

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
AIRVILLE MEADOWS, FM 2904 at Airville Road
Bell County, Texas

THE STATE OF TEXAS §

COUNTY OF BELL §

This Declaration of Covenants, Conditions and Restrictions for the Airville Meadows at FM 2904 and Airville Road, sometimes referred to herein as "restrictions" or as "CCRs", is made by Five19 Inc. a Texas Corporation ("Declarant"), on the date signed below.

PROPERTY SUBJECT TO DOCUMENT

Declarant owns the real property described in Exhibit A of this Declaration, together with the improvements thereon.

Declarant declares that the property described in Exhibit A will be owned, held, transferred, sold, conveyed, leased, occupied, used, insured and encumbered subject to the terms, covenants, conditions, restrictions and easements of this Declaration, which run with the real property and bind all parties having or acquiring any right, title or interest in any part of the property, their heirs, successors and assigns, and inure to the benefit of each Owner of any part of the property.

ATTACHMENTS:

EXHIBIT A – Description of Real Property (BELL Doc. # _____)

ARTICLE 1 – DEFINITIONS

The following words and phrases, whether or not capitalized, have specified meanings when used in the Governing Documents, unless a different meaning is apparent from the context in which the word or phrase is used.

1.1 "Applicable Law" means the statues and public laws and ordinances in effect at the time a provision of the Governing Documents is applied

1.2 "Guidelines" mean the written guidelines of the Declarant adopted from time to time by the Declarant in accordance with the Governing Documents or applicable laws.

1.3 "County" means Bell County, Texas.

1.4 "Declarant" means Five19 Inc., a Texas Corporation, which is subdividing the Property, or the successors and assigns of Five19 Inc.

1.5 "Declaration" means this document, as it may be amended from time to time.

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1.6 "Governing Documents" means, singly or collectively as the case may be, each governing instrument covering the establishment, maintenance, and operations of the Airville Meadows at FM 2904 and Airville Road. The term includes this Declaration, the Plat and any Guidelines which may be adopted.

1.7 "Tract" means a surveyed portion (greater than 10.0 acres) of the Property for which independent ownership has been established by a deed from Declarant. Each separate portion of the Property conveyed as such by Declarant shall be a Tract. Each Tract may be subdivided into 2 Lots in accordance with and as required by all applicable county and state rules, regulations, and laws.

1.8 "Lot" means a platted portion (less than 10 acres) of the Property for which independent ownership has been established by a deed from Declarant. Each separate portion of the Property conveyed as such by Declarant shall be a Lot. Individual Lots shall not be subdivided.

1.9 "Majority" means more than half. A reference to "a majority of Owners" in any Governing Document or applicable law means "Owners of at least a majority of the Tract/Lot", unless a different meaning is specified. A Majority shall be determined based on the original property subdivision tract/lot count. If individual tracts are further subdivided (by a tract owner) the complete pre-subdivided tract shall retain and have one (1) single vote (or the subdivided tracts would each have ½ vote).

1.10 "Owner" means a holder of recorded fee simple title to a Tract/Lot.

1.11 "Property" means all the land subject to this Declaration and all improvements, easements, rights and appurtenances to the land that is described in Exhibit A to this Declaration.

1.12 "Resident" means an occupant of a dwelling, regardless of whether the person owns the Tract or Tract/Lot.

ARTICLE 2 – PROPERTY

2.1 PLAT OF THE AIRVILLE MEADOWS AT FM 2904 AND AIRVILLE ROAD.

The property described in Exhibit A shall be subdivided into fifteen (15) Tract/Lots with said subdivision to be known as Airville Meadows at FM 2904 and Airville Road. Declarant may at any time, and without the consent of any Owner or other person, modify the Tract/Lot plan for any of the Property still owned by Declarant. This right to modify includes changing the quantity, size, dimensions and configurations of the Tracts and Lots, providing that no one Lot may be created that is smaller than two (2) acres. Each Lot shall be surveyed according to the then current plan of Declarant and conveyed to buyer subject to these restrictions.

2.2 ADJACENT LAND USE

Declarant makes no representation of any kind as to the current or future uses – actual or permitted – of any land that is adjacent to or near the property described in Exhibit A regardless of what the Plat or other materials may show as potential used of adjoining land.

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2.3 ADDITIONAL PROPERTY

Additional real property may be annexed to the Property and subjected to this Declaration on approval of the Declarant. Annexation of additional property is accomplished by recording a declaration of annexation, including an amendment of Exhibit A, in the Real Property Records of the County.

