



THE BIRCHES WEST  
PROPERTY OWNERS ASSOCIATION

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EFFORT, PENNSYLVANIA

By-Laws

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Declaration of Restrictive Covenants

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Resolution Establishing  
Regulations of the  
Architectural and Building Committee

**ARTICLE I**  
**GENERAL**

**SECTION 1.** NAME. The name of this corporation shall be The Birches West Property Owners Association.

**SECTION 2.** ADDRESS. The registered office of this corporation shall be at the place designated in the Article of Incorporation, subject to transfer upon notice to the Secretary of the Commonwealth as may be permitted by law.

**ARTICLE II**  
**PURPOSE**

The purposes for which the Association is formed are to perform all of the duties as administrator of the Community, Common Areas and Facilities which have been or may be created in Chestnuthill Township, Monroe County, Pennsylvania, being hereinafter referred to as the "Community" and, in connection therewith to be possessed of all the rights, privileges, duties, obligations and responsibilities imposed upon every administrator of a community by the provisions of any of the Laws of the Commonwealth of Pennsylvania, and shall have the right and power to do any and all things for the benefit of its members as the Association or to its members, with all of the powers now or hereafter conferred by the Laws of the Commonwealth of Pennsylvania upon corporations organized under the Act and specifically conferred upon administrators or boards of administration or other forms of administration of such communities.

**ARTICLE III**  
**DEFINITIONS**

The following terms as used in these By-Laws are defined as follows:

ASSOCIATION shall mean and refer to the Birches West Property Owners Association, a Pennsylvania non-profit corporation.

BOARD shall mean the Officers of the Association.

BY-LAWS shall mean the code, codes or rules adopted for the regulation or management of the affairs of the Association.

CAPITAL EXPENDITURE shall mean the payment for the cost of making a long-term improvement to property that increases its value or lengthens its useful life, as opposed to a repair that only maintains the property including payment for basic assets such as property, fixtures, or machinery. This does not include expenses for day-to-day operations such as payroll, inventory and maintenance.

CAPITAL EXPENSE shall mean the cost incurred by the Association that will provide a long-term benefit.

COMMON AREAS shall mean those areas which have not been conveyed in fee to individual purchasers and are not part of the Community Facilities.

COMMUNITY shall mean the area known as The Birches West.

COMMUNITY FACILITIES shall mean those lands, buildings and facilities to be granted, conveyed or dedicated by the Developer for the common use and enjoyment of the Owners and lawful occupants of the Community.

DECLARATION shall mean the Declaration of Restrictive Covenants or Deed Restrictions of the Developer and Grantor as recorded in the Office of the Recorder of Deeds in and for Monroe County, Pennsylvania.

DEVELOPER shall mean Marketing Technology, Inc., its assigns or successors.

DEVELOPMENT PERIOD shall mean the period from commencement of construction and sale of the first property in the Development to the date of completion of construction or until May 1, 1981, whichever event occurs first.

DEVELOPMENT shall mean The Birches West, a residential community as the same may be shown on maps thereof recorded from time to time.

IN GOOD STANDING shall mean that a member has fully paid all assessments made or levied against him and his property by the Board as hereinafter provided, together with such other costs, fees, and expenses, if any, properly chargeable to him and against his property.

MEMBERS shall mean those having membership rights in the Association in accordance with the provisions of the By-Laws.

OFFICER shall mean the President, Vice President of Recreation, Vice President of Maintenance, Treasurer and Secretary.

OPERATING POLICIES shall mean those rules, regulations and procedures adopted by the Board for the safe, efficient operation of the Association including the written practices of the Association regarding specific issues not otherwise addressed in these By-Laws and the methods for implementing the By-Laws of the Association.

OWNER shall mean any persons or entity, including the Developer, who purchases or acquires fee title to any property in the Community, and also shall include any lessee of a lot under a recorded lease from the owner of fee title to said property for a term of not less than fifty (50) years in which case the lessor under said lease shall cease to be the "Owner" while said lease is in effect.

**ARTICLE IV**  
**GENDER**

All words used in these By-Laws in any gender shall extend to and include all genders, and any singular words shall include the plural expression, and visa-versa, when the context or facts so require, and any pronouns shall be taken to refer to the person or persons intended regardless of gender or number.

**ARTICLE V**  
**NON-DISCRIMINATION**

The Association shall not discriminate on the basis of gender, race, religion, national origin, age, sexual orientation or disability.

**ARTICLE VI**  
**GOVERNMENTAL REGULATIONS**

If any provision of these By-Laws shall be in conflict with any applicable governmental regulation, code or law, such provision shall take precedence over the conflicting section(s) of these bylaws.

**ARTICLE VII**  
**SEVERABILITY**

If any provision of these By-Laws shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of these By-Laws is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

**ARTICLE VIII**  
**MEMBERSHIP AND VOTING RIGHTS**

**SECTION 1.** MEMBERSHIP. Every person or entity who is a record owner or a fee or undivided fee interest in any property which is subject by covenants of record to assessment by the Association shall be a Member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member.

