

# BY-LAWS OF RESERVE AT CHADDS FORD COMMUNITY ASSOCIATION

As Amended March 22, 1999\*

## ARTICLE I - NAME

1.1 The name of the non-profit corporation is RESERVE AT CHADDS FORD COMMUNITY ASSOCIATION, INC. ("Association").

## ARTICLE II - PURPOSES AND POWERS: DEFINITIONS

2.1 **Purpose.** The purposes of the Association are: the ownership, management, operation and maintenance of certain real estate and the improvements located thereon, situated in Birmingham Township, Chester County, Pennsylvania, including the Common Properties of the Association (as defined in the Declaration and sometimes referred to therein as Common Open Space of Open Area) , and the implementation, administration and enforcement of a certain "Declaration of Covenants and Restrictions" ("Declaration"), dated March 30, 1993, and recorded in the Office of the Recorder of Deeds in and for Chester County, Pennsylvania, on April 6, 1993 in Record Book 3535, Page 6069, with TJEM Associates, L.P., as the Declarant which rights as Declarant TJEM Associates, L.P. assigned to Toll PA GP Corp. by Assignment dated April 8, 1993 and recorded in Record Book 3537 at Page 1986, as the same may be further hereafter amended, and any other lawful purpose for which the Association may be conducted on a not-for-profit basis pursuant to the laws of the Commonwealth of Pennsylvania. Any capitalized terms used in these By-Laws which are not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the Declaration.

2.2 **Powers.** The Association shall have such powers as are now, or may hereafter be, granted by the Pennsylvania Non-Profit Corporation Law of 1988, as amended from time to time, to do and perform the following:

(a) To own, operate, maintain, insure, repair, restore, manage, improve, regulate and restrict the Common Properties, and all improvements of any kind whatsoever located thereon;

(b) To maintain the Common Properties in good repair and make all repairs, restorations and improvements necessary to so maintain said Common Properties;

(c) To determine its own expenses and necessary reserves and to raise all moneys required therefore by levying upon and collecting assessments against the Members (as defined below) and the Lots;

(d) To establish, promulgate, amend, repeal, distribute, approve, reject and enforce rules governing the use, occupancy, maintenance and regulation of the Common Properties and all improvements of any kind located thereon;

(e) To enforce the Restrictions set forth in the Declaration;

(f) To bring, prosecute, defend and settle litigation for or against the Association, and to satisfy any adverse judgment entered against it;

(g) To otherwise perform and conduct all duties and powers imposed upon or granted to it by the aforesaid Declaration, these By-Laws, or any other document relating to the Association (including the power and duty to enforce the Declaration with respect to each Lot), or by the Birmingham Township Zoning and Subdivision and Land Development Ordinances, as amended;

(h) To take and carry out all actions reasonably necessary and proper to enforce the provisions of the aforesaid Declaration;

(i) To secure and maintain policies of liability insurance insuring against its liability in connection with the Common Properties; and

(j) To perform any other acts necessary or proper to carry out any of the duties and obligations of the Association.

### **ARTICLE III - OFFICES**

**3.1** The Association shall have as its principal office the residence of the Secretary of the Association which shall need to be provided to the Commonwealth of Pennsylvania each time that the elected Secretary of the Association changes.

**3.2** The Association shall have and continuously maintain a registered office in the Commonwealth of Pennsylvania.

### **ARTICLE IV - MEMBERSHIP, VOTING RIGHTS AND ASSESSMENTS**

**4.1** **Membership.** Each Owner of a Lot, including Declarant, shall be a Member of the Association at such time as set forth in the Declaration. Each Membership shall be appurtenant to, and not severable from, ownership of a Lot, and shall be held in the name of the record owner of said Lot, whether or not such Lot is owned jointly, in common or in any other form of tenancy. Each Lot shall have one, and only one, Membership regardless of the number of co-tenants, joint-tenants or tenants by the entireties holding interests in said Lot. The Declarant shall be a Member until the Declarant's interest is terminated by selling all of the Lots it owns.

**4.2** **Duration of Membership.** Each Membership shall initially commence upon the recording of the Declaration. Thereafter, membership shall be transferred to each successive record Owner of a Lot as of the date and hour of the completion of settlement on the conveyance of a Lot to a new Owner.

#### **4.3 Voting.**

(a) Each Member shall be entitled to one vote on all matters on which Members are entitled to vote. Members shall not be entitled to cumulative voting for the election of Directors.

(b) The Secretary shall keep a current Membership record and voting list of all persons who are eligible to vote as Members.

