

**Sierra Vista**  
**Restrictive Covenants**

**Part A. WHEREAS** French Brothers Inc. is the owner of all fourteen (14) lots, A through N, in Western Acres Replat C, located in Alamogordo, Otero County, New Mexico.

And Whereas, said Owner above named desires to place certain restrictions in regard to the building and improvements to be placed on portions of the above described real estate as follows: to-wit

**PART B. FULLY RESTRICTED RESIDENTIAL AREA.** The residential area covenants in Part C in their entirety shall apply to lots (A) through (N), Western Acres Subdivision Replat C, Alamogordo, Otero County, New Mexico.

**PART C. RESIDENTIAL AREA COVENANTS**

**C-1 LAND USE AND BUILDING TYPES.** All lots shall be used for residential purposes only. Each lot shall contain one detached single family dwelling not to exceed two stories in height and a private attached garage. Each lot may contain single story buildings associated to the dwelling such as storage sheds and guest quarters. Storage buildings for recreational vehicles such as motor homes and camping trailers are not allowed. Modular and pre-fabricated construction is prohibited. Finished height of dwelling may not exceed thirty (30) feet tall.

**C-2 ARCHITECTURAL CONTROL.** No building shall be erected, placed or altered on any lot until the construction plans, specifications, and a site plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials and colors (harmony of external design with existing and/or planned structures), as to location with respect to lot lines, topography and finish grade elevations.

Positive site drainage shall be provided during construction and maintained thereafter. Such positive drainage shall be in accordance with city drainage and ponding requirements. This provision is placed in there restrictive covenants to recognize the moisture sensitivity of the soil and the responsibility of the owner to provide prudent moisture management.

Because of the flowing nature of the landscaping in this subdivision, no fences of any type or material shall be constructed on any premise.

**C-3. DWELLING, QUALITY AND SIZE.** On any dwelling, the main structure, exclusive of one-story open porches and garages, shall contain not less than one thousand four hundred (1400) square feet of heated or living area. The home shall have an attached garage for not less than two (2) cars and not more than three (3) cars, which shall contain a minimum of four hundred (400) square feet. All exteriors shall be stucco construction. All other materials are prohibited.

Stucco color shall be Dryvit brand, color 11 Riverstone.

Exterior fascia and soffit color shall be Sherwin Williams SW6221 Moody Blue.

Exterior door color shall be Sherwin Williams SW6222 Riverway

All sloped roofs, which are visible from the street or adjacent properties, shall be constructed with a 4/12 pitch and shall use architectural grade shingles in the color of Owens Corning "Weathered Wood"

All other buildings, sheds, detached garages etc. shall match the dwelling in architecture, materials and appearance. This applies to both permanent and temporary structures.

Garage doors may not exceed eight (8) feet in height.

The Architectural Control Committee must approve variances.

**C-4. BUILDING LOCATION.** All buildings shall be located no nearer to the front property line than twenty-five (25) feet. The home, attached garage, and covered porches shall be located no closer than five (5) feet from either side property line.

**C-5. EASEMENTS.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat of this subdivision. Modifications that would adversely affect drainage within said drainage easements are not allowed.

**C-6. NUISANCES.** No noxious or offensive activities shall be allowed upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

The owner of each lot shall be responsible for the repair of vandalism, including the removal of graffiti, which may occur to his/her property including perimeter fences, walls, roofs, sidewalks, mail boxes, etc. which may be seen from other lots, properties, streets, or sidewalks, regardless of the source of the vandalism. The repair or removal of such vandalism shall occur within five (5) days of the vandalism. If the repair is not made within five (5) days of the

vandalism, the Architectural Control Committee may, at its sole discretion, repair or arrange the repair and charge and collect from the owner of the property on which the vandalism exists all of the repair expenses, plus a fifteen (15) percent administrative charge, plus ten (10) percent interest thirty (30) days from notice of such charges. Said charges shall be a lien against the property.

Inoperative vehicles shall not be stored on any lot, or in the street in front of the lot.

