subdivision which number of assessment units is determined as set out below and assessing each Owner the product of such division times the number of assessment units due from Owners lot. The number of assessment units assigned to and to be assessed from each class of lots within the Residential

Zone are as follows:

- (1) Each zero lot line dwelling (house) - two (2) assessment units;
- (2) Each duplex, triplex and fourplex unit located on a single lot - two (2) assessment units per living unit;
- (3) Each project unit - two (2) assessment units;
- (4) Each detached single family dwelling located on a single lot - three (3) assessment units;
- (5) Each detached single family dwelling located on a golf course lot - four (4) assessment units.

The number of assessment units payable by each Owner shall not alter or affect each Owner's voting rights.

(b) If at any time and from time to time during any fiscal year the maintenance assessment proves or appears likely to prove inadequate for any reason, including nonpayment of any Owner's share thereof, the Association may levy a further assessment in the amount of such actual or estimated inadequacy, which shall be assessed to Owners divided as provided in this Section. Assessments shall not increase more than ten percent (10%) per fiscal year from the Grantor's initial estimated budget for the operation of the association with all recreational and common facilities completed without the majority vote of members but such allowable increase without a vote shall be cumulative.

Section 9.04. Assessments for Capital Improvements and Indebtedness. The Association may also levy in any fiscal

year an assessment for paying or returning in whole or in part the cost of acquisition, construction, reconstruction, repair, or replacement of a described capital improvement to the common area (whether the improvement constitutes real or personal property) or retiring an indebtedness of the Association in an amount in excess of \$1,000.00, provided the consent of the members has been obtained as provided in Section 8.08 which shall not be assessed to owners as provided for in maintenance assessments.

Section 9.05. Uniform Rates. Maintenance assessments and assessments for capital improvements and indebtedness shall be fixed at a uniform rate for all lots and project units within each assessment class.

Section 9.06. Special Assessment. The Association shall levy a special assessment against any Owner or Owners and . . . . .

any Owner or Owners of property within the Commercial Zone as a result of whose acts, or failure or refusal to act in violation of these Restrictions, or the Subdivision Rules, moneys were expended from the operating fund by the Association in performing its functions. Such assessment shall be in the amount so expended, and shall be due and payable to the Association when levied and notice given. A special assessment may also be levied against any such Owner or Owners to collect any fee or charge charged pursuant to the authority of these Restrictions, due to the Association from such Owner or Owners and not paid within thirty (30) days.

Section 9.07. Notice of Assessment. The Association shall give each Owner assessed thirty (30) days written notice of such assessments, the due date or date giving the amount of such assessment and if applicable, an itemization of the various assessments being made.

Section 9.08. Date of Commencement of Regular Assessments. The regular assessments provided for in this Article shall commence as to lots on the first day of the month following the recording of these Restrictions or as to later annexed lots on the first day of the month following the recording of the declaration annexing such lots. Project units shall be assessed as lots but in no case shall be assessed until

they have been created by the recording of a subdivision map or declaration.

Section 9.09. Certificate of Payment. The Association shall, upon demand, furnish to any owner liable for assessments, a certificate in writing signed by an officer of the Association, setting forth whether the regular and special assessments on a specified lot have been paid, and the amount of the delinquency, if any. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9.10. Exempt Property. The following property subject to these Restrictions shall be exempt from the maintenance and capital improvement and indebtedness assessments; (a) All properties dedicated to and accepted by a local public authority and all property owned by governmental bodies or authorities and used for public purposes, including without limitation public schools, parks and streets; (b) common area; and (c) all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of California. However, no land or improvements used as a dwelling shall be exempt from assessments.

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Section 9.11. Delinquency. Any assessment provided for in this Article, which is not paid when due, shall be delinquent. With respect to each assessment not paid within fifteen (15) days after its due date, the Association may, at its election, require the owner to pay a "late charge" in a sum to be determined by the Association, but not to exceed \$10.00 per each delinquent assessment. If any such assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the then maximum lawful rate permitted by written agreement under the laws of the State of California, and the Association may, at its option, bring an action at law against the owner or owners personally obligated to pay the same, or upon compliance with the notice provisions set forth in Section 9.12, to foreclose the lien provided for in Section 9.01 against the lot, and there shall be added to the amount of such assessment the late charge, the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest at the rate provided herein and a reasonable attorney's fee, together with the costs of action. Each owner vests in the Association or its assigns, the right and power to bring all actions at law or lien foreclosure against such owner or other owners for the collection of such delinquent assessments.