2.4 SUBDIVIDING OF LOT

Once a Tract/Lot is sold by Declarant, the Tract/Lot shall not be further divided, subdivided or sold in any manner that creates two or more parcels from the original Tract/Lot as it was conveyed by Declarant. One or more separately described Tracts/Lots of land conveyed by Declarant to one buyer shall each be a "Tract/Lot" whether conveyed in one or more deeds.

2.5 EASEMENTS

Each Tract/Lot shall be subject to a ten (10) foot general utility easement along each Property line except that there shall be a fifteen (15) foot public utility easement along each public road. In the event that the public road is widened, the fifteen (15) foot public utility easement shall be relocated to fifteen (15) feet along the widened roadway. Such easements may be used by the Declarant or his assigns, by public utility providers and by local or state governmental utility providers for the installation and maintenance of utility lines and structures. In addition to the easements and restrictions contained in this Declaration, the Property is subject to all restrictions, easements, licenses, leases and encumbrances of record, each of which is incorporated herein by reference.

ARTICLE 3 – CONSTRUCTION AND IMPROVEMENTS

3.1 DECLARANT'S VISION

Declarant envisions that the Airville Meadows at FM 2904 and Airville Road will be an attractive residential ranch and farm community. The covenants are intended to promote each owners enjoyable use of their personal home while also promoting the enjoyable use of the property for small farm or ranch operations. Effort has been made to allow flexibility for these varying uses while also providing protections that promote the attractiveness and enjoyment of the same. From time to time throughout this Declaration there will be comments that further define the Declarant's vision.

3.2 USEAGE

Except as expressly provided in this Declaration to the contrary, each Tract/Lot will be used primarily for residential, farming and ranching purposes. Owner is not required to build a residence on the Tract/Lot provided however that Owner must maintain the Tract/Lot in an attractive manner and limit its primary usage to farming or ranching operations according to the provisions of this Declaration.

3.3 BUILDING SET-BACKS

No building may be placed within one hundred fifty (150) feet of the public roadway, or within twenty (20) feet of the side property lines within the front two hundred fifty (250) feet of the Tract/Lot. All barns, storage buildings and other (secondary) structures shall be located behind the primary residential dwelling, not within two hundred fifty (250) feet of the public roadway, or within twelve (12) feet of the side property lines or within forty (40) feet of the rear property line.

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3.4 RESIDENTIAL DWELLINGS

DECLARANT'S VISION. Declarant recommends that Tract/Lot Owners choose architecture and design that incorporates the beauty and practicality of "classic" home designs such as Ranch, Craftsman and Colonial. Declarant encourages the construction of "wide-bodied" or sprawling home floor plans in keeping with the scale of the oversized home sites. New home exteriors shall include masonry of stone, brick, or cementitious siding.

3.4 A NUMBER OF DWELLINGS:

Owner may construct one single family dwelling on each Tract/Lot. This shall be the primary residential dwelling. An alternate minimal residential dwelling, within a shop/barndominium type structure is permitted in accordance with the setback requirements of paragraph 3.3.

3.4 B DESIGN TYPE

The primary residential dwellings shall be designed as a "traditional" style home.

3.4 C CONSTRUCTION AND MATERIALS

All buildings constructed shall be of quality construction and shall be constructed of approved building materials. "Quality construction" relates to construction performed by a trained, qualified builder with previous new home construction experience.

Approved building materials for exterior walls of residential buildings include brick, stone or a cementitious-fiber product like "Hardi-Plank". These building materials must be specifically identified on the plans and dimensions noted.

Approved building materials for roofs of residential buildings are slate, Galvalume standing seam metal and dimensional composite shingles. Composite shingles, must have a minimum manufacturer's warranty rating of twenty-five (25) years and constructed of Architectural Dimension Shingle (mid-weight). Shingles in shades of red or blue are prohibited. All roof stacks and flashings must be painted to match the roof color. Properly designed solar panels and/or skylights are not prohibited.

