

Please return to:
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State of Georgia, Tift County
Clerk's Office Superior Court
Filed in office this 17th
day of NOV 2005

Time: 1:15pm
Mwen C Pate
Clerk of Superior Court

**AMENDMENT TO PROTECTIVE COVENANTS FOR BRADFORD POINTE
SUBDIVISION**

GEORGIA, TIFT COUNTY

WHEREAS, BRADFORD POINTE, LLC, a Georgia limited liability company, as owner and developer of Bradford Pointe Subdivision, executed Protective Covenants dated Nov. 19, 2004, recorded in Deed Book 1153, page 281, public records, Tift County, Georgia; and

WHEREAS, Raymond Fulp, prior owner and developer of Bradford Pointe Subdivision, formerly North Pines Subdivision, executed Protective Covenants dated June 26, 2001, recorded July 24, 2001, in Deed Book 878, Page 298, public records, Tift County, Georgia.

WHEREAS, the undersigned are all of the owners of the lots in said subdivision and now wish to amend said covenants as hereinafter set out.

NOW, THEREFORE, said covenants are hereby amended by adding the following paragraphs:

WHEREAS, Declarant desires to subject the real property set forth in the prior recorded covenants to the provisions of this Declaration and to avail the Community of the provisions and benefits of the Georgia Property Owners' Association Act codified at O.C.G.A. Section 44-3-220, et seq.; and

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WHEREAS, Declarant desires, and each and every property owner of any Lot within the subdivision, by the acceptance of a deed or other conveyance of such lot, agrees to become a member of the BRADFORD POINTE P.O.A., INC., to be established for the Subdivision. Further, by the acceptance and retention of title to any lot or lots, each grantee, on behalf of himself, his heirs and assigns, does hereby covenant and agree that said P.O.A., its successors and assigns, shall have a lien upon the subject lot or lots subordinate only to liens for taxes and any duly recorded mortgage or mortgages placed upon the property prior to the due date of any assessment for expenses as may be required to enforce the restrictive covenants contained herein and to secure the payment of the aforementioned expenses, including court costs, collection expenses, and reasonable attorney's fees incurred in connection with the collection of same.

ARTICLE I

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and pass with the title to every Lot, whether or not the same shall be referred to in any deed conveying title to any Lot, subject to the following provisions:

- (a) The right of the Association to charge reasonable fees for the use of any recreational facility situated upon the Common Area.
- (b) The right of the Association to suspend the voting rights of an Owner, for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.
- (c) The right of the Association to dedicate or transfer all of any part of the Common Area to any public agency, authority, or utility, for such purposes and subject to such conditions as may be agreed to by the members. No such deed or transfer shall be effective unless and instrument agreeing to such deed or transfer has been recorded. A vote of 70% of the members shall be required to approve such deed or transfer.
- (d) The right of the Association to make repairs to the Common Areas, including but not limited to any roads, easements, gas lines and gas lights, or the entrance.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with By-Laws, his right of enjoyment to the Common Areas to the residing members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE II

POWERS OF THE ASSOCIATION AND BOARD OF DIRECTORS

The powers of the Association and the Board of Directors shall be as set forth in the Act, the Georgia Non-Profit Corporation Act, this Declaration, the Articles of Incorporation, and the By-Laws of the Association, and shall also be subject to the limitations and restrictions contained in said instruments.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record owner of a Lot shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. Voting Rights. The Association shall have two (2) classes of Voting Membership.

Class A. Class A Members shall be those Owners as defined in Section 1 hereof with the exception of Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interests required for membership by Section 1. In no event, however, shall more than one (1) vote be cast with respect to any one Lot. Class A Members will not have any voting rights in the Association until the Class B Membership shall cease to exist as outlined below.

Class B. The Class B Member shall be the Declarant. The Class B Member will control and operate the Association until the Class B Membership shall cease to exist. The Class B Membership shall cease and become converted to Class A Membership on the happening of either of the following events, whichever first occurs:

- (a) When the Class B Membership ceases to exist by virtue of the Declarant or its assigns and successors having sold all of the Lots within the development to persons other than Builders; or
- (b) Declarant at his sole discretion voluntarily turns control of the Association over to its then existing Members; or
- (c) December 31, 2014, or ten (10) years, whichever occurs first.

Section 3. Board of Directors. Initially, Robert Massey shall be the sole member of the Board of Directors of the Association, and he or his designated successor shall hold such office until the Class B Membership ceases and is converted to a Class A Membership as set out above.

