# BY-LAWS

# OF

# TIMBERGROVE HOMEOWNER'S ASSOCIATION, INC.

## ARTICLE I.

## MEMBERS - (LOT OWNERS)

SECTION 1. Eligibility. The members of TIMBERGROVE HOME-OWNER'S ASSOCIATION, INC., a Louisiana non-profit corporation, shall consist of the respective Lot Owners, including owners of condominium units situated on any such lot (hereinafter referred to as "Owner") in Timbergrove Subdivision, which consists of twenty-seven (27) single-family residential lots designated as Lots 1 through 21 in Square 2; Lots 1 through 6 in Square 2, as shown on a Plan of Subdivision by J. J. Krebs & Sons, Inc. dated October 6, 1981, registered C.O.B. 774, folio 158, and on a Plan of Resubdivision by the same surveyor, dated July 6, 1982, registered C.O.B. 782, folio 179, Orleans Parish, Louisiana, which said Lots are hereafter individually and collectively referred to as the "Property." If a Lot Owner is a corporation or partnership, the member may be an officer, partner or employee of such Lot Owner.

SECTION 2. Succession. The membership of each Owner shall terminate when he ceases to be such an Owner, and upon the sale, transfer or other disposition of his ownership interest in the Property, his membership in the Association shall automatically be transferred to the new Owner succeeding to such ownership interests.

SECTION 3. Regular Meetings. The first regular annual meeting of the Owners (the "First Meeting") may be held, subject to the terms hereof, on any date less than thirty (30) days and not more than eighty (80) days after December 31, 1982. Subsequent to the First Meeting, there shall be a regular annual meeting of the Owners held each year on a date which is within thirty (30) days of the anniversary of the First Meeting. All such Meetings of the Owners shall be held at such place in Orleans Parish, Louisiana and on such date and time as may be specified in a written notice of the meeting which shall be given to all Owners at least ten (10) days prior to the date of such meeting.

SECTION 4. Special Meetings. Special meetings of the Owners may be called by the President or by a majority of the directors of the Board or by Owners having at least two-fifths (2/5) of the votes entitled to vote at such meetings. Said special meetings shall be called by delivering written notice to all Owners not less than ten (10) days prior to the date of said meetings, stating the date, time and place of said special meeting and the matters to be considered.

SECTION 5. Delivery of Notice of Meetings. Notices of any meetings may be delivered either personally or by mail to a Owner at the address given to the Board by said Owner for such purpose, or to the Owner's last known address, if no address for such purpose has been given to the Board.

SECTION 6. Voting. The aggregate number of votes for all Owners initially, shall be twenty-seven (27) and shall be divided among the respective Lot Owners, in accordance with their respective ownership of lots in the Property. If any Lot Owner consists of more than one person, the voting rights of such Lot Owner shall not be divided but shall be exercised as if the Lot Owner consisted of only one person in accordance with the proxy or other designation made by the persons constituting such Lot Owner. If condominium units are built upon any of the Lots, the Owner of any such condominium unit shall be entitled to one vote.

SECTION 7. Quorum. A quorum of Owners for any meeting shall be constituted by Owners represented in person or by proxy of ten (10) Lots, including condominium units.

SECTION 8. Proxies. An Owner may vote by proxy at any meeting of Lot Owners, provided such proxy is in writing and signed by the Owner or his duly authorized attorney-in-fact. All such proxies shall be filed with the Secretary and shall be retained in the records of the Association.

## ARTICLE II.

## BOARD OF DIRECTORS

SECTION 1. Number, Election and Term of Office. The Board of Directors of the Association (referred to herein as the "Board") shall consist of not less than three (3) nor more than five (5) members (hereinafter referred to as "Directors"). Directors shall be elected at the regular annual meeting of Association members by the vote of Owners, except that the Directors listed in the Articles of Incorporation of the Association shall serve as members of the First Board. Those candidates for election as director receiving the greatest percentage of votes cast either in person or by proxy at the meeting shall be elected. The members of the First Board shall serve until the first regular meeting of members held after; provided that until all of the property has been built upon and occupied as single family dwellings, Manor Heights Co., Inc. and Carriage Homes Builders, Inc. shall be entitled to elect all Directors of the Corporation.

SECTION 2. Qualification. Except for members of the First Board, each Director shall be a Owner (or if a Owner is a trustee of a trust, a Director may be a beneficiary of such trust, and if a Owner or beneficiary is a corporation or partnership, a Director may be an officer, partner or employee of such Owner or beneficiary). If a Director shall cease to meet such qualifications during his term, he shall thereupon cease to be a Director and his place on the Board shall be deemed vacant.