3.4 D TRADITIONAL DESIGN

1. Tract/Lot Owners shall have prepared drawings of the tract showing the location and size of the planned primary residence as well as the location of any other structures to be built. These shall be submitted for review and approval by the declarant. Onsite construction may commence once these are reviewed for compliance with deed restrictions and returned signed to the owner. The review process shall not exceed 12 business days upon receipt of documents.
2. Residence, if a single story, the structure must include a minimum of 1,250 square feet of heated and cooled area; if a two story structure, it must contain a minimum of 1,800 square feet heated and cooled area.
3. Residence shall include an attached or detached garage for a minimum of 2 cars but no more than 4 cars. The garage must be constructed using the same exterior design and materials as the primary residence
4. Residence exterior walls shall be one hundred percent (100%) masonry materials.
5. The minimum required roof pitch for the primary residence, and/or detached garage shall be five (5) feet in twelve (12) feet.

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3.4 E BARNDOMINIUM DESIGN

"Barndominium" for purposes of this Declaration shall apply to any permanent structure such as a barn, shop, garage, or other building that may also include "residential living quarters" within the structure.

1. "Living Quarters" for the purposes of this Declaration shall be defined as including a kitchen, bathroom and bedroom.
2. Any Barndominium constructed shall be located in accordance with the setback requirements of paragraph 3.3
3. A Barndominium structure shall have a minimum of 1,200 square feet (i.e. 30 ft. x 40 ft.). Residential living quarters within a Barndominium structure are recommended not to exceed 1,200 square feet and a one (1) full bathroom. The residential living quarters within a Barndominium structure may exceed this size although this might limit the future ability to build a separate traditional home on the Tract/Lot. This is primarily due to the water utility provider's use limits for a single water meter.
4. Roofs shall have a minimum pitch of 4/12 and the roof must overhang and extend past the exterior walls a minimum of fourteen (14") inches on all sides visible from public view. Acceptable roof materials are listed in Section 3.4.C.
5. Siding materials are listed in Section 3.4.C. Additionally, metal siding may be used. The metal roof and metal walls should be contrasting colors. The metal siding on walls shall be placed so that the ribs are orientated vertically. Window and doors shall include a minimum 3" wide trim piece.

3.4 F TIMING OF CONSTRUCTION

Tract/Lot owner shall submit prepared drawings for their Tract/Lot plan showing the location and size of the planned residence as well as the location of any other structures to be built prior to the construction. Tract/Lot owner may maintain their Tract/Lot as purchased, i.e. there is no time limit or requirement to build.

3.5 BARN, SHOP AND OTHER BUILDINGS

Each Tract/Lot Owner may construct a barn and/or other buildings to provide storage for equipment and supplies needed to facilitate the residential, farming and ranching activities of the Owner on the Tract/Lot. Approved building materials include any materials approved for the residential structures and/or a Barndominium structure. The buildings shall be attractively designed and must be constructed of new materials.

3.6 MANUFACTURED HOMES

Manufactured homes are NOT allowed for this property. This includes single, double or triple wide homes, also known as mobile homes.

3.7 MODULAR HOMES

Modular homes, prefabricated homes or other move-in buildings are NOT allowed for this property. This article does not apply to accessory structures as specifically allowed by this Declaration.

3.7 ACCESSORY STRUCTURES

Accessory structures such as gazebos, small storage sheds, playhouses and greenhouses are allowed.

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3.8 FENCES

Fencing on individual Tract/Lot shall be any normally acceptable "ranch" fencing materials, not higher than 6-foot above grade.

3.9 DRIVEWAYS

Driveways shall be concrete, asphalt, gravel, limestone or other similar road base material and shall be maintained in a good attractive condition.

3.10 LANDSCAPING

The Owner of each Tract/Lot shall routinely maintain all areas of his Tract/Lot as is customary for an attractive residential ranch setting. The ranch setting allows for certain areas of the property to be native pasture and have grasses growing taller than a typical yard. The area around the residences shall be landscaped with grass, shrubbery and trees as is customary for a home.

3.11 SWIMMING POOLS

Swimming pools shall be located beside or behind the primary residence, well maintained and must provide adequate fencing for safety purposes.

3.12 MAINTENANCE AND REPAIR OBLIGATIONS

Each Owner, at the Owner's expense must maintain all improvements on his Tract/Lot, including but not limited to the dwelling, barns, storage buildings, fences, sidewalks and driveways. Maintenance includes preventative maintenance, repair as needed and replacement as needed. Each Owner is expected to maintain his Tract/Lot's improvements at a level, to a standard and with an appearance that is commensurate with the neighborhood. Specifically, each Owner must repair and replace worn, rotten, deteriorated and unattractive materials and must regularly repaint all painted surfaces.

3.13 SEPTIC SYSTEMS

Installation of any septic-tank soil-absorption sewage-disposal system shall be in accordance with minimum recommendations by the division of Sanitary Engineering, Texas State Department of Health and inspected by a duly authorized agent of Bell County Health Department.