The owner of each lot shall be responsible for the maintenance and timely repair of damages to his/her property including perimeter fences, walls, roofs, sidewalks, mail boxes, etc. which may be seen from other lots, properties, streets or sidewalks. All repairs are to be made with materials and workmanship to replicate as closely as possible original design and construction. If the repair is not made within thirty (30) days of the damage, the Architectural Control Committee may, at its sole discretion, repair or arrange the repair of the damages and charge and collect from the owner of the damage property all of the repair expenses, plus a fifteen (15) percent administrative charge, plus ten (10) percent interest thirty (30) days from notice of such damages. Said charges shall be a lien against said property.

**C-7. TEMPORARY STRUCTURES.** No structures of a temporary character, trailer, basement, shack, garage, barn or other out-building shall be used on any lot at any time as a residence either temporarily or permanently.

**C-8. LOT AREA AND WIDTH.** No lot may be subdivided into smaller lots.

**C-9. SIGNS.** No signs of any kind shall be displayed to the public view on any lot except one professional sign of not more than one (1) square foot, one sign of not more than five (5) square feet advertising the property for sale or rent.

**C-10. OIL AND MINING OPERATIONS.** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structures designed for use in boring for oil or natural gas shall be erected maintained or permitted upon any lot.

**C-11. LIVESTOCK AND POULTRY.** No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other house-hold pets may be kept provided that they are not bred, kept or maintained for any commercial purposes. Even if not kept for commercial purposes the total number of dogs and cats combined may not exceed three (3).

**C-12. GARBAGE AND REFUSE DISPOSAL.** No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary

containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Portable containers, except for scheduled pick up days, shall be screened from view.

**C-13. WATER SUPPLY.** No individual water supply systems shall be permitted on any lot.

**C-14. SEWAGE DISPOSAL.** No individual sewage system shall be permitted on any lot.

**C-15. STORAGE OF RECREATIONAL VEHICLES.** Recreational vehicles include, but are not limited to boats, airplanes, RV trailers, horse trailers, motor-homes, camp trailers, utility trailers, vehicle trailers or racing cars. No recreational vehicle shall be parked or stored any closer to the street than the front of the home. No recreational vehicle shall be parked or stored on any street within or adjacent to the subdivision.

**C-16. ANTENNAE.** No television or radio antenna shall extend higher than the roof of any structure, and all antennae shall be subject to the approval of the Architectural Control Committee prior to installation.

#### **C-17. SPECIAL CONSIDERATIONS**

**C-18. RESTRICTIVE COVENANTS MADE LEGAL.** Any lien created by these restrictive covenants or as allowed by law, shall be evidenced by a recorded Claim of lien filed in the records of Otero County, New Mexico, under the provisions of New Mexico law. Such lien shall be enforced in accordance with New Mexico Statutes (Section 48-2-1 to 48-2-17, NMSA 1978 Come., as same may be from time to time amended).

#### **PART D. ARCHITECTURAL CONTROL COMMITTEE.**

**D-1. MEMBERSHIP.** The Architectural Control Committee shall be composed of three members. The initial committee shall be composed of James W. French, Tommy L. French and Renee J. French. All parties recognize that the above named members are associated with the developer, French Brothers, Inc.

Once more than 33-1/3 percent of the lots are owned by persons other than the developer, Renee J. French shall resign from the board and a property owner other than one associated with the developer shall be elected to the Architectural Control Committee under the terms and provisions set forth herein.

Once more than 66-2/3 percent of the lots are owned by persons other than the developer, James W. French shall resign from the board and a property owner other than one associated with

the developer shall be elected to the Architectural Control Committee under the terms and provisions set forth herein.

Once 100 percent of the lots are owned by persons other than the developer, Tommy L. French shall resign from the board and a property owner other than one associated with the developer shall be elected to the Architectural Control Committee under the terms and provisions set forth herein.