Section 9.12. Notice of Lien. No action shall be brought to foreclose an assessment lien or to proceed under the power of sale herein provided less than thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the owner of said lot, and a copy thereof is recorded by the Association in the office of the County Recorder in which the properties are located; said notice of claim must recite a good and sufficient legal description of any such lot, the record owner or reputed owner thereof, the amount claimed (which shall include the interest charges, costs and attorney's fee recoverable by an action at law) and the name and address of the Association.

Section 9.13. Foreclosure Sale. Any such sale provided for above is to be conducted in accordance with the provisions of Sections 2924, 2924b and 2924c of the Civil Code of the State of California, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted or provided by law. The Association, through its attorneys and duly authorized agents, shall have the power to bid on the lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same.

Section 9.14. Curing of Default. Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby

authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting owner of a fee, to be determined by the Association, but not to exceed \$15.00, to cover the costs of preparing and filing or recording such release, together with the payment of such other costs, interest or fees as shall have been incurred.

Section 9.15. Cumulative Remedies. The assessment lien and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

#### ARTICLE 10

##### Protection of Security Interests

Section 10.01. Application of Assessments to Mortgagees.

The liens created under these Restrictions upon any lot shall be subject and subordinate to, and shall not affect the rights of a mortgagee under any recorded first mortgage upon a lot made in good faith and for value, provided that after the foreclosure of any such mortgage the amount of all assessments, to the extent such assessments relate to expenses incurred after such foreclosure, assessed hereunder to the purchaser at foreclosure sale, shall become a lien upon such unit.

Section 10.02. No Amendment Affects Mortgagees. No amendment

to these Restrictions shall adversely affect the rights of any mortgagee who does not join in the execution thereof, provided that prior to recordation of such amendment his mortgage is recorded.

Section 10.03. Limitation of Enforcement Against Mortgagee.

No violation of these Restrictions or enforcement of these Restrictions shall defeat or render invalid the lien of any mortgagee made in good faith and for value against the property but the Project Restrictions shall be effective against any person whose title to property within Venetian Gardens is acquired by foreclosure, trustee sale, voluntary conveyance or otherwise.

Section 10.04. Application of Project Restrictions. Except as provided in this Article or specifically provided elsewhere in these restrictions, all mortgages and mortgagees are bound by the provisions of these Restrictions.

ARTICLE 11

Rights of Grantor

Section 11.01. Development of Venetian Gardens. Grantor is developing Venetian Gardens as a subdivision containing condominiums, planned unit developments, duplex and triplex units, commercial offices and businesses, shopping centers, motels, and common areas as well as single family dwellings, pursuant to its Master Plan as it may be amended from time to time, and all Owners of property within Venetian Gardens

are hereby put on notice of that fact. Each person accepting a grant of property subject to these Restrictions hereby consents to such development and covenants not to oppose such development, including improvements, signs, parking areas and lighting provided that such development is not in violation of law, these Restrictions and Grantor's Master Plan as it may be amended from time to time. This Section shall not be construed as limiting the use of property within Venetian Gardens by its owner.

Section 11.02. Limitation of Restrictions on Grantor.

Grantor is undertaking the work of developing Venetian Gardens. The completion of that work and the sale, rental and other disposition of the property within the subdivision is essential for the development of Venetian Gardens. In order that the work may be completed and the property developed and fully occupied as rapidly as possible, nothing in these Restrictions shall be understood or construed to:

(a) Prevent Grantor or its agents, employees, and contractors from doing on the property within Venetian Gardens or any lot or unit thereof, whatever is reasonably necessary or advisable in connection with the completion of its work; or

(b) Prevent Grantor or its agents, employees, and contractors from erecting, constructing and maintaining on any part or parts of the Project, such facilities, structures and offices as may be reasonably necessary for the conduct of its business of completing the work and disposing of the

property in parcels by sale, lease or otherwise, including without limitation sales offices, model homes or project units, decorator and furniture studios, general business offices for its staff and employees, contractors, and subcontractors, storage and parking facilities for materials and equipment and fabrication and assembly shops; or

(c) Prevent Grantor from conducting on any part of the properties its business of completing the work, and disposing of the property.

(d) Prevent Grantor from maintaining such sign or signs in Venetian Gardens as Grantor deems necessary for its advertisement, and the sale, lease or disposition of any lot or improvement.

(e) Prevent Grantor from amending its Master Plan for Venetian Gardens from time to time as it deems fit, from combining or splitting lots within Venetian Gardens or from applying for a change of zoning or use, or for a use permit on any property within Venetian Gardens.