**SECTION 2.** There shall be two classes of membership.

- a. **MEMBER.** Members shall be all those owners as defined in Section 1 above, with the exception of the Developer, and shall be entitled to one vote for each property in which they hold the interests required for membership by Section 1. In no event shall more than one vote be cast with respect to any property.
  
- b. **ASSOCIATE MEMBERS.** If not otherwise a member, each of the following shall be entitled to an Associate Membership:
  - 1) Any person who shares the same principal residence as the member but is not an owner.
  - 2) Persons who may be tenants in regular occupancy of residences within the Community.
  - 3) Associate memberships shall not be entitled to any voting privilege as hereinafter set forth under Section 5.

**SECTION 3.** PRIVILEGES. Each member shall be entitled to the use and enjoyment of the common properties and facilities subject to the provisions of the Declaration and subject to such other policies as may be established by the Board.

**SECTION 4.** TRANSFER. When a member ceases to be an Owner, such person shall remain liable for all Association charges incurred prior to such person no longer being an Owner. In addition thereto, should any sale or exchange of a property occur, the outstanding balance due from the Owner as assessments shall become due and shall be a valid lien on the property until paid.

**SECTION 5.** VOTING PRIVILEGES. Each member shall be entitled to vote provided that he is a member in good standing. A member shall be deemed to be "in good standing" and "entitled to vote" at any annual or at any special meeting of the Association if, and only if, he shall have fully paid all assessments made or levied against him and his property by the Board as hereinafter provided, together with such other costs, fees, and expenses, if any, properly chargeable to him and against his property, at least three (3) days prior to the date fixed for such annual or special meeting.

**ARTICLE IX**  
**BOARD OF OFFICERS**

**SECTION 1.** POWERS AND DUTIES. The affairs of the Association shall be governed by a Board of Officers consisting of five (5) persons who are members in good standing of the Association.

**SECTION 2.** OFFICERS. The officers of the Association shall be elected by the members of the Association in good standing at the annual meeting and shall be a President, Vice President of Maintenance, Vice President of Recreation, Secretary and Treasurer. Two or more offices may not be held by the same person. All officers shall have equal standing.

**SECTION 3.** PRESIDENT. The President shall preside at all meetings of the members and of the Board, shall see that orders and resolutions of the Board are carried out, and shall be vested with the powers and duties generally incident to the office of President of a non-profit corporation including but not limited to the official job description for the position.

**SECTION 4.** VICE PRESIDENTS. The Vice Presidents shall attend meetings of the members and the Board and shall perform all the duties of the President in his/her absence, or in the event of his/her inability or refusal to act,

- a. VICE PRESIDENT OF MAINTENANCE. The Vice President of Maintenance shall be responsible for the maintenance and upkeep of the common areas and physical plant of the Association, including but not limited to the official job description for the position.
- b. VICE PRESIDENT OF RECREATION. The Vice President of Recreation shall be responsible various for social activities of the Association, oversight of recreation employees and monitoring of Association facilities safety, including but not limited to the official job description for the position.

**SECTION 5.** SECRETARY. The Secretary shall attend meetings of the members and the Board and shall keep the minutes of the business and other matters transacted at said meetings, and shall perform all duties incident to the office of Secretary, including but not limited to the official job description for the position.

**SECTION 6.** TREASURER. The Treasurer shall attend meetings of the members and the Board, and shall have custody of the funds and securities of the Association, oversee the collection of moneys due, disburse funds of the Association as may be ordered by the Board, keep full and accurate accounts of receipts and disbursements, including but not limited to the official job description for the position. The Board may require that the Treasurer be bonded for such amount and under such conditions as the Board may require.

**SECTION 7.** REMOVAL. Any officer may be removed either with or without cause by a majority vote of the Board, and their successor shall be appointed at any regular or special meeting of the Board called for such purpose.

**SECTION 8.** POWERS AND DUTIES OF THE BOARD. In the performance of its duties as the governing body of the Association and of the Community, the Board shall have the powers and duties including, but not limited to, the following:

- a. to operate, maintain, clean, renew, replace, care, protect and provide surveillance of the Common Areas and the Community Recreational Facilities and all other property, real or personal, of the Association.
- b. to develop and propose an operating budget consistent with law, to fix the common expenses and assess the same against members in such fair and equitable

proportions and amounts as shall from time to time be deemed necessary to the proper functioning of the Association, including use of Association property and facilities, and assure that the budget shall be presented for review by the members no less thirty (30) days prior to any annual or special meeting at which action to adopt such budget shall occur. The manner in which the budget shall be presented for review shall be the same as outlined in Article XIII; Section 4, entitled "NOTICE OF MEETING". The approval of said budget shall be at the sole discretion of the members by majority vote of those present and entitled to vote at any annual or special meeting.

