

BY-LAWS
OF
TURNBERRY HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

The name of the corporation is TURNBERRY HOMEOWNERS ASSOCIATION, INC. (hereinafter referred to as the “Association”). The principal office of the Association shall be located at 3400 Latrobe Drive, Charlotte, NC 28222. The location of the principal office of the Association may be changed by the Board of Directors. Meetings of members and directors may be held at such places within Mecklenburg County, North Carolina, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. “Association” shall mean and refer to TURNBERRY HOMEOWNERS ASSOCIATION, INC., a North Carolina non-profit corporation, its successors and assigns.

Section 2. “Turnberry Subdivision” or “Property” shall mean and refer to the property shown on that map recorded in Map Book 26 at Page 391 of the Mecklenburg Public Registry, and additions or deletions as are subjected to the Declaration under the provisions of Sections 17 and 18 of the Declaration.

Section 3. “Lot” shall mean and refer to any improved or unimproved parcel of land, with delineated boundary lines, appearing on any recorded subdivision map of the Property, with the exception of any publicly-dedicated rights-of-way shown thereon. In the event any Lot is increased or decreased in size by resubdivisions, through recordation of new subdivision plats, any such newly platted Lot shall thereafter constitute a Lot for the purposes of the Declaration.

Section 4. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 5. “The New Fortis Corporation shall individually and collectively mean and refer to The New Fortis Corporation, a North Carolina Corporation, its successors or assigns, if such successors or assigns should acquire more than one

undeveloped lot from The New Fortis Corporation for the purpose of development or if such successors or assigns should acquire more than one lot, whether developed or undeveloped, pursuant to foreclosure or a deed in lieu of foreclosure (“successors” includes any lender with respect to loans obtained by The New Fortis Corporation to develop the properties).

Section 6. “Declaration” shall mean and refer to that certain Declaration of Covenants, Conditions, and Restrictions for Turnberry Subdivision, to be recorded in the Mecklenburg County Registry.

Section 7. “Member” shall mean and refer to every person or entity who holds membership in the Association.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Members. The New Fortis Corporation, for so long as it shall be an owner, and every person or entity who is a record owner of a fee simple or undivided fee simple interest in a Lot shall be a Member of the Association; provided, however, that any such person or entity who holds such title or interest merely as security for the performance of an obligation shall not be a Member of the Association. Membership shall be appurtenant to any may not be separated from ownership of a Lot. The Board of Directors may make reasonable rules relating to the proof of ownership of a dwelling unit or site in Turnberry Subdivision. No owner shall have more than one Membership, except as expressly provided hereinafter.

Section 2. Member Classes and Voting Rights. The Association shall have two (2) classes of voting Members:

Class A. Class A Members shall be all Owners with the exception of The New Fortis Corporation, until it’s Class B Membership has converted to Class A Membership. Class A Members shall be entitled to one (1) vote for each dwelling unit or site in which they hold the required ownership interest.

Class B. The Class B Member shall be The New Fortis Corporation. The Class B Member shall be entitled to three (3) votes for each dwelling unit or site in which it holds the required ownership interest, provided that the Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs first:

- (a) The total votes outstanding in Class A Membership equals the total votes outstanding in the Class B Membership; provided, that the Class B Membership shall be reinstated with all rights,

privileges, responsibilities and voting power if, after conversion of the Class B Membership to Class A Membership, as provided hereunder, and before the time stated in sub-paragraph (b) below, additional lands are annexed to the Properties without the assent of the Class A Members on account of the development of such additional lands by The New Fortis Corporation, all within the times and as provided for herein, or

(b) December 31, 2000. Thereafter, The New Fortis Corporation may be entitled to one (1) vote per dwelling unit or site owned by it.

Section 3. Voting Right Suspension. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations.

Section 4. Voting. The total vote of the Association shall consist of the sum of votes of the Class A Members and the votes of Class B Members present in person or by proxy at a legally constituted meeting at which a quorum is present. The number of votes present at a meeting that will constitute a quorum shall be as set forth in Section 5 of Article IV. Notice requirements for all action to be taken by the Members of the Association shall be as set forth herein, as may be amended from time to time.

When more than one person holds an interest in any dwelling unit or site, all such persons shall be Members; and the vote for such dwelling unit or site shall be exercised as they among themselves determine; however, in no event may more than one vote be cast with respect to any one dwelling unit or site owned by Class A Members and in no event shall fractional votes be allowed. When one or more co-owners signs a proxy or purports to vote for his or her co-owners, such vote shall be counted unless one or more other co-owners is present and objects to such a vote or, if not present, submits a proxy or objects in writing delivered to the Secretary of the Association before the vote is counted.