Section 11.03. Use of Subdivision Name. Grantor may use the name Venetian Gardens and the name of the Association in connection with other developments whether adjacent to the Venetian Gardens or not, provided such names have a distinctive number or other designation so that they are not identical with the names of Venetian Gardens and Association. Consent

is hereby given to Grantor and Grantor's assign to use such names (distinguished as provided by this Section) as the name of a Corporation and the California Secretary of State is directed to permit the filing of Articles of Incorporation using such names. No other person without the written consent of Grantor has the right to use the name Venetian Gardens either alone or in conjunction with other as the name of any building, apartment, business or office except that the Association is in no way restricted from the use of its name in connection with its business and activities.

Section 11.04. Grantor's Use of Common Area. Grantor may reserve in any grant of common area to the Association and does hereby reserve the following rights in any improvement constructed or paid for by Grantor:

(a) To use any pavilion or building as a sales center and to maintain therein a sales office with normal and customary office and communication equipment and to maintain therein personnel, maps, display cases, models and decorations; to use the adjacent parking facilities for itself, its agents, employees and invitees; and to use such facilities for such social events as Grantor feels are necessary or proper to promote or aid Venetian Gardens or Grantor.

(b) To use the recreational facilities of the Association for the purpose of promoting the sale of property

within Venetian Gardens or the Subdivision or Grantor; to allow the use of such recreational facilities to its officers, employees, agents, contractors and guests; and to use such facilities for promotional events, contests and recreational contests to the exclusion of other members provided such events do not occupy such facilities for more than thirty (30) days out of each fiscal year.

(c) To enter onto the common area for any purpose for the development or promotion of Venetian Gardens and Grantor.

These rights reserved to Grantor shall terminate three (3) years from the date of recording of these Restrictions, or of the last declaration annexing property to Venetian Gardens, whichever is later.

Section 11.05. Grantors Removal of Minerals. Nothing in these Restrictions shall be construed to prevent the removal by any declarant and any declarant's successors and assigns of minerals and hydrocarbons reserved to such declarant by deed.

Section 11.06. No Amendment or Repeal. The provision of this Article may not be amended or repealed without the consent of Grantor.

## ARTICLE 12

### Miscellaneous Provisions

Section 12.01. Amendment or Repeal Duration.

(a) In addition to the rights reserved to Grantor

to modify or supplement these Restrictions with respect to property annexed to Venetian Gardens, and unless specifically provided to the contrary herein, these Restrictions, or any part thereof, as from time to time in effect with respect to all or any part of Venetian Gardens, and any limitation, restriction, covenant, or condition thereof, may be amended or repealed upon (i) the seventy-five percent (75%) vote or written consent of the Owners, and (ii) the recordation of a certificate of the Secretary or an Assistant Secretary of the Association setting forth in full the amendment or amendments to these Restrictions so approved, including any portion or portions thereof repealed, and certifying that said amendment or amendments have been approved by a required <sup>percent</sup> seventy-five (75%) vote or consent, and if necessary by the consent of the Grantor and Owners of a particular class of property. The consent of the Owners of property within the commercial zone must be obtained for any amendment imposing any use limitation, assessment or charge upon such property.

(b) All of the limitations, restrictions, covenants, and conditions of these Restrictions shall continue and remain in full force and effect at all times with respect to all property, and each part thereof, included within Venetian Gardens, to the Owners of such property and to the Association, subject, however, to the right to amend and terminate, through December 31, 2005 A.D.; provided, however, that unless within one (1) year prior to the expiration of said year period or on or prior to December 31, 2005, whichever occurs first, there shall be recorded an instrument directing

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the termination of these Restrictions signed by a majority of the Owners. These Restrictions as they are in effect immediately prior to the expiration date shall, subject to the provisions of paragraph (a) above, be continued automatically, without any further notice, for an additional period of ten (10) years and thereafter for successive periods of ten (10) years unless within one (1) year prior to the expiration of any such period these Restrictions are terminated as set forth in this paragraph.

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Section 12.02. Enforcement; Non-Waiver.

(a) Except to the extent otherwise expressly provided herein, Grantor, the Association or any Owner or Owners, including Owners of property within the Commercial Zone, shall have the right to enforce any and all of the limitations, restrictions, covenants, conditions, obligations, liens, and charges now or hereafter imposed by these Restrictions upon other Owners, or upon any property within Venetian Gardens.

(b) Except to the extent otherwise expressly provided herein, Grantor and any Owner or Owners shall have the right to enforce any and all limitations, restrictions, covenants, conditions, and obligations now or hereafter imposed by these Restrictions upon the Association.

(c) Every act or omission whereby any restriction, condition, or covenant of these Restrictions is violated in

whole or in part is hereby declared to be and to constitute a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by Grantor the Association or by an Owner or Owners, as provided for in subsections (a) and (b) above; provided, only the Association or its duly authorized agents may enforce by self help any limitation, restriction, covenant, condition, or obligation herein set forth.

(d) Each remedy provided for in these Restrictions is cumulative and not exclusive.