- c. to use and expend any sums collected from assessments or levies for the operation, maintenance, renewal, care, upkeep, surveillance and protection of the Common Areas, Community Recreational Facilities of the Association, and all of its real and personal property, with a minimum of 17.5% of the operating budget each year deposited in an interest-bearing depreciation fund account; as per amendment made at the General Membership meeting of May 2, 1987.
- d. to adjust, increase or decrease the amount of assessments, and to levy and collect in addition thereto, special assessments in order to meet increased operating emergencies, provided said adjustments or increases or decreases and the combined total of capital expenditures over \$500.00 are approved by a majority vote of those members present and entitled to vote at any annual or special meeting. Any proposal to adjust, increase or decrease the amount of assessments or undertake capital expenditure in excess of \$500.00 shall be presented to the members for review no less that thirty (30) days prior to any annual or special meeting at which such proposal shall be acted on. The manner in which said proposal shall be presented for review shall be the same as outlined in Article XIII; Section 4, entitled "NOTICE OF MEETING" .
- e. to serve as managing agent of the Community and to employ or retain such persons, and to purchase or arrange for such services, machinery, equipment, tools, materials, and supplies as in the opinion of the Board may from time to time be necessary for the proper operation and maintenance of the Common Areas and Community Recreational Facilities of the Association.
- f. to pay all taxes and assessments levied or assessed against any property of the Association exclusive of any taxes or assessments levied against any property properly chargeable to the owners thereof.
- g. to collect delinquent levies or assessments made by the Association through the Board against any property and the Owners thereof, together with such costs and expenses incurred in connection therewith, including, but not limited to, court costs and attorney's fees, whether by suit or otherwise, to abate nuisances and enforce observance of the rules and regulations relating to the Community by injunction or such other legal action or means as the Board may deem necessary or appropriate.
- h. to cause such operating accounts, and escrow and other accounts, if any, to be established and opened as the Board may deem appropriate from time to time, and as may be consistent with good accounting practices, and to maintain accounting records in accordance with generally accepted accounting principles.
- i. to cause a complete audit of the books and accounts of the Association to be made by a competent independent public accountant at the end of each three year period in accordance with Pennsylvania law and at such other time or times as may be deemed necessary.

- j. to keep the Common areas, Community Recreational Facilities and all other buildings, fixtures, equipment, and personal property owned by or leased to the Association protected against the hazards, casualties, or contingencies due to loss or damage by fire and other casualties, and such other risks of a similar or dissimilar nature as are customarily covered.
- k. to maintain public liability insurance insuring the Association and its members against liability for any negligent act of commission or omission attributable to the Association or any of its members, and which occurs on or in any of the Common Areas of the Community Recreational Facilities of the Association.
- l. To adopt and publish rules, regulations and policies governing the use of the Common Areas and Community Recreational Facilities and the personal conduct of the members of the Association and their guests thereon, and to amend the same from time to time as when approved by appropriate resolutions.

## **ARTICLE X** **ELECTIONS OF OFFICERS**

**SECTION 1.** TERM OF OFFICE. At the first annual meeting of the members of the Association, three Officers, which shall be the President, Treasurer and Secretary, shall be elected to serve for a term of two years; and two Officers, which shall be the Vice President of Maintenance and the Vice President of Recreation, shall be elected to serve for a term of one year. At the expiration of the initial term of each Officer, his successor shall be elected to serve for a term of two years, provided that each Officer shall continue to hold office until his successor is elected. Officers shall serve without compensation.

**SECTION 2.** NOMINATIONS. Members in good standing of the Association may be nominated for election to the Board in one of the following ways:

- a. In the event an Association member seeks election or re-election as an Officer, he shall signify his intention to seek election or re-election through the submission of a short written biography describing his qualifications for office and his ideas for the community. Such biography shall be submitted to the Board prior to the annual meeting at which elections of officers are to be held, the deadline for such submissions to be determined by the Board. Biographies shall be distributed to all association members no less than thirty (30) days prior to the annual meeting at which elections of officers are to be held.
- b. Nominations shall not be accepted at the time of the annual meeting at which elections of officers are to be held for any officer position unless there has not been anyone willing to seek election up until the time of elections.
- c. All members in good standing seeking election or re-election shall be subject to a criminal background investigation and provide proof of such indicating no criminal record. Additionally, such member shall be subject to an abuse of children background investigation and provide proof of such indicating no criminal record. Such proof of investigations shall be submitted to the Board prior to the time of elections, except where a nomination is accepted from the floor in accordance with (B) above. In such case proof of criminal background and abuse of children investigations shall be presented within one calendar month after the date of said election. Investigations indicating criminal records shall disqualify a member from holding office. The Association shall reimburse the costs of such investigations only if the investigation reveals no criminal record.

**SECTION 3.** ELECTIONS. All votes for elections to the Board shall be made on written ballot which shall describe the vacancy to be filled and the names of those candidates seeking the particular office. Each member present and entitled to vote shall receive one ballot for each property entitling him to vote. Voting rights are not cumulative and members may only cast one vote for any particular candidate. The names receiving the largest number of votes shall be elected. If there is only one nominee for a particular office, balloting shall not be required and the Secretary shall be directed to cast one vote for the sole nominee. Election of officers shall take place at the annual meeting.

**SECTION 4.** ASSUMPTION OF OFFICE. Officers shall assume their offices on May 1 of the year in which elections are held.