Section 4. Amplification. The provisions of this Article are to be amplified by the Articles of Incorporation and By-Laws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners of Lots as set forth herein. In the event of any conflict or inconsistencies among this Declaration and the Articles of Incorporation (in that order) shall prevail.

ARTICLE IV

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. Common Area. The Association, subject to the rights of Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon, and shall keep the same in good, clean, substantial, attractive, and sanitary conditions, order, and repair. The Association's rights shall extend to and include any private drives as well as that property owned by the City of Tifton or Tift County, Georgia, to the betterment of the subdivision.

Section 2. Board of Directors. The Board of Directors shall have such powers and duties as are described herein or in its By-Laws as amended from time to time.

Section 3. Services. The Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof to the extent it deems advisable, as well as such other personnel as the Association shall deem to be necessary or advisable for the proper operation of the Association, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom it contracts. The Association may obtain and pay for legal, accounting, and management services necessary or desirable in connection with the operation of the Common Area, the enforcement of this Declaration or other Association business.

Section 4. Personal Property for Common Use. The Association may acquire, hold, and own tangible and intangible personal property and may dispose of the same by sale or otherwise subject to such restrictions as may from time to time be provided by the Articles or By-Laws.

Section 5. Rules and Regulations. The Association from time to time may adopt, alter, amend, and rescind reasonable rules and regulations governing the use of the Common Area. The rules and regulations shall be consistent with the rights and duties established by this Declaration.

Section 6. Taxes and Insurance. The Association shall at times pay the real property ad valorem taxes, if any, assessed against property owned by the Association and any other governmental liens which may be assessed against the property owned by the Association.

The Association may procure, maintain, and pay for adequate policies of public liability insurance upon the Common Area. Any insurance policies shall be in the name of the Association and be for the benefit of the Association members and such other parties as the Association deems proper. The insurance policy or policies shall be in such amounts and subject to such conditions and with such provisions as the officers or the Board of Directors may determine, provided the same are not inconsistent with any provisions of this Declaration. The Board of Directors may obtain such other type of insurance as they deem advisable.

Section 7. Implied Right. The Association may exercise any of the rights and privileges given it expressly by this Declaration, its Articles or By-Laws, and every other right or privilege reasonably necessary to effectuate any right or privilege granted herein.

Section 8. Restrictions on Capital Improvements. At all times hereafter, all capital improvements to the Common Area, except for replacement or repair of those items installed by the Declarant and except for personal property related to the maintenance of the Common Area, shall require the approval of seventy per cent (70%) of the votes entitled to be cast.

ARTICLE V

COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Real and Personal Obligations of the Assessment. The Declarant, for each Lot owned within the properties, hereby covenants and each Owner of any Lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association, (a) Annual assessments or charges, and (b) Special assessments for capital improvements and for the purpose of eliminating a deficit, such assessments to be established and collected as herein provided. The Annual and Special Assessments, together with interest, costs, and attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and attorney's fees, shall also be the personal obligation of the person who is the Owner of such property at the time when the assessment falls due. Obligation for delinquent assessments shall pass to his successor in title. Assessments against the Lot Owners shall be made to raise funds to pay the common expenses of the Property and contribute a pro rata share of the maintenance of the Common Areas and front, rear, and side yards of the Community and shall be governed by the following provisions:

- (a) Liability. Each Lot Owner shall be liable to the Association for all sums as are lawfully assessed by the Association against him or his Lot or Lots in accordance with the terms and provisions of this Declaration and the Articles of Incorporation and By-Laws. In addition to exercising the remedies provided for herein, the Association may enforce such liability by an action at law to recover all amounts assessed against each unit owner in accordance with the provisions of this Declaration.
- (b) Creation of the Lien and Personal Obligation for Assessment. Each owner of any Lot by acceptance of a deed or other conveyance thereof, whether or not it shall be expressed in any such deed or other conveyance, covenants and agrees to pay to the Association assessment which shall be fixed, established, and collected as herein provided; however, nothing contained herein shall be construed to obligate Declarant to pay assessments on Lots prior to the sale of said Lots.
- (c) Uniform Rate Assessment. All annual assessments shall be fixed at a uniform rate for all Lots except as follows:
- (i) Any common expenses benefiting less than all of the Lots may be specially assessed equitably among all of the Lots so benefited as determined by the Board, unless the Board votes otherwise.
 - (ii) Any common expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licenses or invitees of any such Lot or Lots may be specially assessed against the Lot or Lots, the conduct of any occupant, licensee, or invitee of which occasioned any such common expenses.
 - (iii) Any common expenses significantly disproportionately benefiting all of the Lots should be assessed equitably among all of the Lots in the Community as determined by the Board.
 - (iv) Lots owned by Declarant shall not be assessed prior to Declarant's sale of said Lots to third parties.