(e) The failure to enforce the provisions of any limitation, restriction, covenant, condition, obligation, lien, or charge of these Restrictions shall not constitute a waiver of any right to enforce any such provision or any other provision of these Restrictions.

Section 12.03. Construction; Compliance With Laws; Severability; Singular and Plural; Titles.

(a) All of the limitations, restrictions, covenants, and conditions of these Restrictions shall be liberally construed, together, to promote and effectuate the beneficial operation of Venetian Gardens and the lots, project area and common area located therein.

(b) No provision of these Restrictions shall be construed to excuse any person from observing any law or regulation of any governmental body having jurisdiction over

such person or Venetian Gardens.

(c) Notwithstanding the provisions of Subsection (a) above, the limitations, restrictions, covenants, and conditions of these Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision, or portion thereof, of any such limitations, restrictions, covenants, or conditions shall not affect the validity or enforceability of any other provision.

(d) The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter, as the context requires.

(e) All titles used in these Restrictions, including those of articles and sections, are intended solely for convenience of reference and the same shall not, nor shall any of them affect that which is set forth in such articles, sections, nor any of the terms or provisions of these Restrictions.

Section 12.04. Lot Splitting; Consolidation.

(a) No lot within the Residential Zone shall be split unless there is filed with respect to such lot a parcel or subdivision map on which the Planning Committee shall have endorsed its consent and the Secretary or any Assistant Secretary of the Association shall have endorsed the consent of the Association.

(b) No two or more lots or parts of two or more lots within the Residential Zone shall be consolidated into one lot unless the Planning Committee shall have given its written consent.

(c) Nothing contained in Subsection (a) or (b) above shall apply to the splitting of any lot by Grantor or the consolidation of two or more lots into one lot by Grantor or the resubdivision into a project of a lot designated for project use.

Section 12.05. Transfer of Common Area; Reservation of Easements and Rights of Way. Grantor shall transfer and convey to the Association, and the Association shall accept, the fee or leasehold estate in all of the real property within Venetian Gardens designated on any subdivision map or upon Grantor's Master Plan as "Common Areas" or "Recreational Areas" and not constituting the common area of a project. Such real property may be subject to any or all of the following exceptions, liens, and encumbrances:

(a) The lien of real property taxes and assessments not delinquent;

(b) Such easements and rights of way as may have been offered for dedication to the City of Stockton, or any other political subdivision or public organization, or public utility corporation;

(c) Such easements and rights of way, licenses or rights of use on, over, or under all or any part of any such

property or structures or improvements thereon as may be reserved to Grantor or granted to any Owner for the use thereof in accordance with the provisions of these Restrictions;

(d) Such easements and rights of way on, over, or under all or any part thereof as may be reserved to Grantor for access to property contiguous to common area;

(e) The obligation imposed, directly or indirectly, by virtue of any statute, law, ordinance, resolution, or regulation of the United States of America, the State of California, or any other political subdivision or public organization having jurisdiction over such property, or by virtue of any organization or body politic created pursuant to any such statute, law, ordinance, or regulation; and

(f) Any other lien, encumbrance, or defect of title of any kind whatsoever (other than of the type which would at any time or from time to time create a lien upon such property to secure an obligation to pay money) which would not materially and actually prejudice Owners in their use and enjoyment of such property.

Section 12.06. Condemnation of Common Area. If at any time, or from time to time, all or any portion of common area, or any interest therein, be taken for any public or quasi-public use, under any statute, by right of eminent domain or by private purchase in lieu of eminent domain, any award in condemnation to which the Association is entitled

shall be paid to the Association and deposited into the operating fund. No Owner shall be entitled to any portion of such award and no Owner shall be entitled to participate as a party, or otherwise, in any proceedings relating to such condemnation, such right of participation being herein reserved exclusively to the Association which shall, in its name alone, represent the interests of all Owners.

Section 12.07. Destruction of Common Area. If common area is destroyed by fire or other casualty, the Board shall have the improvements replaced or rebuilt. If, however, the cost of such replacement or rebuilding will be in excess of Three Thousand Dollars (\$3,000.00), or if the Board does not wish to replace or rebuild the destroyed improvements, then the question of rebuilding shall be decided by a vote of the members and a disapproval of the members of the necessary assessment to replace or rebuild the destroyed improvements shall be considered the members' decision not to replace or rebuild the destroyed improvements.

Section 12.08. Obligations of Owners; Avoidance; Termination.

(a) No Owner, including Owners of property in the Commercial Zone, through non-use of any common area or recreational facility, or by abandonment of his property, may avoid the burdens or obligations imposed on him by these Restrictions by virtue of his being an Owner.