SECTION 3. Vacancies. Subject to the provisions of Section 1. of this Article II., any vacancy occurring in the Board shall be filled by a majority vote of the remaining members thereof. Any Director so elected or appointed fill a vacancy shall hold office for a term equal to the unexpired term of the Director whom he succeeds.

SECTION 4. Meetings. A regular annual meeting of the Board shall be held within ten (10) days following the regular annual meeting of Lot Owners. Special meetings of the Board shall be held upon a call by the President or by a majority of the Board on not less than forty-eighty (48) hours notice in writing to each Director, delivered personally or by mail or telegram. Any Director may waive notice of a meeting or consent to the holding of a meeting without notice or consent to any action proposed to be taken by the Board without a meeting. A Director's attendance at a meeting shall be considered his waiver of notice of said meeting.

SECTION 5. Removal. Subject to the provisions of Section 1. of this Article II., any Director may be removed from office for cause by the vote of two-thirds (2/3) of the Owners.

SECTION 6. Compensation. Directors shall receive no compensation for their services as directors unless expressly provided for in resolutions duly adopted by a majority of the Owners.

SECTION 7. Quorum. Two (2) Directors shall constitute a quorum.

SECTION 8. Powers and Duties. The Board shall have the following powers and duties:

(a) To own and administer the Private Street, as well as all other Common Areas, in accordance with establishing Restrictive Covenants, Servitudes, Privileges and Restrictions, created by Manor Heights Co., Inc. and Carriage Homes Builders, Inc., passed before Camille A. Cutrone, Notary Public, on the ____ day of ______________, 1982, registered C.O.B. _____, folio _____.

(b) To administer the affairs of the Association.

(c) To engage the services of an agent (hereinafter sometimes called the "Managing Agent"), to maintain, repair, replace, administer and operate the Private Street and Common Areas, or any par thereof for all of the Lot Owners upon such terms and for such compensation and with such authority as the Board may approve;

(d) To formulate policies for the administration and management of the Private Street and Common Areas;

(e) To adopt rules and regulations, with written notice thereof to all Owners, governing the administration, management, operation and use of the Private Street and Common Areas, and to amend such rules and regulations from time to time;

(f) To impose the charges for late payment of assessments and levy such fines for violation of the by-laws and rules and regulations of the Association as shall be established pursuant to Article IV., Section 8 hereof.

(g) To provide for the maintenance, repair and replacement of the Common Areas including maintenance of the Private Street running through the Property over and above the Common Areas and the subsurface sewerage and drainage and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the manager or Managing Agent;

(h) To provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the service of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Common Areas, and to delegate any such powers to the Managing Agent (and any such employees or other personnel who may be the employees of a Managing Agent);

(i) To appoint committees of the Board, including an Architectural Control Committee, and to delegate to such committees the Board's authority to carry out certain duties of the Board;

(j) To determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;

(k) Unless otherwise provided herein or in the Act referred to in paragraph (a) of this Section 8, to comply with the instructions of a majority of the Owners, as expressed in a resolution duly adopted at any annual or special meeting of the Owners;

(l) To enter into such contracts and agreements relating to the providing of maintenance, management and operational services outside the Common Areas as the Board may deem advisable; and

SECTION 9. Non-Delegation. Nothing in this Article or elsewhere in these By-Laws shall be considered to grant to the Board, the Association or to the officers of the Association any powers or duties which have been reserved or retained by Manor Heights Co., Inc. and Carriage Homes Buildings, Inc., or which, by law, have been delegated to the Owners.

## ARTICLE III.

## OFFICERS

SECTION 1. Designation. At each regular annual meeting of the Board, the Directors present as said meeting shall elect the following officers of the Association by a majority vote:

(a) a President who shall be a Director and who shall preside over the meetings of the Board and of the Owners, and who shall be the chief executive officer of the Association;

(b) A Secretary who shall keep the minutes of all meetings of the Board and of the Owners and who shall in general perform all the duties incident to the office of Secretary and who may be a representative of the Managing Agent;

(c) a Treasurer who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported; and

(d) such additional officers as the Board shall see fit to elect.

SECTION 2. Powers. The respective officers shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

SECTION 3. Term of Office. Each officer shall hold office for the term, of one year and until his successor shall have been appointed or elected and qualified.

SECTION 4. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote of the remaining members thereof at a special meeting of the Board. Any officer so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds. Any officer may be removed for cause at any time by vote of two-thirds (2/3) of the total membership of the Board at a special meeting thereof.