Nothing contained herein shall permit the Association to disproportionately allocate common expenses for periodic maintenance, repair, and replacement of any portion of the Common Area which are to generally benefit all property Owners which the Association has the obligation to maintain, repair, or replace.

- (d) Purpose. Assessments shall be levied against the Lot Owner of each Lot to defray the common expenses of the Property or to reimburse the Association for any services or expenditures made specifically for a Lot or for a Lot Owner.
- (i) The common expenses of the Property shall be all of the expenditures which are made or incurred by or on behalf of the

Association in connection with the exercise of its powers and responsibilities, and shall include but not be limited to the following:

- (a) Ad valorem taxes assessed against the property of the Association;
 - (b) the expense of performing the maintenance and any necessary restoration of the entrance, lights roadways, fences, and roadway and fence landscaping;
 - (c) common utility bills and charges for other common services;
 - (d) premiums for all insurance policies maintained by the Association;
 - (e) the expenses of performing the maintenance, repair, renovation, restoration, and replacement work which is the responsibility of the Association hereunder;
 - (f) the expenses of performing the maintenance and restoration, including but not limited to mowing and edging of all grassed areas and replacing shrubs within the Community;
 - (g) such other costs and expenses as may be determined from time to time by the Board of Directors to be common expenses;
 - (h) management fee, if any, and expenses of administration of the Association; and
 - (i) the creation and maintenance of such reserve funds as are required to be maintained by the Board of Directors as they shall determine, including but not limited to a reserve for repairs and maintenance.
- (ii) Each Lot Owner shall keep and maintain Lot Owner's Lot or Lots, including but not limited to cutting the grass and maintaining the grounds and landscape. Failure to do so may result in the Board of Directors notifying Lot Owner that his property has not been maintained and listing the services that need to be performed. If said Lot Owner has not corrected the problems within ten (10) days of said letter being sent, the Association may pay to have the situation corrected; and the Lot Owner shall be assessed for the

cost of such services. Said assessment shall be subject to all provisions and penalties as hereafter stated if the assessments are not paid timely.

- (e) Budget, Payment Dates. No less than thirty (30) days prior to the commencement of each fiscal year of the Association, the Board of Directors shall adopt a budget for the succeeding fiscal year, which budget shall estimate the amount of common expenses which are anticipated to be incurred during such year, and (ii) shall make provision for an adequate reserve fund for maintenance, repair, and replacement of those portions of the common elements that must be replaced on a periodic basis. Prior to the commencement of such fiscal year, the Board of Directors shall furnish a copy of such budget to each Lot Owner, together with a written statement of the amount of such common expenses which shall be assessed against such Lot Owner for such fiscal year. Unless otherwise determined by the Board of Directors, such assessment shall be due on January 1 of each year. The annual assessment shall be prorated into twelve monthly installments unless the Board of Directors elects otherwise. In addition, any fees, charges, and other amounts payable by any Lot Owner to the Association shall be added to and shall, unless paid at the time the same are incurred or at some other time determined by the Board of Directors, be due and payable as part of the installment of the assessment next coming due. Failure of the Board to act in a timely manner shall not excuse any Owner from paying his share of the budget of the assessment when the same is adopted.
- (f) Special Assessments. If for any reason, including nonpayment of any Lot Owner's assessments, an annual budget adopted by the Board of Directors for any fiscal year proves inadequate to defray the common expenses for such fiscal year, the Board of Directors may, at any time, levy a special assessment to raise the additional funds necessary to defray such common expenses, which special assessment shall be due and payable at such time and in such installments as the Board of Directors shall determine. Additionally, the Board of Directors shall be authorized to levy special assessments under the circumstances described in this Declaration.
- (g) Special Assessments for Capital Improvements. In addition to the assessments which shall be levied against the Lot Owners, the Board of Directors shall be authorized, upon the affirmative vote of 70% of the Lot Owners entitled to cast votes to levy a special assessment for the purpose of defraying, in whole or in part, the costs of any capital improvements to be made upon the common elements, or for the costs of making repairs or replacements which are not provided for in the then current budget of the Association. Any such special assessments for the capital improvements and repairs shall be payable at such time and in such installments as the Board of Directors shall determine.