(c) The Secretary shall act as judge of election in all elections and votes by the Members. If the Secretary is not able to serve, then the Assistant Secretary shall act as judge of election.

(d) If the Owner of a Lot is a corporation, joint venture, partnership or unincorporated association, the natural person who shall be entitled to cast the vote for the Membership appurtenant to that Lot shall be the person named in a certificate executed by that entity pursuant to its governing documents. If the Owner of a Lot is a trust, the trustee or trustees shall be deemed to be the Member for voting purposes. If the Ownership of a Lot is in more than one person, the natural person who shall be entitled to cast the Member's vote of the Lot shall be the person named in a certificate executed by all of the Owners of a Lot and filed with the Secretary of the Association or, in the absence of that named person from the meeting or in the event of failure to execute and file such a certificate, the person owning such Lot who is present. If more than one of the multiple owners are present, the vote appurtenant to that Lot may be cast only in accordance with their unanimous agreement. There shall be deemed to be unanimous agreement if any one of the multiple owners casts the vote appurtenant to that Lot without protest being made promptly to the person presiding over the meeting by any of the other owners of the Lot. Such a certificate shall be valid until revoked by a subsequent certificate similarly executed. Wherever the approval or disapproval of a Member is required by the Declaration or the By-Laws, the approval or disapproval shall be made only by the person who would be entitled to cast the vote of the Lot at any meeting of the Association.

**4.4 Matters Requiring Vote of Membership.** Among other matters that may from time to time be submitted to the Members for a vote by the Board of Directors, the Members shall in any event be entitled to vote at the annual meeting of the Members of the Association for the election of Directors (see Section 4.5 below), on the amendment of these By-Laws (see Article XIII hereof), or on an amendment of the Declaration.

#### **4.5 Annual Meeting of Association.**

(a) The annual meeting of the Members of the Association shall be held in October of each year for the purpose of electing Directors and for the transaction of such other business as may properly be brought before the meeting. The annual meeting shall be held at the registered office of the Association or at such other location as may be determined by the Board of Directors and as shall be designated in the notice of said meeting.

(b) Election of Directors. Each Member eligible to vote for Directors shall be entitled to cast one vote for each candidate of his choice for the Board of Directors according to the number of Directorships to be filled. The candidates receiving the largest number of votes shall be

elected, provided that such candidate shall have received the votes of at least one-third (1/3) of all of the Members eligible to vote. If all of the Directors are not elected in the initial vote, then a second vote shall be held immediately at the meeting to fill the remaining Directorships. Nominations shall be reopened before the second vote. The candidates receiving the largest number of votes shall be elected to fill the remaining Directorships.

**4.6 Special Meeting of Members.** Special meetings of the Members may be called to be held at the registered office of the Association, or at such other place designated in the call of the meeting (but not outside of the County of Chester, Commonwealth of Pennsylvania), at any time, by the President of the Association or by resolution of the Board of Directors, or upon written request of Members holding not less than one-fifth (1/5) of the outstanding voting rights. Upon written request of the Members, as aforesaid, the Secretary of the Association shall give notice of such special meeting, to be held at such time in such place as the call of the meeting may designate, not less than ten (10) nor more than thirty (30) days after the receipt of such request, or if the call does not so designate, at such time and in such place as the Secretary may fix, not less than ten (10) nor more than thirty (30) days after the receipt of such request. Upon neglect or refusal of the Secretary to issue such notice, the Members making the request may do so.

**4.7 Annual Assessments.**

(a) Subject to the further provisions of Article IV, Section 4.8 below, the assessments levied by the Association pursuant to Article 5 of the Declaration shall be in the form of annual assessments. The total annual assessment levied by the Association for any year shall be apportioned equally among the Lots.

(b) Procedure for Fixing Annual Assessments. The Board, with advice of the Treasurer, shall prepare a draft budget for the Association for the upcoming calendar year and shall provide a copy of the draft budget to each Member not later than September 15 of each year and not less than ten (10) days before the annual meeting. Following the annual meeting, at which Members shall be permitted to speak concerning the budget for the upcoming calendar year, the Board shall adopt a budget and fix the annual assessment for the upcoming calendar year and shall provide a copy of said budget and annual assessment to each Member not later than November 15 of each year. The Board shall, at the same time, also provide each Member with a ballot form to be used if the Member wishes to vote to disapprove the said budget and annual assessment.