SECTION 5. Compensation. The officers shall receive no compensation for their services unless expressly provided for in a resolution duly adopted by a majority of the Owners.

## ARTICLE IV.

## ASSESSMENTS

SECTION 1. Annual Budget. The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. Such budget for the year including but not limited to salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel power, and all other common elements. To the extent that the assessments and other cash income collected from the Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account. The annual budget shall also take into account the estimated net available cash income for the year from the lease, operation or use of the Common Areas. The annual budget shall provide for a reserve for contingencies for the year and a reserve for replacements, in reasonable amounts as determined by the Board. The annual budget shall not require an assessment of Owners for common expenses in an amount exceeding one hundred fifteen (115%) percent of the common expenses for the preceding year unless such budget is approved by a majority vote of Owners.

SECTION 2. Assessments. The estimated annual budget for each fiscal year shall be approved by the Board, and copies thereof shall be furnished by the Board to each Lot Owner, not later than thirty (30) days prior to the beginning of such year. On or before the first day of the first month and of each succeeding month of the year covered by the annual budget, each Owner shall pay, as his respective monthly assessment for the Common Expenses, one-twelfth (1/12) of his proportionate share of the common expenses for such year as shown by the annual budget. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year or shall be delayed in doing so, each Owner shall continue to pay each month the amount of his respective monthly assessment at last determined. Each Owner shall pay his monthly assessment on or before the first day of each month to the Managing Agent or as may be otherwise directed by the Board. No Owner shall be relieved of his obligation to pay his assessment by abandoning or not using his Lot, or Common Areas.

SECTIC. 3. Partial Year or Mont. For the first fiscal year, the annual budget shall be as approved by the First Board. If such first fiscal year or any succeeding fiscal year, shall be less than a full year, then the monthly assessments for each Owner shall be proportionate to the number of months and days in such period covered by such budget. Commencing with the date that an Owner acquires ownership of his Lot, or condominium unit, he shall pay his assessment for the following month or fraction of a month, and the number of months and days remaining of the period covered by the current annual budget, and which assessment shall be computed by the Board.

SECTION 4. Annual Budget. Within ninety (90) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be funrished to each Owner a statement for each year so ended, showing the receipts and expenditures and such other information as the Board may deem desirable.

SECTION 5. Supplemental Budget. In the event that during the course of any year, if shall appear to the Board that the monthly assessments, determined in accordance with the estimated annual budget for such year, are insufficient or inadequate to cover the estimated common expenses for the remainder of such year, the the Board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Owner, and thereupon a supplemental assessment shall be made on each Owner for his proportionate share of each supplemental budget.

SECTION 6. Expenditures. Except for the Management Agreement described in Article II, Section 8(c) hereof and expenditures and contracts specifically authorized by the Act referred to in Article II., Section 8(a), and By-Laws, the Board shall not approve any expenditure in excess of Five Thousand and No/100 ($5,000.00) Dollars, unless required for emergency repair, protection or operation of the Common Areas, nor enter any contract for more than five (5) years without the prior approval of two-thirds (2/3) of all Owners.

SECTION 7. Lien. It shall be the duty of every Owner to pay his proportionate share of the common expenses, and as assessed in the manner herein provided.

If any Owner shall fail or refuse to make such payment of the Common Expenses when due, the amount thereof, together with interest thereon at the rate of ten (10%) percent per annum from and after said Common Expenses becomes due and payable, shall constitute a lien, enforceable by the Board, on the interest of such Owner in his Lot, provided, however, that such lien shall be subordinate to the lien of any prior recorded mortgage held by any existing mortgage of the lot, its successors and assigns, an insurance company, bank, homestead savings and loan or other financial institution or institutional investors on the interest of each such Owner, except for the amount of the proportionate share of Common Expenses which become due and payable from and after the date on which such mortgage owner or holder either takes possession of the Lot, accepts a conveyance of any interest therein (other than as security), or causes a receiver to be appointed. The provisions of this paragraph of this Section 7. shall not be amended, modified or rescinded in any way without the prior written consent of all such holders of a recorded mortgage encumbering any one or more Lots or condominium units.

The Association or its successors and assigns, or the Board or its agents, shall have the right to maintain a suit to foreclose any such lien for unpaid assessment, and there shall be added to the amount due the costs of said suit and other fees and expenses, together with interest and reasonable attorneys' fees to be fixed by the court. The Board or the Association shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Act referred to in Article II, Section 8(a) or these By-Laws, or as are otherwise available at law or in equity, for the collection of all unpaid assessments.