(b) Upon the conveyance, sale, assignment, or other transfer of a lot to a new Owner, the transferring Owner shall not be liable for any assessments levied with respect to such lot after the date of such transfer, and no person, after the termination of his status as an Owner and prior to his again becoming an Owner, shall incur any of the obligations or enjoy any of the benefits of an Owner under these Restrictions following the date of such termination.

Section 12.09. Notices; Documents; Delivery. Any notice or other document permitted or required by these Restrictions to be delivered may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed as follows: If to an Owner, including Owners of property within the Commercial Zone, then at any lot within Venetian Gardens owned by the Owner or at such other address given by Owner to the Association, at Post Office Box 8745 , Stockton, California 95208; provided, however, that any such address may be changed from time to time by any such Owner, by the Planning Committee, or by Grantor by notice in writing, delivered to the Association, or by the Association, by notice in writing delivered to all Owners. If any mortgagee of an Owner files a written notice with the Association setting forth in detail the name or names of the Owner, mortgagees address for notice and proof

of its secured position, the Association will mail copies of all notices to such Owner to mortgagees; provided, however, the failure to do so shall not invalidate any such notice.

Section 12.10. Additional Covenants, Conditions and Restrictions.

It is contemplated by these Restrictions that Grantor or purchasers of property within Venetian Gardens may if allowed by law further subdivide the property so purchased and may further encumber such property with additional declarations of covenants, conditions, restrictions, limitation and terms and conditions of record for such purposes in connection with such further subdivisions as may be allowed by law. Such additional declarations of covenants, conditions, restrictions, limitations and terms and conditions are expressly contemplated and allowed by these Restrictions provided no such additional declaration shall conflict with any provision of these Restrictions. If there is any conflict between any additional declaration and these Restrictions, these Restrictions shall control and the provisions of the additional declaration to the extent they conflict with these Restrictions shall be void and unenforceable.

EXHIBIT A

DESCRIPTION

VENETIAN GARDENS, UNIT NO. 1  
PHASE I PROJECT

Being portions of the 155.948 acre gross parcel shown on that certain Map of Survey filed for record in Book of Surveys, Volume 25, Page 117, San Joaquin County Records, situate in the City of Stockton, San Joaquin County, California, more particularly described as follows:

PARCEL NO. 1

Beginning at the northeast corner of said 155.948 acre gross parcel; thence South 16° 03' 52" East 439.36 feet along the east line of said gross parcel; thence the following fifteen (15) courses, (1) South 73° 56' 08" West 52.00 feet, (2) from a tangent bearing North 16° 03' 52" West along the arc of a curve to the left having a radius of 20 feet, a central angle of 90° 00', an arc length of 31.42 feet, and a chord bearing North 61° 03' 52" West 28.28 feet, (3) South 73° 56' 08" West 20.00 feet, (4) along the arc of a curve to the left having a radius of 470 feet, a central angle of 15° 02' 57", an arc length of 123.45 feet, and a chord bearing South 66° 24' 40" West 123.09 feet, (5) along the arc of a curve to the right having a radius of 530 feet, a central angle of 10° 12' 18", an arc length of 94.40 feet, and a chord bearing South 63° 59' 20" West 94.27 feet, (6) along the arc of a curve to the left having a radius of 10 feet, a central angle of 85° 45' 07", an arc length of 14.97 feet and a chord bearing South 26° 12' 56" West 13.61 feet, (7) South 16° 39' 38" East 101.48 feet, (8) South 73° 20' 22" West 605.10 feet, (9) North 16° 39' 38" West 10.00 feet, (10) South 73° 20' 22" West 110.00 feet, (11) North 16° 39' 38" West 160.00 feet, (12) North 73° 20' 22" East 35.00 feet, (13) North 16° 39' 38" West 110.00 feet, (14) South 73° 20' 22" West 35.00 feet, and (15) North 16° 39' 38" West 280.00 feet to a point on the north line of said 155.948 acre parcel; thence North 73° 20' 22" East 1035.93 feet along said north line to the point of beginning, containing 12.238 acres, more or less.

EXHIBIT A

Description (Cont'd.)

