

Butterfield Meadows Section One

REVISED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

THE STATE OF TEXAS)
) KNOW ALL MEN BY THESE PRESENTS
COUNTY OF TAYLOR)

THAT WHEREAS, Butterfield Meadows, LLC, hereinafter called DECLARANT, is the owner of certain real property located in Taylor County, Texas, being the same property for which a subdivision plat has been filed and approved and which subdivision is known therein as Butterfield Meadows, Section One, and which property has been filed for record on March 9th, 2009 in the plat records of Taylor County, Texas, under Clerks' Document No. 2009-00003244 all of which said property is sometimes collectively referred to herein as the "Property"; and

WHEREAS, the DECLARANT desires to convey the Property subject to certain protective covenants, and conditions, restrictions, liens and charges hereinafter set forth; and

WHEREAS, the DECLARANT desires to create and carry out a uniform plan for the improvement, development, sale and use of the Property for the benefit of the present and future owners of the property, DECLARANT hereby adopts and establishes the following declaration of reservations, restrictions, covenant, conditions and easements to apply uniformly to the use; improvement, occupancy and conveyance of all the Property;

NOW THEREFORE, it is hereby declared that all of the Property shall be held, sold, conveyed and occupied subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified:

1.01 Declarant. “Declarant” shall mean Butterfield Meadows, LLC, its duly authorized representatives or its respective successors or assigns; provided that any assignment of the rights of Butterfield Meadows, LLC, as Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

1.02 Improvement. “Improvement” shall mean every structure and all appurtenances thereto of every type and kind including, but not limited to buildings, outbuildings, storage sheds, patios, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

1.03 Lot. “Lot” shall refer to each portion of the Property shown on the recorded subdivision plat as a discreet parcel or tract on which there may only be built a single-family dwelling.

1.04 Owner. “Owner” shall refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot and shall also refer to those persons or entities purchasing a Lot under an executory contract of sale or contract for deed.

1.05 Person. “Person” shall mean an individual or entity having the legal right to hold title to real property.

1.06 Plans and Specifications. “Plans and Specifications” shall mean any and all documents designed to guide or control the construction or erection of any improvement, including, but not limited to, those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to such improvement.

1.07 Record, Recorded and Recordation. “Record, Recorded, and Recordation” shall mean, with respect to this document, the recordation of such document in the Office of the County Clerk of Taylor County.

1.08 Subdivision. “Subdivision” shall mean Butterfield Meadows, Section One, as show on the Plat(s) thereof recorded in the Real Property Records of Taylor County, Texas, as modified from time to time.

1.09 Supplemental Declaration. “Supplemental Declaration” shall mean any declaration of covenants, conditions, and restrictions which may be hereafter recorded by Declarant, subject to all the terms and restrictions of this Declaration and not in conflict herewith.

1.10 The Restrictions. “The Restrictions” shall mean this Declaration together with any and all Supplemental Declarations, as the same may be amended from time to time.

ARTICLE II DEVELOPMENT OF THE PROPERTY

2.01 Development by Declarant. Declarant may divide or subdivide the Property into several areas, develop some of the Property and, at Declarant’s option, dedicate some of the Property as Recreation and Open Space. As the Property is developed or dedicated, Declarant, may record one or more Supplemental Declarations and designate the use, and restrictions as Declarant may deem appropriate for a particular area.

ARTICLE III GENERAL RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

3.01 Insurance Rates. Nothing shall be done or kept on the Property which would increase the rate of insurance or cause the cancellation of insurance on any Lot.

3.02 Noise. No noise or other nuisances shall be permitted to exist to operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants.

3.03 Drainage. There shall be no interference with the established drainage patterns over any of the Property, except by Declarant, unless adequate provision is made for property drainage.

3.04 Temporary Structures. No temporary mobile home, house, trailer, shack, tent, or other building shall be placed, erected, or permitted on any lot. The Declarant may grant permission for such temporary buildings for the storage of materials during construction.

3.05 Unsightly Articles and Vehicles. No article deemed to be unsightly by the Declarant shall be permitted to remain on any lot so as to be visible from adjoining property or public or private thoroughfares. Without limiting generality of the foregoing, graders, commercial trucks (other than pickups), boats, tractors, camper shells, wagons, buses, and garden maintenance tools and equipment shall be kept at all times, except when in actual use, in enclosed structures or screened from view and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other enclosed structures. Nothing contained in this Section shall prevent or restrict the keeping of a recreational vehicle or travel trailer that is well maintained and in condition to be currently used.

3.06 Landscaping. Each Lot on which a home is constructed shall have landscaping

including, but not limited to, shrubs, flowers, trees, ground cover, and grass. Landscaping of a Lot shall be completed within one hundred eighty (180) days after the date on which the property is conveyed from homebuilder to homeowner. Lot owners shall use reasonable efforts to preserve, keep and maintain the landscaping in a healthy and attractive condition. Each Lot owner shall mow and maintain the landscaping and vegetation on his Lot, including rights-of-ways, in such a manner as to control weeds, grass, and/or other unsightly growth.

3.07 Mobile Homes and/or Manufactured Homes. No mobile home and/or manufactured homes shall be parked or placed on any Lot at any time.

3.08 Fences. All Lots shall be fenced on the property line with no fence nearer to the front than the front building line, and have a minimum of six (6) feet in height. Fences shall be constructed of wood, masonry, galvanized chain link or of other material as may be approved by Declarant, as to provide privacy screening. Fences shall be maintained and not allowed to deteriorate to an unsightly state of repair.

3.09 Animals-Household Pets. No more than two (2) domestic pet animals may be kept for owner's personal use and enjoyment.

3.10 Dwelling Size. Unless such requirement is expressly waived in writing by Declarant, each RS-6 Lot dwelling constructed in Subdivision must have a floor area of not less than twelve hundred (1200) square feet. Each Patio Home Lot dwelling constructed in the Subdivision shall have a floor area of not less than eleven hundred (1100) square feet. Each Duplex Lot dwelling constructed in the Subdivision shall have a floor area of not less than nine hundred (900) square feet per side. The first floor of any two-story dwelling must have a floor area of no less than one thousand (1,000) square feet. The finished area of the 2nd floor of any two-story residential dwelling shall not be more than 100% percent of the 1st floor. The measurements are exclusive of open and closed porches, balconies, driveways, garages and carports. Each RS-6 dwelling constructed within Subdivision shall have an attached or detached garage or carport with space sufficient to house at least one (1) vehicle. Each Patio Home Lot dwelling shall have a garage or carport attached or detached with space sufficient to house at least one (1) vehicle. Each Duplex Lot dwelling shall have a garage or carport attached or detached with space sufficient to house at least one (1) vehicle. The roof shall gain a minimum of five (5) inches in elevation for every twelve (12) inches of horizontal run. These requirements will only be waived by the Declarant in unusual circumstances where the characteristics of the Lot do not reasonably enable compliance with these requirements.

3.11 Masonry Requirements. Each single-family dwelling constructed in Subdivision shall have a minimum of 25% masonry. In computing these percentages (1) all gables shall be excluded from the total area of the exterior walls; and (2) all windows and door openings shall be excluded from the total area of the exterior walls; and (3) all masonry used on walls of an attached garage, fireplace or chimney may be included in the computation as masonry used.

3.12 Roofing Materials. All roofing materials shall meet or exceed 20-year warranty composition shingles.

3.13 Unfinished Structures. No structure shall remain unfinished for more than ten (10) months after construction of it has been commenced.

3.14 Building Setbacks. All residential structures shall comply with the City of Abilene setback requirements.

3.15 No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions in this Article III or elsewhere in this Declaration are or may be invalid or unenforceable for any reason to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof, and, by acquiring the Lot, agrees to hold Declarant harmless from enforcement thereof.

3.16 Access. There shall be no driveway access from any single-family dwelling to Foxfire Drive or Butterfield Meadows Parkway.

3.17 Slab Elevation. The elevation of the finished surface of the first floor slab of all dwellings shall be placed at a height of no less than twenty-one inches (21”) above the highest point on the Lot upon which the structure is being built. Any variation of this required elevation is at the discretion of the owner and/or builder of such structure without the involvement or participation of Declarant. Further, any owner and/or builder who does construct a slab with an elevation lower than the height specified here shall release and discharge Declarant, and hold Declarant harmless as to any claim, cause of action or damage that may result from any such construction.

ARTICLE IV USE RESTRICTIONS

4.01 General. The use of property is determined by the zoning ordinance placed on property by the City of Abilene.

ARTICLE V EASEMENTS

5.01 Reserved Easements. All dedications, limitations, restrictions and reservations shown on the plat and all grants and dedications of easements, rights-of-way, restrictions and related rights made by Declarant prior to the Property becoming subject to the Declaration are incorporated herein for all purposes as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed

or to be executed by or on behalf of Declarant conveying any part the of Property. Declarant has furnished easements, materials and equipment to property. It is the responsibility of each Owner to extend utility service from easements to structures.

5.02 Drainage Easements. Each Owner covenants to provide easements for drainage and water flow as contours of land and the arrangement of Improvements. There shall be no construction of Improvements, temporary or permanent, in any drainage easement and/or utility easement.

ARTICLE VI MISCELLANEOUS

6.01 Term. This Declaration, including all of the covenants, conditions and restrictions hereof, shall run until December 31, 2030, unless amended as herein provided. After December 31, 2030, this Declaration, including all such covenants, conditions and restriction shall be automatically extended for successive periods of ten (10) years each.

6.02 Amendment. Amendments to this Declaration shall not be construed as affecting or amending any ordinances, which affect the Property.

6.03 Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal Holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Declarant.

6.04 Interpretation. The provisions of this Declaration shall be literally construed to effectuate the purpose of creating a uniform plan for the development and operation of the Property and of promoting and effectuating the fundamental concepts of the Property set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

6.05 Assignment by Declarant. Notwithstanding any provision of this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder.

6.06 Enforcement and Non-Waiver.

(A) Right of Enforcement. Except as otherwise provided herein, any Owner at his own expense and/or Declarant shall have the right to enforce all of the provisions contained herein. Such right of enforcement shall include both

damages for, and injunctive relief against, the breach of any such provisions.

- (B) Non-Waiver. The failure to enforce any provision contained herein at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provisions said Restrictions.

6.07 Construction.

- (A) Restriction Severable. The provisions of the restrictions contained herein shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other Provision or portion thereof.
- (B) Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine or neuter.

6.08 Exceptions. Tracts of land zoned General Commercial and Multi-family located in this Subdivision are subject to Supplemental Declarations filed separately.

6.09 Miscellaneous. All improvements erected on any Lot must comply with the requirements of the City of Abilene ordinances relating to Property.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of this the _____ day of _____, 2009.

DECLARANT:
Butterfield Meadows, LLC

By: _____
Seymour Beitscher, Manager

This instrument was acknowledged before me on the _____ day of _____, 2009, by Seymour Beitscher, Manager on behalf of said Company.

Notary Public, State of Texas