ARTICLE 4 – USE RESTRICTIONS

4.1 ANIMAL RESTRICTIONS

Livestock including horses, cattle, mules, donkeys, goats and sheep may be kept on Tract/Lot. They shall be kept and maintained on a Tract/Lot in a quantity limited by the natural grazing, foraging and supplemental feeding requirements in order to maintain and care for the livestock in proper health. Chickens and turkeys may be kept on Tract/Lot. No more than three (3) swine shall be allowed on any Tract/Lot. Swine shall be housed in a suitable pen, barn or other such facility that is maintained in a clean manner. Dogs, cats and/or other household pets may be kept on a Tract/Lot. Household pets shall be kept in a manner that does not disturb the peaceful enjoyment of the residents of the other Tract/Lot. All livestock, fowl, swine and household pets shall be registered, licensed and inoculated against disease as required by law. Additional information concerning the keeping of livestock and/or other agricultural land uses is available by reference to the Bell Central Appraisal District Ag Manual.

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4.2 BUSINESS USE

Except as may be specifically permitted herein, the Property shall be used only for residential purposes and small farming and/or ranching activities. Therefore no restrictions in this section shall be construed to limit the use of this property for the farming or ranching activities allowed by other provisions in this Declaration.

Resident may use a dwelling or other allowed structure for business uses, such as telecommuting, personal business and professional pursuits provided that: (1) the uses are incidental to the primary use of the Tract/Lot as a residence and/or ranch; (2) the uses conform to applicable governmental ordinances; (3) the uses do not entail visits to the Tract/Lot by employees or the public in quantities that materially increase the traffic to and from the Tract/Lot; and (4) the uses do not interfere with the residential use and enjoyment of neighboring Tract/Lots by other residents.

Specifically prohibited are businesses that involve the storing of dangerous or hazardous materials and businesses that generate sales traffic.

4.3 VEHICLES

The term "vehicles", as used herein, refers to all vehicles including, without limitation, automobiles, trucks, motor homes, recreational vehicles, boats, trailers, motorcycles, mini-bikes, scooters, go-carts, campers, buses, and vans, including such vehicles with the motor removed. "Public View" as used herein means that it is visible from a public street or visible from another Tract/Lot when standing within 100 hundred feet of a public roadway.

Any vehicle designed for use on public roadways that is parked in Public View must be currently registered, currently inspected.

No junk, wrecked, damaged or inoperable vehicle of any type may be kept on the premises except inside an enclosed garage, barn or other approved structure.

Commercial vehicles larger than one ton may not be parked on the premises in Public View except on a short-term basis as needed for delivery purposes or during construction. This includes tractor-trailer type trucks, dump trucks, construction vehicles and construction machinery.

Boats or trailers, up to a total of three, may be parked on the premises in Public View provided they are appropriately licensed, kept neat and clean in appearance, parked on an appropriately prepared pad and the area around them is mowed and maintained in a reasonable manner.

Nothing in this section is intended to prevent the parking of operable farm equipment on this Tract/Lot provided the equipment is being used for farming and ranching purposes on this Tract/Lot and provided the equipment and area are kept reasonably clean, well maintained, and neat in appearance.

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4.4 RECREATIONAL VEHICLES

No more than one Recreational Vehicle (RV) equipped with living space may be kept on the premise in Public View, during new home construction and then after the residential living quarters have been built. The RV shall not be within two hundred (200) feet of the public roadway and must be in good repair and must be maintained in a clean and attractive manner to prevent algae growth, dis-repair, flat tires, etc.

4.5 ATTENNAS AND COMMUNICATION EQUIPMENT

Each resident will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, electronic, microwave and cable or satellite reception of the Property. Antennas, satellite or microwave dishes, and receiving or transmitting towers must not be located in front of the primary residence, must not be higher than ten feet above the roof of the primary residence or other building, whichever is higher.

4.6 STORAGE AND DISPOSAL OF GARBAGE AND REFUSE

No Tract/Lot shall be used or maintained as dumping ground for rubbish. Trash, garbage and/or other waste materials shall only be kept in sanitary containers constructed of metal, plastic or masonry materials with sanitary covers or lids, and such waste materials must be removed on a weekly basis by Owner or by an approved disposal service. Such facilities and containers for the storage or disposal of such waste materials shall be kept in a clean, sanitary, neat and orderly condition.