SECTION 8. Late Charges, Fines and Penalties. In the event that an Owner shall fail or refuse to make payment of his proportionate share of the common expenses when due, such Owner shall pay a penalty of $25.00 as a late charge; and the Association shall not be obligated to receive such Owner's payment of his proportionate share of the common expenses without payment of such late charge. The Association may, after notice and a reasonable opportunity to be heard, levy reasonable fines for violation of the declaration, by-laws and rules and regulations of the Association.

SECTION 9. Records and Statements of Account. The Board shall cause to be kept detailed and accurate records, in chronological order, of the receipts and expenditures affecting the Private Street and Common Areas, specifying and itemizing the Common Expenses incurred. Such records and the vouchers authorizing the payments involved shall be available for examination by the Owners at convenient hours during week days. Payment vouchers may be approved in such manner as the Board may determine. The Board shall cause to be maintained a separate account for ea Lot which shall indicat the name and address of the Owner, the amount of each assessment for Common Expenses, the date on which the Assessment becomes due, amounts paid on the account and any balance due.

The Board shall, upon receipt of ten (10) days' written notice to it or the Association and upon payment of a reasonable fee, furnish to any Owner a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

The Association shall, upon written request, provide written notification to a first mortgagee of any default on the part of an Owner hereunder which is not cured within sixty (60) days.

SECTION 10. Discharge of Liens. The Board may cause the Association to discharge any mechanic's lien or other encumbrance which in the opinion of the Board may constitute a lien against the Private Street or other Common Areas.

SECTION 11. Holding of Funds. All funds collected hereunder shall be held and expended for th epurposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Owners.

## ARTICLE V.

## USE AND OCCUPANCY RESTRICTIONS

SECTION 1. General. Each Lot Owner shall comply with the use and occupancy restrictions set forth in the Act before Camille A. Cutrone, Notary Public, registered C.O.B. _____, folio _____. No unlawful, noxious or offensive activities shall be carried on in any Lot or elsewhere on the Property, nor shall anything be done therein or thereon which shall constitute a nuisance or which shall in the judgment of the Board cause unreasonable noise or disturbance to others.

SECTION 2. Trash. Trash, garbage and other waste shall be kept only in sanitary containers, and shall be disposed of in a clean and sanitary manner as prescribed from time to time in rules and regulations of the Board.

## ARTICLE VI.

## CONTRACTUAL POWERS.

No contract or other transaction between the Association and one or more of its Directors or between this corporation and any corporation, firm or association in which one or more of the Directors of this corporatic.. are Directors, or are financially interested, is void or voidable because such Director of Directors are present at the meeting of the Board or a committee thereof which authorizes or approves the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exist:

(a) the fact of the common directorship or financial interest is disclosed or known to the Board or committee and noted in the minutes and the Board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such Director or Directors; or

(b) the contract or transaction is just and reasonable as to the corporation at the time it is authorized or approved.

Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies a contract or transaction.

## ARTICLE VII.

## INDEMNIFICATION

SECTION 1. General. The Association shall indemnify and hold harmless each of its Directors and officers, each member of any committee appointed pursuant by the By-Laws of the Association, and the Board, against all contractual and other liabilities to others arising out of contracts made by or other acts of such Directors, officers or committee members, on behalf of the Owners, or arising out of their status as Directors, officers, or committee members, unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether criminal, administrative or other, in which any such Director, officer, or committee member, may be involved by virtue of such persons being or having been such Director, officer, Board Committee member, or Declarant; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such Director, officer or committee member or (b) any matter settled or compromised, unless, in the opinion oi independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his duties as such Director, officer of committee member.

SECTION 2. Success on Merits. To the extent that or a member of the Board of Directors or an officer of the Association or a member of any committee appointed pursuant to the By-Laws of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding, referred to in Section 1., or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurreed by him in connection therewith.

SECTION 3. Advance Payment. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized in this Article VII.

SECTION 4. Miscellaneous. The Association and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations under this Article; provided, however, that the liability of any Owner arising out of any contract made by or other acts of the Directors, officers or members of such committee, or out of the aforesaid indemnity in favor of the Directors, officers or members of such committees, shall be limited to such proportion of the total liability hereunder as said Owner's ownership bears to the total number of Lots comprising the Property. Every agreement made by the Directors, officers or members of such committees, or by the Managing Agent on behalf of the Owners shall provide that the Directors, officers or members of such committees, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder. The indemnification provided by this Article VIII. shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board of Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity who has ceased to be Declarant or a member of the Board of Directors, officer of the Association or a member of such committee, and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of such person or entity.