Venetian Gardens, Unit No. 1  
Phase I Project

PARCEL NO. 2

Commencing at the northeast corner of said 155.948 acre parcel; thence South 16° 03' 52" East 2565.46 feet along the east line of said parcel to the TRUE POINT OF BEGINNING; thence along the boundary of said parcel the following seven (7) courses, (1) South 16° 03' 52" East 614.35 feet, (2) South 73° 20' 22" West 1486.38 feet, (3) North 39° 23' 29" West 43.37 feet, (4) North 73° 20' 22" East 1461.55 feet, (5) North 16° 03' 52" West 89.79 feet, (6) from a tangent bearing South 16° 03' 52" East along the arc of a curve to the right having a radius of 20 feet, a central angle of 89° 24' 14", an arc length of 31.21 feet, and a chord bearing South 28° 38' 15" West 28.14 feet, and (7) South 73° 20' 22" West 1182.80 feet; thence the following seven (7) courses, (1) from a tangent bearing North 73° 20' 22" East along the arc of a curve to the left having a radius of 20 feet, a central angle of 90° 00', an arc length of 31.42 feet, and a chord bearing North 28° 20' 22" East 28.28 feet, (2) North 16° 39' 38" West 80.00 feet, (3) along the arc of a curve to the right having a radius of 1030 feet, a central angle of 10° 09' 38", an arc length of 182.66 feet, and a chord bearing North 11° 34' 49" West 182.42 feet, (4) North 06° 30' West 185.50 feet, (5) South 83° 30' West 65.00 feet, (6) South 44° 40' West 165.81 feet, and (7) South 50° 36' 31" West 290.00 feet to a point on the southwest boundary of said 155.948 acre parcel; thence North 39° 23' 29" West 1305.00 feet along said southwest boundary; thence the following thirty-four (34) courses, (1) North 50° 36' 31" East 276.44 feet, (2) North 39° 23' 29" West 147.00 feet, (3) North 20° 00' West 278.85 feet, (4) North 00° 50' East 36.03 feet, (5) North 82° 30' East 120.00 feet, (6) from a tangent bearing North 07° 30' West along the arc of a curve to the right having a radius of 780 feet, a central angle of 02° 50', an arc length of 38.57 feet, and a chord bearing North 06° 05' West 38.57 feet, (7) North 85° 20' East 300.00 feet, (8) South 73° 44' 28" East 211.58 feet, (9) North 16° 15' 32" East 171.47 feet, (10) South 76° 30' East 79.81 feet, (11) North 78° 30' East 89.18 feet, (12) North 41° 30' East 172.20 feet, (13) North 65° 19' 30" East 70.99 feet, (14) North 78° 39' East 72.87 feet, (15) South 87° 51' East 72.87 feet, (16) South 74° 21' East 72.87 feet, (17) South 60° 51' East 72.87 feet, (18) South 47° 21' East 72.87 feet, (19) South 35° 06' 37" East 81.11 feet, (20) South 30° 44' 22"

EXHIBIT A  
Description (Cont'd.)

Venetian Gardens, Unit No. 1  
Phase I Project

East 80.00 feet, (21) South 27° 22' 07" East 80.00 feet, (22)  
South 23° 59' 52" East 80.00 feet, (23) South 67° 41' 15" West  
57.54 feet, (24) South 28° 56' 08" West 108.50 feet, (25) South  
16° 03' 52" East 130.06 feet, (26) South 61° 03' 52" East 120.16  
feet, (27) North 73° 56' 08" East 167.03 feet, (28) South 16°  
03' 52" East 98.36 feet, (29) North 73° 56' 08" East 60.00 feet, (30)  
South 26° 18' 03" East 50.00 feet, (31) along the arc of a curve  
to the right having a radius of 70 feet, a central angle of 41°  
14' 21", an arc length of 50.33 feet, and a chord bearing South  
05° 40' 53" East 49.30 feet, (32) South 16° 03' 52" East 583.75  
feet, (33) North 73° 20' 22" East 335.02 feet, and (34) North  
73° 56' 08" East 42.00 feet to the TRUE POINT OF BEGINNING, con-  
taining 67.861 acres, more or less.

Bearings and distances in Parcel No. 1 and Parcel No. 2 above  
described are based on the California Coordinate System Zone 3.  
Multiply all distances by 1.0000569 to obtain ground level dis-  
tances.

Excluding from this Exhibit A, lot 157 as shown upon the  
map entitled, Tract No. 1105, Venetian Gardens, Unit  
No. 1, filed for record February 28, 1975, in Volume 21  
of Maps and Plats, page 24, San Joaquin County Records.

EXHIBIT B

DESCRIPTION

VENETIAN GARDENS SUBDIVISION

Being the 151.548 acre parcel situate in the City of Stockton, San Joaquin County, California, shown on that certain Map of Survey, filed for record in Book of Surveys, Volume 25, Page 117, San Joaquin County Records, described as follows:

Beginning at the northwest corner of said 151.548 acre parcel; thence along the boundary of said parcel the following six (6) courses, (1) North  $73^{\circ} 20' 22''$  East 2809.55 feet, (2) South  $16^{\circ} 03' 52''$  East 3050.03 feet, (3) along the arc of a curve to the right having a radius of 20 feet, a central angle of  $89^{\circ} 24' 14''$ , an arc length of 31.21 feet, and a chord bearing South  $28^{\circ} 38' 15''$  West 28.14 feet, (4) South  $73^{\circ} 20' 22''$  West 1463.70 feet, (5) South  $72^{\circ} 25' 02''$  West 8.06 feet, and (6) North  $39^{\circ} 23' 29''$  West 3328.29 feet to the point of beginning, containing 151.548 acres, more or less.