(c) Right of Members to Disapprove Budget. Each Member may vote to disapprove the budget and the annual assessment for the upcoming calendar year by delivering its written ballot to disapprove to the Secretary of the Association by November 30. If a majority of the Members entitled to vote votes to disapprove the budget and the annual assessment for the upcoming calendar year, the Board shall adopt a revised budget and fix the annual assessment for the upcoming calendar year and shall provide a copy of said revised budget and annual assessment to each Member not later than December 15. The Board shall, at the same time, also provide each Member with a ballot form to be used if the Member wishes to vote to disapprove the said revised budget and annual assessment. If a majority of the Members entitled to vote votes by December 31 to disapprove the revised budget and the annual assessment for the upcoming calendar year, the Board shall adopt a further revised budget and fix the annual assessment for the upcoming calendar year and shall provide a copy of the said

further revised budget and annual assessment to each Member within fifteen (15) days together with a ballot form to be used if the Member wishes to vote to disapprove the said further revised budget and annual assessment. This process shall be repeated until a budget and annual assessment are not disapproved by a majority of the Members entitled to vote.

(d) Annual assessments shall become due on January first of the year to which it applies. In the event that an annual assessment is adopted late, it shall be effective retroactively to the first day of January of the year in which it was adopted.

#### **4.8 Special Assessments.**

(a) In addition to the annual assessments provided for in Article IV, Section 7 (a) above the Association, by an affirmative vote of a majority of the Members entitled to vote, may levy in any assessment year: (i) special assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction or improvement, unexpected repair, replacement or cost in connection with the operation, maintenance, repair, restoration, and management of the Common Properties or (ii) assessments for any insufficiency of the annual assessment for a preceding assessment year to cover the actual costs incurred by the Association in such year.

(b) Any special assessment made pursuant to this Section 4.8 shall be apportioned among the Lots and the Owners thereof in the same manner as that set forth in Section 7 above for the apportionment of annual assessments.

#### **4.9 Voting Proxy.**

(a) A Member entitled to vote at any meeting or on any matter, may cast such Member's vote by duly executed mail ballot. A mail ballot vote shall be counted only if the vote is clearly marked, and the ballot is dated, duly executed by the Member so voting, and actually delivered to the Secretary of the Association before the vote is taken, in the case of a meeting, or before the last day for voting, in the case of a matter voted on without calling a meeting.

(b) A Member's vote at any meeting on any matter may be cast pursuant to a written proxy duly executed by such Member. If a Membership is owned by more than one person, each Owner of the Lot may vote or register protest to the casting of votes by the other owners of the Lot through a duly executed proxy, subject to Section 4.3(b) above. A Member may not revoke a proxy given under this section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date unless it specifies a shorter term.

### **ARTICLE V - BOARD OF DIRECTORS**

#### **5.1 Board.**

(a) The affairs of the Association shall be governed and conducted by its Board of Directors, which shall be comprised of five (5) persons, to be elected or appointed in accordance with these By-Laws.

(b) Term. Each Director shall hold office for a term of one year, commencing on the first day of November immediately following election, and expiring on the following

October 31st, and until such Director's successor has been selected and qualified, or until such Director's earlier death, resignation or removal.

(c) **Committees.** The Board may, by resolution adopted by a majority of the Directors in office, establish one or more committees, consisting of one or more Directors, to serve at the pleasure of the Board, and to exercise the powers lawfully conferred by said resolution.

(d) **Veto By Members.** A pending or reversible action of the Board may be vetoed by vote of a majority of all Members entitled to vote, provided that not fewer than ten (10) Members shall have first submitted to the Secretary, within thirty (30) days following the filing of written notice of the action of the Board with the Secretary of the Association, a signed written request that the action be put to vote of the Members either to approve or veto. This veto provision shall not apply, however, to any action taken by the Board specifically to enforce or comply with the By-Laws or the Declaration, or to adopt a budget and annual assessment.

**5.2 Regular Meetings.** Regular meetings of the Board of Directors shall take place at the annual meeting held pursuant to the provisions of Article IV, Section 5 above. Special meetings of the Board of Directors may be called by or at the request of the President of the Association or any two (2) Directors. Such special meetings shall be held at the registered office of the Association or at such other location within the Commonwealth of Pennsylvania as may be determined by the person calling such special meeting and as shall be designated in the notice of special meeting.

**5.3 Special Meetings.** Notice of any special meeting of the Board of Directors shall be given at least five (5) days previously thereto by written notice delivered personally or sent by first class mail or telegram to each Director at his address as shown by the records of the Association. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or these By-Laws.

**5.4 Quorum.** A majority of the Directors in office shall be necessary to constitute a quorum for the transaction of business at any meeting of the Board, provided that, if less than all of the Directors in office are present at a meeting, any Director present may adjourn the meeting from time to time without further notice.