- (h) Collection. In addition to all other remedies provided by law, including those set forth in O.C.G.A. Section 44-3-222, et seq., as amended, the Association may enforce collection of the assessments for which a lot Owner is liable, together with all other amounts as may be owned by such Lot Owner to the Association, as hereinafter provided.
- (i) In the event that any Lot Owner shall fail to pay any installment of any assessment levied against him within ten (10) days after such installment shall be due and payable and within five (5) days after written notice is mailed to the Lot Owner, the entire unpaid balance of such assessment for the remainder of the fiscal year, at the option of the Board of Directors, shall be accelerated and be declared immediately due and payable in full, without notice to such Lot Owner.
- (ii) In the event that any Lot Owner shall fail to pay within five (5) days after the same shall be due, any amounts due and payable to the Association, such Lot Owner shall be liable for the payment of, and shall pay, in addition to the amounts so due the Association:
- (a) A late charge equal to Ten Dollars (\$10.00) or ten percent (10%) of the amount so due, whichever is the greater;
- (b) Interest on the amount so due, and the aforesaid late charge appertaining thereto, from the date same were due and payable, at the rate of ten percent (10%) per annum, until paid.
- (c) the cost of collection, including court costs, the expenses of sale, any expenses required for the protection and preservation of the Lots, and fifteen percent (15%) of the total amount due as reasonable attorney's fees; and
- (d) in the event the Association shall seek to foreclose its lien on the Lot of such owner, the fair rental value of the Lot from the time of the institution of suit until sale of the unit at foreclosure (or until the judgment rendered in such suit is otherwise satisfied).
- (iii) All sums lawfully assessed by the Association against any Lot Owner or Property Owner's Association Lot whether for the share of the common expenses pertaining to that Lot, fines, or otherwise and all reasonable charges made to any Lot Owner or Lot for material furnished or services rendered by the Association at the Owner's request or in any other way incurred to or on behalf of the

Lot Owner or Lot of Lot Owner, shall from the time the sums become due and payable, be the personal obligation of the Lot Owner and constitute a lien in favor of the Association on the Lot prior and superior to all other liens whatsoever except:

- (a) Liens for ad valorem taxes on the Lot;
- (b) The lien of any first priority mortgage covering the Lot and the lien of any mortgage recorded prior to the recording of the Declaration; and
- (c) The lien of any secondary purchase money mortgage covering the Lot, provided that neither the grantee nor any successor grantee of the mortgage is the seller of the Lot.

The recording of this Declaration shall constitute record notice of the existence of the lien and no further recordation of any claim of lien for assessment shall be required. The Association may at its discretion record a separate lien against any Owner as set out in the By-Laws.

- (iv) The rights of a Lot Owner and all persons entitled to occupy the Lot of such owner, to use the common elements shall be suspended for the period of time any amount due and owing to the Association in regard to any Lot owned by such Owner shall remain unpaid; provided, however, that no such suspension shall deny any Lot Owner, or the occupants of any Lot, access to the Lot owned or occupied, nor cause any hazardous or unsanitary condition to exist.
- (i) Fee for Statements of Amounts Due. The Association may require the payment of a fee, not to exceed Ten Dollars (\$10.00) as a prerequisite to its issuance of any statement pursuant to the Act or this Declaration.

ARTICLE VI

RESERVATIONS AND CREATION OF EASEMENTS

In addition to the easements created or reserved by or for Declarant or the Association elsewhere in this Declaration, the following easements shall and do exist:

Section 1. Access. Declarant reserves for himself and for the Association an easement for access, ingress, and egress to, from, and over any of the property subject to these Covenants as shown on any recorded plats of survey of the Subdivision to install, service, replace, maintain, repair, and improve any Common Property or easements provided for herein or as shown on or established

by such plats of survey. Mutual reciprocal easements for access are hereby reserved for the benefit of each Lot or Dwelling Unit across any other Lot or Dwelling Unit as may be necessary for the control, maintenance, and repair of any utility, water, sanitary sewer, or storm water lines, structures, or facilities affecting or crossing any such Lot or Dwelling Unit.