Course (6) in the above description being shown on said Map of Survey as bearing North  $39^{\circ} 23' 29''$  West 3328.39 feet.

All bearings and distances in the above description are based on the California Coordinate System Zone 3.

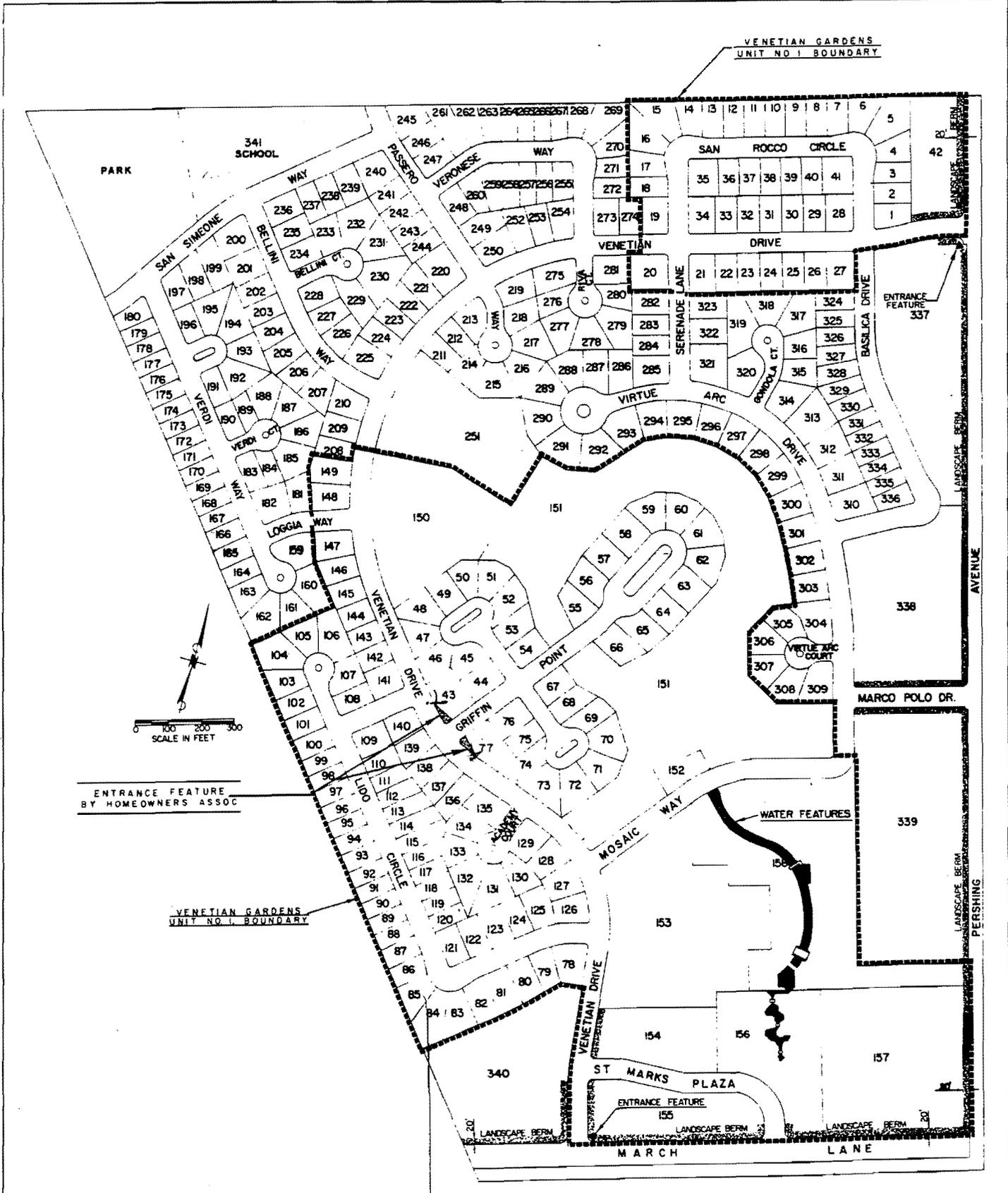
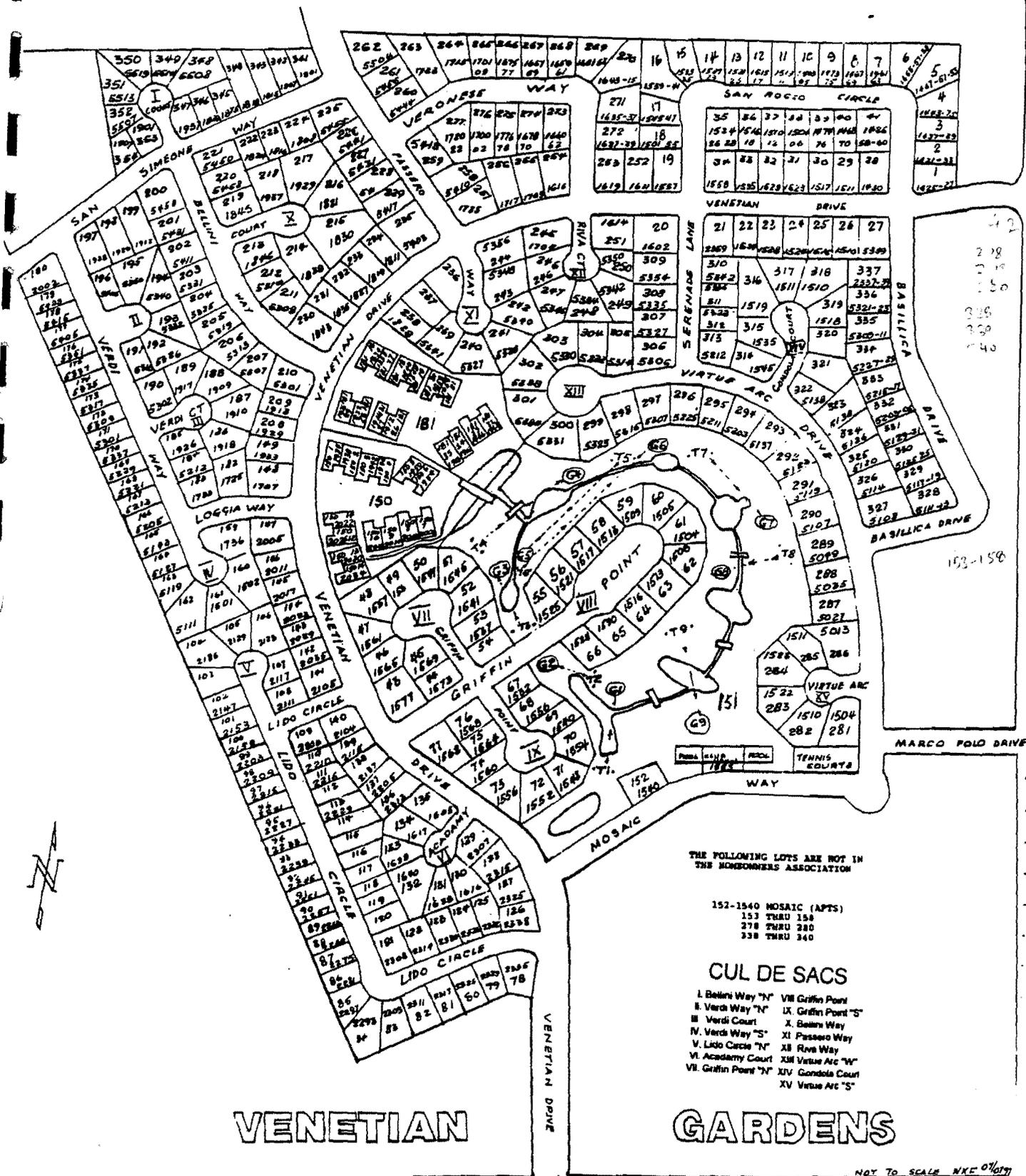


EXHIBIT "C"  
FEATURE AREAS

**VENETIAN GARDENS SUBDIVISION**



THE FOLLOWING LOTS ARE NOT IN THE HOMEOWNERS ASSOCIATION

- 152-1540 MOSAIC (APTS)
- 153 THRU 154
- 278 THRU 280
- 338 THRU 340

**CUL DE SACS**

- I. Bellini Way "N"
- II. Verdi Way "N"
- III. Verdi Court
- IV. Verdi Way "S"
- V. Lido Circle "N"
- VI. Academy Court
- VII. Griffin Point "N"
- VIII. Griffin Point
- IX. Griffin Point "S"
- X. Bellini Way
- XI. Passero Way
- XII. Riva Way
- XIII. Virtue Arc "W"
- XIV. Gondola Court
- XV. Virtue Arc "S"

**VENETIAN**

**GARDENS**

**MARCH LANE**

NOT TO SCALE NXC 07/07