**5.5 Majority.** The act of a majority of the Directors shall be the act of the Board of Directors, except where otherwise provided by law or by these By-Laws.

**5.6 Vacancy.** Any vacancy occurring in the Board of Directors, or any Directorship to be filled by reason of any increase in the number of Directors resulting from possible amendment of the Declaration, shall be filled by the Board of Directors appointing a replacement, except that a

vacancy in a Directorship appointed by the Declarant shall be filled by the Declarant appointing a replacement. A Director appointed to fill a vacancy shall be appointed for the unexpired term of his predecessor in office. The term of any Director elected by the Membership shall not be for a set period of time, but shall end upon the election of new Directors by the Membership.

**5.7 Compensation.** Directors as such shall not receive any stated salaries for their services, but by resolution of the Board of Directors, a fixed sum and expenses of attendance if, any, may be allowed for attendance at each regular or special meeting of the Board; provided, that nothing herein contained shall be construed to preclude any Director from serving the Association in any other capacity and receiving compensation therefor.

**5.8 Chairman and Secretary.** Meetings of the Board of Directors shall be presided over by a Chairman to be chosen at the meeting. The Secretary of the Association shall act as Secretary of every meeting, but if the Secretary is not present, the persons present at such meeting shall choose any person present to act as Secretary of the meeting.

**5.9 Action Without Meeting.** Subject to the further specific provisions of these By-Laws, any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if prior to such action, a written consent thereto is signed by all members of the Board of Directors and such written consent is filed with the minutes of proceedings of the Board of Directors.

## **ARTICLE VI - OFFICERS**

**6.1 Officers.** The officers of the Association shall be a President, a Vice President, a Secretary, an Assistant Secretary, and a Treasurer. Officers may hold more than one office; however, the offices of President and Vice President shall not be held by the same person, and the offices of Secretary and Assistant Secretary shall not be held by the same person. Officers shall be elected annually by the Board of Directors at the regular annual meeting of the Board held pursuant to Article IV, Section 4.5 above; provided, however, that the President shall be a Director elected in the initial vote by at least one-third (1/3) of all Members entitled to vote or, if no Directors were elected in the initial vote, then the President shall be a Director who received the most votes in the initial vote. Such officers shall have the authority to and shall perform the duties prescribed, from time to time, by the Board of Directors and as set forth herein.

**6.2 President.** The President shall be the principal executive officer of the Association and shall, in general, supervise and control all of the business and affairs of the Association. He shall preside at all meetings of the Members and of the Board of Directors. He may sign, with the Secretary or any other proper officer of the Association authorized by the Board of Directors, any deed, mortgage, bond, contract, or other instrument which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-Laws or by statute to some other officer or agent of the Association. In general, the President shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

**6.3 Vice-President.** In the absence of the President or in the event of his inability or

refusal to act, the Vice President shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. The Vice President shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

**6.4 Secretary.** The Secretary shall: (i) keep the minutes of the meetings of the Board of Directors in one or more books provided for that purpose; (ii) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; and (iii) be custodian of the Association's records and of the seal of the Association and see that the seal of the Association is affixed to all documents, the execution of which on behalf of the Association under its seal is duly authorized in accordance with the provisions of these By-Laws.

**6.5 Treasurer.** The Treasurer shall have charge and custody of and be responsible for all funds of the Association, receive and give receipts for moneys due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of these By-Laws. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine, which cost shall be an expense of the Association.

## **ARTICLE VII - CONTRACTS, CHECKS, DEPOSITS AND FUNDS**

**7.1 Contracts.** The Board of Directors may authorize any officer or officers, agent or agents of the Association, in addition to the officers so authorized by these By-Laws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association and such authority may be general or confined to specific instances.

**7.2 Checks.** All checks, drafts or other orders for the payment of money, and notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instrument shall be signed by the Treasurer and countersigned by the President or Vice President of the Association, but in all events, two (2) different officers must sign the instrument.

**7.3 Deposits.** All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Directors may select.

**7.4 Gifts.** The Board of Directors may accept on behalf of the Association any contribution, gift, bequest or devise for the general purpose or for any special purpose of the Association.

**7.5 Spending of Budget Reserve.** The Board may spend in any assessment year up to

an aggregate sum of two-thousand (\$2,000.00) dollars for the cost of necessary replacements, repairs, or maintenance and operation of the Common Properties not otherwise included in the annual budget and assessment, provided that such balance of funds exists within the accounts of the Association.

### **ARTICLE VIII - BOOKS AND RECORDS**

**8.1** The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Board of Directors and committees having any of the authority of the Board of Directors.

