

RESTRICTIVE COVENANTS
GREEN FAMILY TRUST/OVERSTREET PROPERTY

WHEREAS, The Green Family Trust, John and Toots Green, Trustees and as Individually Husband and Wife, S. Thomas Overstreet and Deanna Overstreet, husband and wife, are the owners of 32.144 acres in the SE 1/4 NW 1/4 Section 28, Township 16S, Range 10 East, NMPM, County of Otero, State of New Mexico known as Foothills Subdivision Unit 3, which plat has been filed of record as Reception #03812 and in Book 59, pages 45-46 of the records of Otero County, State of New Mexico which plat is incorporated herein by reference as if set forth in full.

AND WHEREAS, the said owners above named desire said real estate to be subject to and encumbered by certain Restrictive and Protective Covenants.

The Restrictions and Covenants in this instrument are to run with the land and shall be binding upon all parties and all persons owning land in the above described property.

If the owners of said property or their heirs or assigns, shall violate any of the covenants in this instrument, it shall be lawful for any other person owning real property situate in the subdivision to prosecute any proceedings at law or in equity against the person or persons violating any of the covenants, and either to prevent him from so doing or to recover damages for the violation, or both.

Invalidation of any of these covenants by judgment or court order shall in no wise affect any of the other provisions, which shall remain in full force and effect.

Architectural Committee:

The purpose of the Architectural Committee is to assure, through architectural control of building design, placement, and construction that all improvements on and use of real estate within the exterior boundaries of the above described real estate shall conform to the requirements of these restrictive covenants, and minimize alternation of exiting plants and terrain.

The Architectural Committee shall be composed of four persons. The committee shall be John L. Green, Toots Green, Ernesto Martinez and Deborah L. Martinez. The committee members shall serve on the committee until such members dies or no longer wishes to serve in such capacity, at which time a new member will be appointed by the committee. After January 1, 2004, all privileges, power, rights, and authority shall be exercised by and verified in a committee to be selected by the owners of a majority of the residences left in the above described land.

No structure, including walls and fences, shall be erected, converted, place, added to or altered on any lot until the exterior construction plans and specifications, exterior materials to be used, exterior color, and location have been approved by the Architectural Committee. The Committee shall not approve the project unless the materials, color, location, plans and specifications result in a structure that harmonizes with the existing structures in the area and/or blends with the surroundings and the structure is located in such a manner as to suit the topography of the

All applications for approval shall be in writing and either hand delivered to each member of the Architectural Committee or by certified mail to Toots Green, 1019 S. Canyon Road, Alamogordo, New Mexico for distribution. The committee shall meet within ten (10) days upon receipt of a complete application for a dwelling and render a decision within six (6) hours after meeting, on the initial application for a residential dwelling.

1. **Use of lots in development:** All lots in the residential subdivision shall be used solely for residential purposes. No business activities of any kind or nature shall be carried on in any of the homes constructed therein except the use of an office within the home for business purposes shall not be deemed commercial for this purpose.
 2. **Style of homes:** All homes shall be constructed with a Spanish/Southwest motif exterior. Roofs shall be constructed either a "pueblo/flat roof style" or "southwest style tile roof." Exteriors shall be stucco, adobe or similar material and shall be within a brown, tan, bone, or adobe color range.
 3. **Each residence or construction:** Each resident or construction shall be approved by the Architectural Committee. Pre-built, modular, or mobile homes are strictly prohibited.
 4. **Number of stories:** Homes will be less than two (2) stories. No future dwelling of less than 2000 square feet of living space shall be constructed, living space shall be understood to mean heated and cooled space, and not to include attached garage, deck, patio or other appurtenances which may incidentally enhance the quality of life and value of property.
 5. **No noxious or offensive activity permitted:** No noxious or offensive activity (including loud audio or P.A. systems) shall be carried on upon any lot or lots, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the subdivision.
 6. **Tents, etc.:** Tents, shacks, trailers or other motorized vehicles shall not be used as a dwelling, either temporarily or permanently.
 7. **Satellite dishes and antennae:** Satellite dishes, and television, A.M./F.M. radio, citizens' band (C.B.) and short wave antennae are not to be visible from the street or from any lot within the development.
 8. **Means of advertising:** No signs, billboards or advertising media shall be erected or maintained on any lot, except a "For Sale" or "For Rent" sign or similar reality or normal construction signs.
 9. **Clothes Lines:** Outdoor clothes lines are prohibited, except in fenced-in areas which cannot be viewed from the street or adjoining lots.
 10. **Minimum Lot Size:** The minimum lot size shall be at 1.606 acres. No lot may be further subdivided except lot 6 may be subdivided once into lot sizes of not less than 1.606 acres each.
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11. **Time of Construction:** Once construction has begun on any permanent building, that building shall be completed within 18 months from the day construction began. Construction shall be deemed as begun on the date that any building material is placed upon a parcel or upon the date any foundation work is begun, whichever is earlier.

12. **Nuisances:** Nothing shall be done or permitted on any Lot or within the boundaries of the property above described which is or may become an annoyance to the other property owners. Specifically labeled as nuisances are the following:

A. Operation of chain saws and other noisy equipment other than between the hours of 9:00 AM and 8:00 PM is prohibited.

B. Erection and use of any light higher than the building to which it is attached is prohibited.

C. Erection and use of any light attached to a pole or structure other than a building that exceeds six feet in height above the surrounding terrain is prohibited.

D. Propane or other bottled gas tanks must be shielded from view by either an approved fence or by planting of trees and shrubbery.

E. Any use of explosives of any kinds including fireworks (this does not include annual Fourth of July fireworks display) is prohibited. Nothing in this paragraph shall be construed to limit the lawful use of firearms.

F. No large animal (swine, goats, horses, cattle, etc) shall be kept on the premises or any other animal that because of noise, odor or other factors that disturb the peace and tranquillity of the neighborhood.

13. **Refuse, Rubbish (Trash) and Junk:** Refuse, rubbish (trash), and waste shall be kept and disposed of in a sanitary manner. All household refuse and rubbish (trash) shall be kept in a closed container inside a residence, a basement, a garage, or in an ancillary building. No refuse and rubbish (trash) or non-household refuse and rubbish other than leaves and dead limbs shall be permitted to remain exposed on a parcel. Also, no automobiles, trucks or other vehicles, whether self-propelled or not, shall be permitted to remain within the boundaries of the property described above in a non-operable condition, unless enclosed within a garage. Operable vehicles must have a current license.

14. **Sales of Sand, Gravel, Top Soil and Other Surface Material, Including Native Plants:** Owners are prohibited from selling or removing any materials from the surface within the boundaries of the property described above that would result in a change of the appearance and/or level of the surface of the real estate other than as a normal incident to construction.

15. **Landscaping:** Landscaping may be xeriscape low water consumption of southwest design, a small green-belt area around the residence is acceptable.