**SECTION 5.** VACANCY. If the position of any officer shall become vacant by reason of death, resignation, retirement, removal from office (as described in Section 6), or otherwise, the remaining officers at the next scheduled board meeting duly called for such purpose, shall appoint a successor who shall hold office for the unexpired term of said vacancy.

**SECTION 6.** REMOVAL FROM OFFICE. Officers may be removed with or without cause, by the affirmative vote of two-thirds of the members in good standing at any annual or special meeting of members duly called for such purpose.

## **ARTICLE XI INDEMNIFICATION OF OFFICERS**

The Association shall indemnify every officer, their heirs, executors, and administrators against all loss, costs, and expenses, including counsel fees, reasonably incurred by them in connection with any action, suit, or proceeding to which they may be made a party by reason of their being or having been an officer of the Association except as to which they shall be finally adjudged in such action, suit, or proceeding to be liable for gross negligence or willful misconduct. In the event of a settlement, indemnification shall be provided only in connection with such matter covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or willful misconduct in the performance of their duty as such officer in relation to the matter involved. The foregoing rights shall not be exclusive of other rights to which such officer may be entitled. All liability, loss, damage, cost, and expenses incurred or suffered by the Association by reason or ensuing out of or in connection with the foregoing indemnification provisions, shall be treated by the Association as common expense. Provided, however, that nothing in this Section contained shall be deemed to obligate the Association to indemnify any member or owner of a property, who is or has been an officer of the Association, with respect to any duties or obligations assumed or liabilities incurred by them under and by virtue of their membership in the Association or as a member or owner of a property.

## **ARTICLE XII MEETINGS OF THE BOARD**

**SECTION 1.** ORGANIZATIONAL MEETING. The first organizational meeting of each newly elected Board shall be held no later than May 20th of the year in which they were elected.

**SECTION 2.** REGULAR MEETINGS. The Board shall meet regularly at such time and place permitted by law as from time to time may be determined by the Officers. Notice of such regular board meetings and special meetings shall be required in such a manner as deemed appropriate by the Board.

**SECTION 3.** QUORUM. A majority of the Officers shall constitute a quorum to transact business of the Board and the majority vote of the Officers present and voting at any meeting at which a quorum is present shall be deemed to be the act of the Board.

**SECTION 4.** SPECIAL MEETINGS. Special meetings of the Board shall be held when called by the President of the Association or by any two Officers after not less than two (2) days notice.

### **ARTICLE XIII MEETINGS OF MEMBERS**

**SECTION 1.** PLACE OF MEETINGS. All annual and special meetings of the Association shall be held at such suitable and convenient place as may be permitted by law, and from time to time fixed by the Board and designated in the notices of such meetings.

**SECTION 2.** ANNUAL MEETING. The annual meeting of the Association shall be held prior to May 1st of each year.

**SECTION 3.** SPECIAL MEETINGS OF THE ASSOCIATION. Special meetings of the Association may be called by the Board at any time in the manner herein provided, or upon a legal petition of ten percent (10%) of the members of the Association who would have the right to vote at such special meeting. Such legal petition shall set forth the purpose of the special meeting.

**SECTION 4.** NOTICES OF MEETINGS. Written notice of the place, date, and hour of the meeting shall be delivered not less than thirty (30) days before the date of the meeting, either personally or by mail, to each member. Notices of special meetings shall also state the purpose or purposes for which the meeting is called and the persons calling the meeting. Notice of meetings, if mailed, shall be directed to the last known post office address as shown on the records of the Association by regular mail, postage prepaid. In lieu of mailing, such notice may be delivered by hand to the members or left at their residence in their absence.

**SECTION 5.** QUORUM. A quorum at any annual or special meeting shall be 10% of the members entitled to vote at such meeting, as amended during the annual general membership meeting of June 9, 1984. The vote of a majority of the voters entitled to be cast at any meeting at which a quorum is present shall be necessary for the adoption of any matter to be voted upon by the members, unless a greater proportion is required hereunder or by law.

### **ARTICLE XIV COMMITTEES**

The committees of the Association shall be appointed by the Board as it deems necessary as shall the powers and duties of said committees. Standing committees may include, but may not be limited to a Rules and Regulations Committee, Finance Committee, Maintenance Committee, Architectural and Building Committee and an Audit Committee.

### **ARTICLE XV ASSESSMENTS**

**SECTION 1.** ASSESSMENT OBLIGATIONS. Each member in accordance with Article IX, Section 8 paragraphs a, d and g shall pay dues and assessments as promulgated by the Association against the properties and owners thereof. These dues and assessments shall

be levied by the Association for collection against each property and the owner thereof to pay the cost of administration and of maintenance, replacement and repair of the common areas and facilities, and to pay the expenses of administering and maintaining the Association and all of its real and personal property, and other costs and expenses incurred by the Association in achieving and furthering its purpose.

**SECTION 2.** PAYMENT OF ASSESSMENTS. Payment by the members of the assessments levied by the Association shall be made on or before the date fixed by resolution of the Board. Written notice of the assessment and the date of payment shall be sent to the owner of each property at the address last given by such owner to the Association. No member may exempt himself from his share of such expenses by waiver of the use or enjoyment of the Community Properties or the recreational facilities of the Association or by abandonment of the property owned by him.