**D-2. FUTURE MEMBERSHIP.** Future members of the Architectural Control Committee, under the formula set forth in the preceding subparagraph, shall be elected by all property owners of record for a 2 year term. A meeting shall be held during the first week of January to elect the Architectural Control Committee members on or after the members as selected by the developer are being replaced. Such annual meeting shall be conducted during the month of January at a place agreeable to a majority of all property owners and a notice of such meeting shall be delivered to the property owners at least seven days prior to such meeting being held. The term of an elected member of the Architectural Control Committee shall be from February 1 to January 31 for the two year term. Members may be re-elected to the board.

**D-3. PROCEDURE.** Building plans to be submitted for approval shall include at a minimum, floor plans, front elevations, and a complete description of exterior details, materials, and colors to be used. The approval as required in these covenants shall be in writing. In the event the Architectural Control Committee fails to approve or disapprove within forty (40) days after plans and specifications have been submitted to it, or in any event, if not suit to enjoin the construction has been commenced prior to the completion there of, approval will not be required.

**D-4. OTHER DUTIES.** The Architectural Control Committee shall have such other and further duties as are set forth in these Restrictive Covenants, the Unincorporated Association for Homeowners of Lots in Sierra Vista Subdivision, Alamogordo, Otero County, New Mexico, and other documents as may be approved from time to time by the property owners.

#### **PART E. GENERAL PROVISIONS.**

**E-1. TERM.** These covenants are to run with the land and shall be binding on the land, all parties and all persons claiming under them for a period for thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of thirty (30) years unless an instrument signed by a two-thirds majority of the then owners of the lots has been recorded agreeing to change said covenants in whole or in part. Votes shall be counted on the bases of one (1) vote for each lot owned. These covenants may not be amended without the written consent of French Brothers Inc. through September 30, 2005. Beginning October 1, 2005, these covenants may be amended by a two-thirds majority of the

owners at the time of the amendments. An instrument signed by the majority of the owners shall be recorded with the County Clerk.

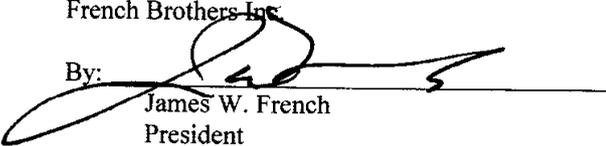
**E-2. ENFORCEMENT.** Enforcement shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant to restrain violation. Such enforcement may be by a property owner or may be by the Architectural Control Committee. Such action may also seek the recovery of damages, costs and reasonable attorney's fees.

**E-3. SEVERABILITY.** Invalidation of any one of these covenants by judgment or court order shall in no way affect any other provision which shall be and remain in full force and effect.

**PART F. ATTEST.**

IN WITNESS WHEREOF, the said owners have caused this instrument to be executed on this 1 day of October, 2004.

French Brothers Inc.

By: 

James W. French  
President

Attest

  
Tommy L. French  
Secretary

**CORPORATE ACKNOWLEDGEMENT**

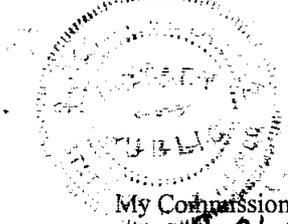
State of New Mexico )

) ss:

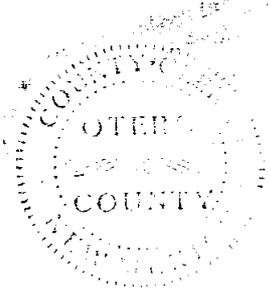
County of Otero )

The foregoing instrument was acknowledged before me this 1st day of October, by James W. French, President of French Brothers Inc., a New Mexico Corporation, for and on behalf of said corporation.

*Sorsety McJuddy*  
Notary Public



My Commission Expires:  
7-31-07



STATE OF NEW MEXICO } S.S.  
OTERO COUNTY }  
FILED FOR RECORD IN MY OFFICE  
This 29th day of Oct, 2004  
At 5:08 clock p M and duly recorded  
in Book No. 1160 Page 94-100  
The records of Otero County, New Mexico  
*Mary D. Quintana*  
County Clerk, Otero County, New Mexico  
*Robyn Silveira* Dep.  
# 13047