Section 2. Utilities and Drainage. Declarant reserves for himself, the Association, and Tift County or such other political subdivision as may have jurisdiction thereof and for such utility companies as may from time to time serve the Subdivision and the property covered by this Declaration, the right, title, and privilege of a general easement which shall be perpetual, alienable, and assignable, to go in and on the property with men and equipment to construct, place, install, maintain, and operate in, upon, across, and through said premises in a proper and workmanlike manner, electric, water, gas, telephone, sanitary, storm sewer drainage systems, surface water drainage systems, and other conveniences and utilities (such systems hereinafter referred to collectively as utility systems), including trenching and installation of such conductors, wires, cables, conduits, transformers, concrete pads, pipes, sewers, water mains, drainage areas, other equipment, apparatus, appliances, and structures necessary or convenient therefore, and including the right to cut any trees, bushes, shrubs, or other vegetation, make any gradings of the soil, or take any other action reasonable and necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety, and appearance. The easement herein reserved shall include the right to enter upon the premises with men and equipment for the purpose of installing, inspecting, maintaining, repairing, and replacing the various utility systems and the right at all times to remove and keep clear any obstructions that may, in any way, adversely affect the proper maintenance and operation of the various utility systems. The easement hereby reserved shall also include the right to construct driveways for surface water whenever such action may appear to the Declarant to be necessary. These reservations shall not be considered an obligation of the Declarant or Association to provide or maintain any such utilities or service. The exercise of this easement for the construction and installation of any given utility shall not bar the exercise of this easement for the construction and installation of other utilities.

Section 3. Common Property. Each Owner shall have a non-exclusive right and easement for the use, benefit, and enjoyment of Common Property, which easements shall be appurtenant to the ownership of a Lot or Dwelling Unit. The rights and easements created hereby are subject to the following:

- I. The right of the Association to suspend the easement rights of any Owner for any period during which assessments remain unpaid;
- II. The right of the Association to dedicate or transfer all or any part of the Common Property to any municipality, political subdivision, authority, or utility for such purposes and subject to such conditions as may be agreed upon by Owners entitled to cast a majority of the votes in the Associations;

III. The right of the Association, as provided in its Articles and By-Laws, to publish and enact reasonable rules and regulations governing or limiting the use of the Common Property.

ARTICLE VII

DECLARANT'S RIGHTS

Until a lot is sold to a third party, Declarant shall not be bound by the terms of this declaration and shall not be obligated to pay any of the fees or assessments contained herein. This declaration shall also not apply to ROBERT MASSEY MANAGEMENT SYSTEMS, INC., d/b/a HEARTWOOD HOMES, or any other related party to Declarant of ROBERT G. MASSEY, who may obtain title to said property primarily to construct a residence thereon. These provisions shall, however, apply to any other contractor or to any other owner if a lot is transferred directly to an owner not related to the foregoing.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Easements for Declarant. Declarant hereby reserves for itself, its successors and assigns, agents, employees, contractors, and sub-contractors, the following easement and rights-of-way in, on, over, under, and through any part of the Community for so long as Declarant owns any Lot primarily for the purpose of sale:

- (a) For the erection, installation, construction, and maintenance of wires, lines, and conduits, and necessary or proper attachments in connection with the transmission of electricity, gas, water, telephone, television cables, and other utilities;
- (b) For the construction of improvements on the lots;
- (c) For the installation, construction, and maintenance of storm-water drains, public and private sewers, and for any other public or quasi-public utility facility;
- (d) For use as sales offices, model lots, and parking spaces in connection with their efforts to market Lots; and
- (e) For the maintenance of such other facilities as reasonably required, convenient, and incidental to the completion, improvement, and sale of lots.

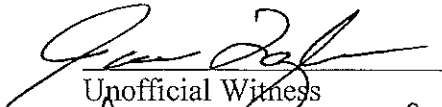
Section 2. Easements for the Association.


- (a) There is hereby created in favor of the Association, its Board of Directors, its members, agents, employees, and contractors, an easement to enter upon, enter in, or cross over the Lots for the purpose of providing the maintenance required by the Association in this Declaration. Specifically included herein is the easement for maintenance of all grassed areas within the Community, any private roadway, and the utility lines.
- (b) There is hereby created in favor of the Association, its Board of Directors, its members, agents, employees, contractors, the City of Tifton, and Tift County, Georgia, an easement ten feet (10') in width along all streets for the purpose of placing, keeping, and maintaining any and all types of utility lines or services.


Section 3. Enforcement. The Association, or any Owner, including Declarant, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by any person to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

WHEREFORE, the said parties have hereunto set their hands and affixed their seals, this 17th day of November 2005.

Signed, sealed and delivered
 This 17 day of November 2005,
 In the presence of:


 Unofficial Witness


 Notary Public
 Notary Public, Tift County, Georgia
 My Commission Expires Feb. 24, 2008

BRADFORD POINTE, LLC
 BY: 
 ROBERT MASSEY
 MEMBER/MANAGER