**SECTION 3.** SPECIAL ASSESSMENTS. Special assessments may be levied by the Board for capital improvements or other non-recurring expenditures for the maintenance or improvement of the Common Properties upon approval by a majority vote of the members present and entitled to vote at any annual or special meeting at which a quorum is present.

**SECTION 4.** UNPAID ASSESSMENTS. All assessments charged to a property or owner thereof shall constitute a lien against the said property and a personal obligation of the owner thereof in favor of and running to The Property Owners Association, which lien shall be effective from and after the time of recording in the public records of Monroe County of a claim of lien stating the amount due, and the date when due. Such claim of lien shall include sums which are due and payable when the claim of lien is recorded, including any and all costs and expenses incurred with relation to sums owed. Such claim shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by the lien the party making payment shall be entitled to a recordable satisfaction of lien to be recorded at his sole expense.

The title acquired by any purchaser shall be subject to all of the provisions of this instrument, the By-laws and rules and regulations of the Association, and by so acquiring title to the property, said purchaser covenants and agrees to abide and be bound hereby.

**SECTION 5.** VOLUNTARY CONVEYANCE. Upon any voluntary conveyance of a property, the Grantor and Grantee of such property shall be jointly and severally liable for all unpaid assessments pertaining to such property made by the Association or accrued up to date of such conveyance, without prejudice to the right of the Grantee to recover from the Grantor any amounts paid by the Grantee, but the Grantee shall be exclusively liable for those accruing while he is the property owner. Any property owner or any purchaser of a property prior to completion of a voluntary sale may require from the Association a certificate, showing the amount of unpaid assessments pertaining to such certificate within ten (10) days after request thereof. The holder of a mortgage or other lien on any property may request a similar certificate with respect to such property. Any person other than the property owner at the time of issuance of any such certificate, who relies upon such certificate, shall be entitled to rely thereon and his liability shall be limited to the amounts set forth in such certificate.

## **ARTICLE XVI**

### **ENFORCEMENT OF ASSOCIATION BY-LAWS, RULES AND REGULATIONS AND POLICIES**

**SECTION 1.** MEMBERSHIP COMPLIANCE. Each members shall comply strictly with these By-laws and with the administrative rules, regulations and policies adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in the Declaration of Restrictive Covenants or in the deed to his property. Failure to comply with any of the same shall be grounds for a civil action to recover sums due, for damages or injunctive relief, or both, maintainable by the Association on behalf of the property owners.

**SECTION 2.** ADDITIONAL POWERS. The following powers are hereby granted to the Board as additional powers of enforcement of said By-Laws, rules, regulations and policies:

- a. The Board may take disciplinary action against any member of the Association for breach of any By-Law, rule, regulation or policy of the Association as provided herein.
- b. Disciplinary action authorized hereunder may consist of any or all of the following:
  - 1) Suspension of voting privileges.
  - 2) suspension of the member's right to use any of the Community Facilities owned, operated or managed by the Association for a period not to exceed thirty (30) days for such breach.
  - 3) a fine not to exceed \$100.00 for each breach of By-Law, rule, regulation or policy; the failure to pay said fine within five (5) days after imposition thereof shall constitute a separate offense. If the offense is such that it is continuing in nature, the Board may assess a fine not to exceed \$100.00 per day until such time as the offense is discontinued; as per amendment made at the General Membership meeting of April 26, 1998.

**SECTION 3.** PROCEDURES. Prior to any disciplinary action being taken, the member shall be entitled to a hearing before the Board at least five (5) days after mailing of written notice of the time and place thereof and the nature of the breach charged against said member, and shall have the right to be represented by counsel and present evidence in their behalf.

Within ten (10) days after the hearing, the Board shall render its decision in writing to the member involved, setting forth the determination of the Board and the disciplinary action to be imposed, if applicable.

## **ARTICLE XVII OPERATING POLICIES AND PROCEDURES**

**SECTION 1:** EQUAL FORCE. The Operating Policies and Operating Procedures of the Association shall be considered to have equal force with relation to the By-Laws of the Association. Where a conflict arises between the content of the By-Laws and the Operating Policies and the Operating Procedures, the content of the By-Law provision shall take precedence.

**SECTION 2:** ADOPTION AND AMENDMENTS. An Operating Policy or Operating Procedure may be adopted or amended by the affirmative vote of a majority of Officers at any Board meeting. Operating Policies and Operating Procedures and/or amendments to such shall be proposed and read, debated, and voted on by the Board.

## **ARTICLE XVIII DISSOLUTION**

In the event it shall be deemed advisable and for the benefit of the members that the Association should be dissolved, the procedures concerning dissolution shall be conducted in accordance with the "Non-Profit Corporation Law" of the Commonwealth of Pennsylvania as the same shall exist at the time of such dissolution.

**ARTICLE XIX**  
**MISCELLANEOUS**

**SECTION 1.** INSPECTION OF BY-LAWS. The Association shall keep in its principal office the original or a copy of these By-Laws, as amended or otherwise altered to date, certified by the Secretary, which shall be open to inspection by the members.