4.7 SIGNS

No sign or emblem of any kind may be kept or placed upon any Tract/Lot or mounted, painted, or attached to any fence with the following exceptions:

1. For Sale Signs. An Owner may erect one (1) sign on his Tract/Lot, advertising the property for sale.
2. Declarant's and Builders Signs. Declarant and Builders may erect and maintain a sign or signs deemed reasonable and necessary for the construction, development, operation, promotion, leasing and sale of the Tract/Lots and new homes.
3. Gate or Entry – The gate or entry may include the owner's name or an alternate ranch name.

4.8 NUISANCE & ANNOYANCE

Each resident must exercise reasonable care to avoid making loud, disturbing or objectionable noises or noxious odors that disturb Residents of neighboring Tract/Lot. Exterior light sources on a Tract/Lot should be shielded to minimize glare and directed away from neighboring homes. No Tract/Lot shall be used in any way that:

1. May reasonably be considered annoying to neighbors;
2. May endanger the health or safety of residents of other Tract/Lots; or
3. Violates any law.

4.9 DRAINAGE

No person may modify or redirect the established drainage pattern over their Tract/Lot unless an adequate alternative provision for proper drainage has been approved by the affected neighbor(s) and any governmental entity that may have jurisdiction over such matter.

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4.10 OIL AND MINING OPERATIONS

No oil drilling, oil development operation, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Tract/Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Tract/Lot. The excavation and removal of rock, stone, sand, gravel or aggregate is prohibited except as necessary for construction of driveways, buildings or improvements on the Tract/Lot. Notwithstanding however that Declarant reserves the right to remove soil, limestone, rock and aggregate on property owned by declarant provided that upon completion of such removal the grade is finished in a manner to be continuous with the adjoining Tract/Lots.

ARTICLE 5 – GENERAL PROVISIONS

5.1 ENFORCING THE DOCUMENTS

The Declarant and every Owner has the right to enforce all restrictions, conditions, covenants, liens and charges now or hereafter imposed by the Governing Documents. Failure by the Declarant or by any Owner to enforce a provision of the Governing Documents is not a waiver of the right to do so thereafter. Neither the Declarant nor any Owner shall not be liable to any Owner or other party for the failure to enforce any of the Governing Documents at any time.

5.2 RECOVERY OF COST

The costs of curing or abating a violation are at the expense of the Owner or other person responsible for the violation. If legal assistance is obtained to enforce any provision of the Governing Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Governing Documents or the restraint of violations of the Governing Documents, the prevailing party is entitled to recover from the non-prevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

5.3 AMENDMENTS

Declarant shall have the sole right to amend this Declaration as long as Declarant owns any of the Tract/Lots in the Property. Afterwards amendments to this Declaration must be approved by Owners representing at least 67% of the Tract/Lot in the Property, with each Tract/Lot having one vote. The amendment must be in the form of a written instrument (1) referencing this Declaration and any amendments hereto; (2) certifying the approval of 67% of the Owners (3) be signed and acknowledged by a majority of the Tract/Lot owners, and (4) recorded in the Official Public Records of the County. Any amendment shall be consistent with the general plan and scheme of development as evidenced by this declaration and shall not materially impair the vested property rights of any Owner or their mortgagee.

5.4 NOTICES

All demands or other notices required to be sent to an Owner or Resident by the terms of this Declaration may be sent by electronic, ordinary or certified mail, postage prepaid, to the party's last known address as it appears on the records of the Bell County Appraisal District, or if no address is available, all notices may be sent to the Owner's Tract/Lot, and the Owner is deemed to have been given notice, whether or not he actually receives it.

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5.5 SEVERABILITY

Invalidation of any provision of this Declaration by judgement or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general.

5.7 INTERPRETATION

Whenever used in the Governing Documents, unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate.

5.8 DURATION

Unless terminated or amended by Owners as permitted herein, the provisions of this Declaration run with and bind the Property, and will remain in effect perpetually to the extent permitted by law.

EXECUTED effective this _____ day of _____, 2022.

Five19 Inc., a Texas Corporation

By Jack G. Gibbs, General Manager

Jack G. Gibbs

THE STATE OF TEXAS §

COUNTY OF BELL §

This instrument was acknowledged before me on _____, 2022, by Jack G. Gibbs, General Manager of Five19 Inc., a Texas Corporation, on behalf of same and in the capacity herein stated.

Notary Public, State of Texas
Printed name:
Commission expires: