

**RESOLUTION NUMBER 12-433**

**BE IT RESOLVED** by the City Council of the City of Decatur, Alabama, that the Mayor and City Clerk are hereby authorized to execute and attest on behalf of the City, the attached PROTECTIVE COVENANTS – SEVILLE SUBDIVISION, such execution being found by the Council to be in the best interests City, the development of the subdivision and the protection of its future residents.

**ADOPTED this 17th day of December, 2012.**

This instrument prepared by Wayne K. Alexander, Jr., Assistant City Attorney, 402 Lee Street NE, Decatur, AL 35601

STATE OF ALABAMA            )  
  )  
COUNTY OF MORGAN         )

**PROTECTIVE COVENANTS – THE SEVILLE SUBDIVISION**

**THE CITY OF DECATUR**, hereinafter referred to as “**The City**”, being the owner of the real estate described below, desiring to place certain protective covenants on such property, does hereby place upon said property the protective covenants hereinafter set out, and does thereby restrict the use of the following described property situated in Morgan County, Alabama, to-wit:

**THE SEVILLE SUBDIVISION, LOTS 1 THROUGH 24 INCLUSIVE, AS SHOWN ON THE PLAT RECORDED CONTEMPORANEOUSLY HERewith IN THE OFFICE OF THE MORGAN COUNTY PROBATE JUDGE AT BOOK \_\_\_\_\_ PAGE \_\_\_\_\_, A FURTHER AND BETTER DESCRIPTION OF THE ENTIRE SUBDIVISION BEING AS FOLLOWS:**

**BEGIN AT THE NORTHEAST CORNER OF SECTION 24, TOWNSHIP 5 SOUTH, RANGE 5 WEST, DECATUR, MORGAN COUNTY, ALABAMA, AND RUN THENCE S 00°50'49" W (ALABAMA STATE COORDINATE GRID - WEST ZONE [NAD1983]) A DISTANCE OF 1272.40 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY MARGIN OF SECOND STREET SW (50 FOOT RIGHT-OF-WAY); THENCE N 89°09'11" W ALONG THE NORTH RIGHT-OF-WAY MARGIN OF SAID SECOND STREET SW A DISTANCE OF 2232.50 FEET TO A CAPPED IRON PIN SET (STAMPED "PWM/AL/CA0021/LS), SAID POINT BEING THE TRUE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED; THENCE FROM THE TRUE POINT OF BEGINNING N 00°50'49" E A DISTANCE OF 959.22 FEET TO AN IRON PIN ON THE SOUTHERLY RIGHT-OF-WAY MARGIN OF OLD MOULTON ROAD (80 FOOT RIGHT-OF-WAY); THENCE S 63°37'49" W ALONG THE SOUTHERLY RIGHT-OF-WAY MARGIN OF SAID OLD MOULTON ROAD A DISTANCE OF 611.05 FEET TO A IRON PIPE; THENCE S 00°50'49" W A DISTANCE OF 679.75 FEET TO A CONCRETE MONUMENT ON THE NORTH RIGHT-OF-WAY MARGIN OF SAID SECOND STREET SW; THENCE S 89°09'11" E ALONG THE NORTHERLY RIGHT-OF-WAY MARGIN OF SAID SECOND STREET SW A DISTANCE OF 543.40 FEET TO THE TRUE POINT OF BEGINNING, LYING AND BEING WITHIN SECTION 24, TOWNSHIP 5 SOUTH, RANGE 5 WEST, DECATUR, MORGAN COUNTY, ALABAMA, AND CONTAINING 10.223 ACRES, MORE OR LESS.**

The property described immediately above shall be referred to throughout this document as “**The Subdivision**”.

Wherever used in this document, “**Developer**” shall mean any developer, duly licensed and authorized to construct dwellings and who has reached an agreement with The City to purchase and develop a lot or construct a dwelling on a lot located within the Subdivision, or a

company or entity that has purchased a lot in the Subdivision and will hire a duly licensed and authorized entity to construct dwellings pursuant to such an agreement with The City.

- 1. Residential Use:** All lots in said development or subdivision shall be known and described as residential lots and shall be used only for residential purposes. No structure shall be erected, altered or permitted to remain on any lot other than one detached, single-family dwelling not to exceed two stories in height. No commercial activity of any kind shall be conducted on any lot or in any living unit on any lot. A single, detached storage building may be allowed only if it is permanent in nature and construction, complies with paragraph 3 below and complies with all building code and set back requirements.
- 2. Dwelling Quality and Size:** No dwelling shall be permitted on any lot with a ground floor area of the main structure, exclusive of open porches, carports and garages, and unheated storage areas, of less than 1,200 square feet for a one-story dwelling, nor less than 1,000 square feet on the ground floor for a two-story dwelling.
- 3. Construction Type:** Any building on any lot located within the subdivision or development shall be brick, cement board (hardy plank), or rock veneer only. No vinyl siding will be permitted, but vinyl may be used for soffits, eaves and window trim.
- 4. Building Location:** No building or structure shall be placed or located on any lot nearer to any property line than is permissible under the applicable setback provisions of the zoning ordinances of The City in effect at the time that the building or structure is erected.
- 5. Nuisances:** No noxious or offensive activity shall be carried on or upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. This includes activity which may or may not give rise to civil or criminal actions, noise, odors, excessive or flashing lights, accumulation of junk or trash, overgrowth of grass or other vegetation or gatherings which disrupt the quiet enjoyment of neighboring property.
- 6. Temporary Structures:** No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding may be used on any lot at any time as a residence, either temporarily or permanently. The City, however, reserves the right and privilege to erect, place, and maintain such facilities in or upon any and all lots in the subdivision or development still owned by the City or Developer, as, in The City's sole discretion, may be necessary or desirable, while selling lots, constructing or selling residences, or while constructing any other improvements in the Subdivision. Such facilities may include, but are not limited to, sales and construction offices, storage areas, model units, signs and portable toilet facilities.

No dwelling shall be occupied until the interior and exterior have been completed and a Certificate of Occupancy has been issued by The City.

- 7. Signs:** No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than five square feet advertising the property for sale or signs used by a builder to advertise the property during the construction and sales period. During the construction and sales period of the lots hereinabove described, The City expressly reserves the right to place, erect and maintain signs or other structures for information, advertising and sales purposes until such time as the last lot in the subdivision is sold by The City or Developer. The City reserves the right to grant these privileges to any party while original construction or sales are in progress for lots owned by Developer. Other signs advertising realtors, material suppliers and financial institutions supplying construction financing shall be allowed during construction/sales periods. All signs shall comply with the applicable provisions of any sign ordinance of The City in effect at the time said sign or other structure is erected.
- 8. Drilling or Quarrying:** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or on any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or on any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon or on any lot.
- 9. Livestock:** No animals, livestock, domestic animals, exotic animals, or poultry of any kind shall be raised, bred or kept on any lot, except that caged birds, dogs, cats or other normal household pets may be kept, provided that they are not bred or maintained for commercial purposes. No allowed animals shall be permitted off of the lot of a particular property owner, except on a leash. Each lot owner shall be responsible for cleaning up and disposing of all feces produced by his or her pet or animal.
- 10. Dumping of Rubbish:** No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in trash and refuse containers provided by The City or its Licensee. Such containers shall be kept in a clean condition and shall be placed on the curb or other designated area for collection only on the days designated for pickup of such materials. Said containers shall be kept or stored, except on designated pick up days in a location so as not to be visible from any street or within sight of any other lot at any time. No wood, leaves, trash, garbage or household refuse shall be burned on any lot.
- 11. Sewage Disposal:** No individual sewage disposal system shall be permitted on any lot except systems necessary to connect to the City sewer system and said system must meet all local, and State regulations.

- 12. Water Supply Systems:** No well or individual water supply system shall be permitted on any lot.
- 13. Subdivision of Lots:** No lot shown on the subdivision or development plat shall be further subdivided except that any lot or portion thereof may be combined or consolidated with any adjoining lot(s) for the purpose of enlarging or improving the adjacent lot(s). The said lot(s) resulting from such consolidation or combination shall be subject to all the restrictions herein set forth.
- 14. Easements:** Easements for installation and maintenance of utilities and drainage facilities are dedicated to the public utilities and public authorities on the recorded plat of the Subdivision. Such easements shall include the right of ingress and egress for construction and maintenance purposes. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage any facility installed in accordance with the purposes of said easement, or interfere with the installation and maintenance of utilities, or which may change the direction of the flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in them shall be maintained continuously by the owner of the lot except for those improvements for which a public authority or utility company is responsible.
- 15. Fences, Walls or Hedges:** No fence, wall, hedge or mass planting shall be permitted to extend nearer to any street than the minimum building set-back line, except nothing shall prevent the erection of a necessary retaining wall, the top of which does not extend more than twelve (12) inches above the finished grade at the back of said retaining wall. On corner lots, no fence, wall or obstruction shall be placed or permitted to remain on said lots within twenty (20) feet from a side lot line or forty (40) feet from the front lot line. No fence, shrub, hedge, mass planting, or other obstruction shall be placed or permitted to remain which blocks adequate motorist vision at intersections, unless the foliage line is maintained at a sufficiently low height to prevent obstruction of such sight lines. No chain link, barbed wire or hog wire type fence shall be allowed or permitted on any lot. Any fencing must be constructed of wood. If a hedge has been planted by The City or Developer prior to the time of purchase of the property, there shall be no barrier constructed in place of the hedge and it will be the responsibility of the property owner to maintain the hedge or planting consistently with the remainder of the hedge.
- 16. Garages and Carports:** No carports will be allowed in the Subdivision. All garages must be equipped with doors which shall be kept closed as much as practical to preserve the appearance of the subdivision.

## 17. Miscellaneous:

- a. The structures on each lot and the grounds of each lot shall be maintained in a neat and attractive manner.
- b. Small satellite television signal receiving dishes or systems of a style and size customarily used and installed by companies providing such service, which shall be attached to the house, shall be allowed on each dwelling; however, said dish or system shall be behind any residence constructed on said lot so as to conceal said dish or system as much as practicable. No outside television, radio or other antennas shall be allowed on any lot.
- c. No portable storage or utility building shall be placed, erected, installed or constructed on any lot.
- d. No permanent poles for attaching wires or lines for the purposes of hanging laundry thereupon shall be erected, installed or constructed on any lot unless completely concealed from view from beyond the boundaries of the lot upon which such poles are erected.
- e. No fuel tank or containers for propane or butane gas shall be placed, erected, installed or constructed on any lot except for those attached to and part of a standard, non-commercial gas grill.
- f. No eighteen-wheeler tractor trailer type vehicles, heavy equipment or other similar type commercial machinery shall be located or parked on or in front of or on the side of any lot except where necessary for construction purposes on said lot.
- g. No junk or disabled vehicles shall be permitted to be parked, stored or repaired on any lot.
- h. There shall be no storing or keeping of firewood, lawn care equipment, bicycles, off-road motorcycles, trash containers or any similar equipment or substances in the front or on the side of any unit or lot unless completely concealed from view beyond the boundaries of the lot upon which said items are located.
- i. No automobile or truck owned or operated by the owner or occupant of any lot shall be located or parked overnight on or in the front or side yard area of any dwelling. No motor home, bus, recreational vehicle, boat or trailer shall be stored or parked where it is visible from the front of the dwelling. No automobile, or truck owned or operated by the owner or occupant of any lot shall be parked overnight on the street in front of or beside the dwelling.

- j. The front and side yard areas of each lot in the subdivision shall be sodded or planted with an established form of grass.
- k. All air conditioning and heating units shall be located in the rear of the dwelling. No solar energy cells, collectors or similar structures shall be allowed on the roof or on any part of the dwelling so as to be visible from the street or from another lot.
- l. Lots herein described shall be zoned for single family dwellings. No owner shall cause or allow any lot herein described to be let for rent, lease or board, but shall be exclusively for the use of the owner and his or her immediate family.
- m. All exterior lighting shall be installed so as not to be intrusive upon neighboring lots.
- n. All utility cables and lines, telecommunications cable and lines, television cable and lines and any other service lines on any lot, other than those which might already exist at the time of the execution of these covenants, shall be installed and maintained underground.

**18. Amendment:** These protective covenants may be amended, altered, modified or revised, in whole or in part, by an instrument in writing, duly acknowledged as required by law for conveyances in the State of Alabama, signed by the owners of the majority of the lots in the subdivision or development and filed for record in the Office of the Judge of Probate of Morgan County, Alabama.

**19. Term of Covenants:** These covenants shall run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of (10) ten years unless an instrument signed by a majority of the then owners of the lots, exclusive of any mortgagees, is recorded in the Office of the Judge of Probate of Morgan County, Alabama, agreeing to change or extinguish said covenants in whole or in part.

**20. Enforcement:** Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain the violation or to recover damages, or both. In addition to all other remedies specified herein, any owner or tenant against who said action is necessitated shall be liable for attorneys' fees, court costs, and any other expenses required in enjoining a violation or recovering damages or both. Should it be determined that any of the restrictions contained herein have been violated, then the persons or entities protesting to said violation, including but not limited to any owner of any lot

in the Subdivision, either separately or severally, shall notify the violating owner in writing, by certified mail, return receipt requested, or hand delivery or posting the same on the front door of the dwelling, specifying the nature of the violation and advising the violating owner that he or she must remedy the violation immediately. The violating owner shall remedy the violation within fourteen (14) days of the written notice. In the event the violating owner fails to remedy the violation, the violating owner shall be liable for all costs and expenses required to enforce these covenants, including attorneys' fees and court costs. The expense of enforcement shall be chargeable to the violating owner and shall constitute a lien upon said lot, upon which a suit to enforce the lien may be undertaken and the violating lot sold to satisfy said lien. All rights, remedies and privileges granted herein shall be deemed to be cumulative, and the exercise of any one or more of them shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same, or any other party, from pursuing each other and/or additional rights, remedies or privileges as may be available to such party at law or in equity. The failure to enforce any covenant or restriction herein shall in no event be deemed as a waiver of the right thereafter to enforce any such covenant or restriction.

- 21. Severability:** Invalidation of any one of these covenants, or any portion of any covenants by judgment or court order, shall in no way affect any of the other provisions which shall remain in full force and effect.
- 22.** The City shall not be liable to any owner of a lot, or to any other person or entity, for any damages, loss or prejudice suffered arising out of or on account of the approval or disapproval of any plans, drawings, or specifications, whether or not said plans, drawings or specifications are defective or non-compliant with these restrictions, or caused by any negligence on the part of the City in approving or disapproving the same, or caused by the filing of any action, complaint, motion, certificate, petition or protest in the courts of Alabama or of the United States, or with any other governmental board, body or authority, whether or not the facts stated therein are true and correct, nor shall The City be liable for failing to act, or acting to enforce the restrictions contained herein.
- 23.** No restriction or provision contained herein is intended to be, or construed as a condition subsequent or as creating any possibility of reverter or reversion.
- 24.** These restrictions shall not extend to cover any other property, in particular any area which is designated or shown on the aforesaid subdivision plat or any other subdivision as "For Information Only" or "Not Platted" or terms of similar meaning. The City reserves the right, in its sole discretion, to revise, amend or re-plate the subdivision without the consent of any other owners of lots in the Subdivision.
- 25.** Unless otherwise specified herein, any notice required to be sent to any owner of any lot under the provisions herein shall be deemed to have been properly sent



when mailed by certified United States mail, postage prepaid, return receipt requested, to the street address of the lot owned by such owner or by hand delivery to an occupant of the premises who is eighteen (18) years of age or older.

**26.** The City will be responsible for the construction and maintenance of the entryway into the Subdivision unless and until such time as a properly constituted homeowners' association is formed by the owners of a majority of the dwellings within the Subdivision. At that time, the construction and maintenance of the entryway into the Subdivision will become the responsibility of the homeowner's association and The City will have no further responsibility for any such entryway.

IN WITNESS WHEREOF, the following have hereunto set their hands and seals this the

\_\_\_\_\_ day of \_\_\_\_\_, 2012.

FOR THE CITY OF DECATUR:

ATTEST:

\_\_\_\_\_  
DON KYLE, Mayor

\_\_\_\_\_  
STACY GILLEY, City Clerk

**STATE OF ALABAMA**        )  
  )  
**COUNTY OF MORGAN**        )

I, the undersigned, a Notary Public in and for said County and said State, hereby certify that Don Kyle and Stacy Gilley, whose names as Mayor and City Clerk of Decatur, Alabama, respectively are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this date, that, being informed of the contents of the foregoing conveyance, they, as such officers and with full authority, executed the same voluntarily for and as the act of the City.

Given under my hand and official seal on this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public, State at Large

My Commission Expires: \_\_\_\_\_