**SECTION 2.** INSPECTION OF PROCEEDINGS. The membership register and minutes of proceedings of the members and Officers shall be open to inspection upon request of any member for a purpose reasonably related to his interest as a member.

**ARTICLE XX**  
**AMENDMENTS**

These By-Laws may be amended from time to time by the affirmative vote of the members representing a majority of the Association membership present and in good standing to vote at such meetings at which a quorum is present where amendments to these By-Laws are being considered. Proposed amendments may be submitted in writing by any member in good standing to the Board for review, legal review and presentation to the membership at large no less thirty (30) days prior to any annual or special meeting at which action to amend the By-laws shall occur.

**ARTICLE XXI**  
**INTEGRATION OF DECLARATION OF RESTRICTIVE COVENANTS AND DEED**  
**RESTRICTIONS**

The Declaration of Restrictive Covenants and Deed Restrictions should be read in conjunction with these By-Laws and are expressly made an integral part hereof.

**AMENDMENT HISTORY**

Article IV; Section 2; 3; 4; 5 – Amended April 26, 1998.  
Article V; Section 1. Paragraph C - Amended May 2, 1987  
Article V; Section 1, Paragraph B - Amended April 25, 1993, April 26, 1998.  
Article V; Section 1, Paragraph D - Amended April 25, 1993  
Article V; Section 1, Paragraph I; Section 3: Paragraph B; Paragraph C; Section 4; Section 6;  
Section 10 - Amended April 26, 1998.  
Article VIII; Section 5, - Amended June 18, 1982, June 9, 1984, April 26, 1998.  
Article VIII; Section 4, - Amended April 25, 1993.  
Article VIII; Section 2, - Amended April 26, 1998.  
Article IX; Section 1; 2 - Amended April 26, 1998.  
Article Xi; Section 2, Paragraph B; 3 - Amended April 26, 1998.  
Complete By-law revision – Amended July 2005.

**ARTICLE I**

**DECLARATION OF RESTRICTIVE COVENANTS**

The reservations and restrictions are applicable to all single family residential properties in The Birches West and have been adopted by Marketing Technology, Inc. inure for the benefit of all lot purchasers for the use and enjoyment of their property, and where necessary are enforceable by the lot owners and by The Birches West Property Owner's Association which will be formed when either 30% of the subdivision is sold or three years, whichever occurs first. The reservations and restrictions are specifically recorded with each purchaser's deed and those contained in the approved plan of sub-division are as follows:

(A) Reservations and restrictions recorded in the Monroe County Court House in Stroudsburg, Pennsylvania with each purchaser's deed are as follows:

- (1) The premises hereby conveyed shall be used for residential purposes only.
- (2) No building shall be erected on any individual lot hereby conveyed other than one private detached single-family dwelling house, not to exceed two and one-half stories in height and containing not less than 1200 square feet of floor space, such single family dwelling house to be suitable for the use of, and to be used by a single family only, with a private garage for not more than two cars. (Amended by adoption of the regulations of the Birches West Property Owners Association Architectural and Building Committee.)

(3) All buildings shall be constructed within the following setback lines:

Front yard setback - 75 feet\*

Rear yard setback - 60 feet\*

Side yard setback - 20 feet\*

\*except as noted in the Architectural and Building Regulations section (5) (a)

(Amended by adoption of the regulations of the Birches West Property Owners Association Architectural and Building Committee)

- (4) No trailer, tent, barn, outbuilding, shack or any other temporary building shall be erected upon the premises and no basement or garage shall at any time be used as a residence either temporary or permanently; and the one private detached single-family dwelling house permitted to be erected on any individual lot shall not be occupied prior to completion.
- (5) No excavation shall be made on the premises except for the purpose of building thereon, and only at the time when building operations are to commence. No earth, sand or trees shall be removed from the premises except as part of such excavation. The building or structure must be completed within 12 months after building operations commence. The grounds around construction area shall be completed no later than 3 months after.
- (6) Easements for the installation and maintenance of utilities and drainage facilities are reserved over the ten feet adjacent to the streets and exterior property lines and the ten feet adjacent to all interior lot lines.
- (7) All corner lots shall be subject to a sight and roadway easement over a triangle, the legs of which are thirty feet measured along the street right-of-way lines from their point of intersection.
- (8) Wells and sewage disposal systems shall be constructed in accordance with local

municipal standards and those set forth by the Pennsylvania Department of Environmental Resources.