### **ARTICLE IX - FISCAL YEAR**

**9.1** The fiscal year of the Association shall begin on January 1 and end on December 31 in each year.

### **ARTICLE X - SEAL**

**10.1** The Board of Directors shall maintain a corporate seal which shall be in the form of a circle and shall have inscribed thereon the name of the Association.

### **ARTICLE XI - WAIVER OF NOTICE**

**11.1** Whenever any notice is required to be given under the provisions of the Pennsylvania Non-Profit Corporation Law of 1972, as amended from time to time, or under the provisions of the Articles of Incorporation or the By-Laws of the Association, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

### **ARTICLE XII - INDEMNIFICATION**

**12.1** **Indemnification.** Every person who is or shall be or shall have been an officer, director, employee, agent or other representative of the Association, or a personal representative of any of the aforesaid, shall be indemnified by the Association to the fullest extent allowed by law.

**12.2** **Insurance.** The Association may purchase and maintain insurance on behalf of the aforesaid persons to the extent authorized by law or by the Declaration.

### **ARTICLE XIII - AMENDMENT TO BY-LAWS**

**13.1** These By-Laws may be altered, amended or repealed, and new By-Laws may be adopted, by an affirmative vote of two-thirds (2/3) of all of the Members entitled to vote, provided that: (i) at least five (5) days written notice is given to all Members of the intention to alter, amend,

or repeal or to adopt new By-Laws; (ii) no amendment, modification or repeal of any provision of these By-Laws shall be made which is inconsistent with the provisions of the Declaration, and (iii) the requirement of at least five (5) days written notice to Members of the intention to so amend or repeal, as set forth above in this Article, shall not be amended or repealed.

#### **ARTICLE XIV - ENFORCEMENT**

**14.1 Compliance and Breach.** The Board of Directors shall have the authority to exercise any and all remedies provided in the Declaration, or otherwise provided by law, to enforce the Declaration and the By-Laws, including the right to bring a suit at law or in equity to compel compliance, to restrain or abate any violation, to recover damages, or for payment of assessments or other sums due and owing. In any proceeding to enforce the Declaration and the By-Laws, the Board shall be entitled to recover the costs of such proceedings, including reasonable attorneys' fees, from any Owner or other person violating the Declaration or the By-Laws.

**14.2 Enforcement by Owners: Procedures.**

a) The Board shall have the sole and exclusive authority to collect and to enforce the payment of assessments, and no Member shall have the right to bring any action at law or in equity against any other Member or to collect or to enforce payment of assessments or other sums payable by one or more Members under the Declaration or By-Laws; provided, however, that nothing herein shall be construed to prohibit any Member from commencing an action to compel the Board to proceed against any Member who has failed to pay any assessment if the Board shall have failed and refused to do so without reasonable cause.

b) No Member shall have the right to bring any action at law or in equity to enforce any of the other terms, covenants, restrictions or provisions of the Declaration, or the By-Laws, unless such Member shall have first complied with the complaint procedure set forth in Section 14.3 hereof.

**14.3 Member Complaint Procedure.** In the event that any Member alleges that one or more other Members or occupant of any Lot has violated or is violating any provision of the Declaration or the By-Laws, then prior to commencing any action or suit relating thereto such Member shall first submit the matter to the Board for determination by giving a signed written notice of complaint to the Board specifying with reasonable particularity the name and address of the alleged violator and the activities constituting the alleged violation. Within forty-five (45) days after the receipt of such notice, the Board, or a Committee of the Board, shall investigate the complaint and shall render a written decision as to whether or not the actions complained of constitute a violation of the Declaration or the By-Laws and, if a violation has been determined to exist, a determination of what, if any, relief or remedies the Board deems appropriate under the circumstances. The Board shall have the authority from time to time to promulgate Rules and Regulations relating to the procedure to be followed in cases where a Member files a notice of complaint. In connection with any suit at law or in equity by one or more Members against one or more other Members or occupants of any Lot or Lots alleging any violation of the Declaration or By-Laws, the Board shall have the authority, on behalf of the Association, to intervene in any such proceedings if deemed to be in the best interests of the Association.

\* **WHEREAS**, The Members of The Reserve at Chadds Ford Community Association, by affirmative vote of two-thirds (2/3) of the Members present at a meeting of the Members on March 22, 1999, called with at least five (5) days written notice of intention to amend the By-Laws, resolved to amend the By-Laws; and

**NOW THEREFORE**, the said Amendments to the By-Laws are hereby enrolled in the form set forth above and incorporated with the By-Laws on April 6, 2003.