- (9) Wells shall be located a minimum of 100 feet from any existing or proposed subsurface disposal system; any subsurface disposal system shall be constructed a minimum of 100 feet from any existing or proposed well and a minimum of 100 feet from any water course.
  - (10) Further subdivision of lands is prohibited unless prior approval of the Planning Commission is first obtained.
  - (11) No animals, horses, livestock or poultry of any kind shall be raised, bred or kept, except that dogs, cats or other household pets may be kept, provided they are not kept or bred for any commercial purposes. All such pets shall be kept on the premises of the owner or under immediate attention of the owner at all times.
  - (12) No lot shall be used or maintained as dumping grounds for rubbish. All trash, garbage or other waste shall be kept in sanitary containers; no nuisance or anything obnoxious or detrimental to adjoining or adjacent properties shall be maintained on any lot.
  - (13) No signs of a permanent nature shall be permitted on any property in the subdivision, except the property owner's name and/or lot number signs and security system marker signs shall be allowed and may be affixed to trees if desired. Temporary signs shall be permitted after application for, and approval of a sign permit from the Architectural Committee. Specific guidelines regarding sign permits including fees, time limits, size limits, permitted sign types and exemptions shall be contained within the Regulations of the Birches West Property Owners' Association's Architectural and Building Committee. Miscellaneous property warning and informational signs such as "No Trespassing", "Beware of Dog", "No Hunting" etc. shall be exempt from these provisions except that each sign shall not exceed one square foot in size. Signs owned by the Birches West Property Owners Association shall be exempt from these provisions. (Amended October 24, 1993 General Membership Meeting).
  - (14) All lot purchasers shall automatically become members of The Birches West Property Owner's Association which will be formed when either 30% of the subdivision is sold or three years, whichever occurs first, and shall have the rights and privileges provided by such membership.
  - (15) These restrictions shall apply to any and all property owners in the development.
- (B) Restrictive Covenants contained in the Plans of Subdivision of The Birches West:
- (1) Minimum Building Setbacks:
    - Front Yard - 75 feet
    - Rear Yard - 60 feet
    - Side Yard - 20 feet, see Architectural and Building Regulations section (5) (a)
    - (Except on Lots #7, #9 and #50)Amended by adoption of the regulations of the Birches West Property Owners Association Architectural and Building Committee)
  - (2) Wells and Sewage Disposal Systems shall be constructed in accordance with the standards set forth by the Department of Environmental Resources.

- (3) Wells shall be located a minimum of 100 feet from any existing or proposed subsurface disposal system, or 100 feet from any water course. Any subsurface disposal system shall be constructed a minimum of 100 feet from any existing or proposed well or 100 feet from any water course.
- (4) A 12-foot drainage and utility easement shall exist adjacent to all lot lines to provide for the construction of drainage and/or storm sewers and other utility appurtenances.
- (5) Wells and sewage disposals shall be installed within designated areas on each lot except by written permission or direction of the Township Sewage Enforcement Officer or the Department of Environmental Resources.
- (6) The Township or their agents shall have the right to enforce all Restrictive Covenants if the developer, their heirs or assigns, fails or is unable to do so.
- (7) All corner lots shall be subject to a sight and roadway easement over a triangle, the legs of which are measured thirty feet, measured along the street right-of-way lines, from their point of intersection.
- (8) No mobile homes will be permitted on any lot.
- (9) All lots shall be kept neat and orderly.
- (10) Only licensed pleasure vehicles may be parked or stored on a lot if not garaged.

A copy of this plan shall be distributed to all prospective purchasers of lots, when offered for sale.

The private roads as designated on said plan shall not be offered for dedication to the Township of Chestnuthill for maintenance, repair or any other purpose, until the subdivider, heirs or assigns, has strictly complied with the provisions of Chestnuthill Township Subdivision Ordinance, The Blacktopping Ordinances, and other applicable Ordinances in the said construction of said roads.

**NAME OF SUBDIVISION:** THE BIRCHES WEST

**LOCATION:** CHESTNUTHILL TOWNSHIP, MONROE COUNTY, PENNSYLVANIA

**NUMBER OF LOTS IN SUBDIVISION:** 254

**NUMBER OF ACRES IN SUBDIVISION:** 309

**RESOLUTION ESTABLISHING  
REGULATIONS OF THE BIRCHES WEST  
PROPERTY OWNERS ASSOCIATION'S  
ARCHITECTURAL AND BUILDING COMMITTEE**

Whereas, The Board of Directors has established an Architectural and Building Committee and has appointed a building officer and these regulations are expressly made an integral part of the By-Laws of the Association by virtue of a majority vote of the General Membership at the April 30, 1988 General Membership Meeting;

NOW, THEREFORE, the following regulation shall apply:

- (1) Any landowner, prior to construction of any building, residence or outbuilding smaller than two hundred forty (240) square feet, and meeting all setback requirements, is exempt from permit fee, but application for permit must be filled out and approved, or before any exterior alteration or addition can be made to any existing building, must make application for and must receive a building permit from the Architectural and Building Committee of the Birches West Property Owners Association.
  
- (2) Any contractor shall join in the execution of the applications and shall certify along with the lot owner that the construction will be in accordance with the Rules and Regulations of the Association.
  
- (3) The fees for the review of this application are contained in the "Building Permit Fee Schedule" as amended effective March 1, 2003. In addition, the owner or contractor shall abide by the Association rules regarding the removal of all debris, (defined as limbs, cuttings and uprooted brush), stumps and building materials from the job site upon completion of the same, or at the time period as set forth in the Declaration of Restrictive Covenants. Thereafter, the Board, through the building officer, shall give thirty (30) days notice to the builder and homeowner of the violation, said notice to be given by first class mail and by posting on the property. Upon failure to cure, the Board of Directors shall be entitled to enter the property for purposes of cleaning debris. In addition, the landowner shall be held accountable under Article XI of the By-Laws relating to Enforcement of Association By-Laws, Rules and Regulations.
  
- (4) All applications shall be accompanied by a copy of the Deed or Agreement of Sale to the property, a sketch plan indicating the location of the building and a specification sheet and plans indicating the type of structure being constructed. The application shall be signed by all interested parties and shall bear a certification that the building will be constructed in accordance with these regulations.

(5) The Committee shall review all plans to determine whether the structure complies with the Declaration of Restrictive Covenants and the Association By-Laws. In addition thereto, the Committee shall require the following:

(A) All buildings shall be constructed with the following setback lines:

Front Yard Setback	75 feet
Rear Yard Setback	60 feet
Side Yard Setback	20 feet*

(Except on corner lots where the front yard setbacks will be 75 feet and other roadside property line will be 50 feet. The direction of the home on the corner lot to be determined by property owner.)

The Board of Directors shall be authorized to hear requests for variances from the side yard set back for construction of outbuilding only. However, in no event, shall the set back be less than ten (10) feet. The Board may grant a variance if the following findings are made:

- I. There are unique physical circumstance or conditions (including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property) and that the unnecessary hardship is due to such condition and no the circumstances or conditions generally created by the provisions of these by-laws in the neighborhood or district in which the property is located:
  - II. Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these by-laws, and a variance is therefore necessary to enable the reasonable use of the property;
  - III. Such unnecessary hardship has not been created by the appellant;
  - IV. The variance, if authorized, will not alter the essential character of the neighborhood of district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare, and:
  - V. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary.
  - VI. An outbuilding is defined as a structure with not more than two hundred forty (240) square feet of floor space and with a height of not more than fourteen (14) feet above the floor space. In addition, it may not be used for the garaging of automobiles.
- (B) All homes shall be constructed in accordance with BOCA I and II requirements.

- (C) All primary roof lines shall contain a minimum four (4) to one (1) pitch.
- (D) All grading and seeding plans shall be compatible with the natural character of the area with thirty (30) percent of the total lot area (which area need not be contiguous) to be left in a wooded state.
- (E) All residential building shall have a minimum One Thousand Two Hundred (1,200) square feet floor space.
- (6) The Board, the Committee and building officer shall assume no liability for construction not in accordance with these rules and regulations. In addition thereto, each lot owner and builder shall certify that the structure shall be built in accordance with these rules and regulations.
- (7) A temporary sign shall be permitted on any property in the subdivision providing application for a sign permit is made to and approved by the Birches West Architectural and Building Committee prior to sign installation.
- (8) Any contractor shall join in the execution of the application and shall certify that the sign will be in accordance with the rules and regulations of the Association.
- (9) The fee for such permit shall be \$15.00 for a single sided sign and \$30.00 for a double sided sign. The term of the permit shall be 90 days. No more than two sign permits shall be issued for any lot within a one year period.
- (10) Only contractor signs to be erected during construction and related operation shall be subject to the preceding permit regulations and fees. Real Estate, political campaign signs, building permit signs and garage/yard sale signs shall be exempt from the permit application and fee process but shall be removed within 15 calendar days of the sale of the property, election, date, completion of construction or date of the garage/yard sale. All signs shall conform in number and size to the following specifications:
- a) Only two single sided or one double sided sign shall be permitted on any given property at one time.
  - (b) Sign dimensions shall be limited to three (3) feet by three (3) feet.
  - (c) Temporary signs shall not be affixed to trees but may be fastened to structures or be freestanding.
  - (d) No temporary signs shall be illuminated.
  - (e) No other type of temporary signs shall be permitted.
- (11) Failure to comply with these rules and regulation shall subject the lot owners to the disciplinary procedure and penalties as set forth in Article XI of the By-Laws. Failure of the builder to comply with these rules and regulations will result, at the discretion of the Board, in said builder being denied any future application for building permits.

(Sections 7, 8, 9 and 10 were adopted and/or amended at the October 24, 1993 General Membership Meeting).

## **APPENDIX A**

### **BUILDING PERMIT FEE SCHEDULE**

- 1) \$175.00 permit fee for all new home construction.
- 2) \$150.00 permit fee for all additions that require a foundation and/or a roof.
- 3) \$125.00 permit fee for all additions that do not require a foundation and/or roof, have an existing foundation and/or an existing roof, or sheds or outbuildings exceeding 240 square feet.
- 4) No fee for sheds and outbuildings that contain less than 240 square feet of floor area. However, a permit is still required to be filed with the Association.
- 5) Any roof modifications, extensions of, or screening in of decks or porches that do not require a foundation or stud walls are similarly exempt from a permit fee. However, a permit including a site plan is required to be filed with the Association.

### **AMENDMENT HISTORY**

Section 3; - Amended May 1, 1992, April 26, 1998.  
Section 5; Paragraph C – Amended April 26, 1998.  
Section 5, Paragraph E – Amended April 26, 1998.  
Appendix A – Amended March 1, 2003.