A person's or entity's membership in the Association shall terminate automatically whenever such person or entity ceases to be an Owner, but such termination shall not release or relieve any such person or entity from any liability or obligation incurred under or in any way connected with the Association or this Declaration during the period of such ownership, or impair any rights or remedies which the Association or any other Owner has with regard to such former Owner.

Section 5. Right of The New Fortis Corporation to Representation on Board of Directors of the Association. Notwithstanding anything contained herein to the contrary, until December 31, 1998, or until The New Fortis Corporation shall have conveyed seventy five percent (75%) of the Property, whichever occurs first, The New Fortis Corporation (or its expressed assignee of the right granted in this section) shall have the right to designate and select at least two-thirds majority of the Board of Directors of the Association. Whenever The New Fortis Corporation shall be entitled to

designate and select any person or persons to serve on any Board of Directors, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or By-Laws of the Association. The New Fortis Corporation shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and replace such person or persons with another person or persons to act and serve in the place of any director or directors so removed. Any director designated and selected by The New Fortis Corporation serving on the Board of Directors of the Association shall not be required to disqualify himself from any vote upon any contract or matter between The New Fortis Corporation and the Association where The New Fortis Corporation may have pecuniary interest or other interest.

ARTICLE IV

MEETINGS OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within one year from the date of incorporation of the Association. Each subsequent regular meeting of the Members shall be held in the same month of each year thereafter unless a different date is fixed by the Board of Directors.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the President, the Board of Directors, or upon written petition of the Members who are entitled to vote one-tenth (1/10) of all votes of Class A and Class B membership. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in said notice.

Section 3. Place of Meetings. Meetings of the Members shall be held at such place, within Mecklenburg County, North Carolina, as may be determined by the Board of Directors.

Section 4. Notice of Meetings. Except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws, written notice of each meeting of the Members shall be given to each Member entitled to vote thereat, such notice being given by or at the direction of the Secretary or other person authorized to call the meeting, by hand delivery or by mailing a copy of such notice, postage prepaid, not less than ten (10) days nor more than fifty (50) days before the date of the meeting, addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in case of a special meeting, the exact purpose of the meeting. Attendance by a Member at any meeting of Members shall be waiver of notice to him as to the time, place, and purpose thereof. Attendance at a meeting or a waiver of notice signed by one Owner in the event of multiple ownership of a dwelling unit or site shall be considered a waiver of notice as to the Owners of that dwelling unit or site.

Section 5. Quorum. Except as otherwise provided in the Article of Incorporation, the Declaration, or these By-Laws, the presence at the meeting of Members or of proxies entitled to cast, twenty percent (20%) of the votes appurtenant to each Class of Lots (Class A, and Class B) shall constitute a quorum for any action. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

Section 6. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

Section 7. Informal Action by Members. Any action which may be taken at a meeting of the Members may be taken without a meeting if a consent in writing setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the minute book of the Association.

ARTICLE V

BOARD OF DIRECTORS

Section 1. General Powers. The business and affairs of the Association shall be managed by a Board of Directors.

Section 2. Number, Term and Qualification. The number of directors of the Association shall be three (3) until the first annual meeting of the Association, at which time the number of Directors may be increased to five (5). At the first annual meeting, the Members may elect one director to serve for a term of one year, two directors to serve for a term of two years, and two directors to serve for a term of three years, should they elect to increase the number of directors to five (5). If the Members elect to continue to maintain a board of three (3) members, they shall elect a one, two and three year director at the first annual meeting. At each annual meeting thereafter, the Members shall elect the number of directors needed to fill the vacancy or vacancies created by the director or directors whose term(s) is (are) expiring to serve for a term of three (3) years. Directors need not be members of the Association.

Section 3. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting. The Nominating Committee shall make as

many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-Members.

Section 4. Election. Except as provided in Section 6 of this Article, the directors shall be elected by secret written ballot at the annual meeting of the Members. In such election, the Members or their proxies may cast, with respect to each vacancy, as many votes as they are entitled under the provisions of Article III of these By-Laws. The persons receiving the highest number of votes shall be elected. Cumulative voting is not permitted.

Section 5. Removal. Any director may be removed from the Board with or without cause, by a majority vote of the Members.

Section 6. Vacancies. A vacancy occurring in the Board of Directors may be filled by the selection by the remaining directors of a successor, who shall serve for the unexpired term of his predecessor. The Members may elect a director at any time to fill any vacancy not filled by the directors.

Section 7. Compensation. No director shall receive compensation for any service he may render to the association in the capacity of director. However, any director may be reimbursed for actual expenses incurred in the performance of his duties.

ARTICLE VI

MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held at least quarterly, without notice and at such place and hour as may be fixed from time to time by the Board of Directors.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4. Informal Action by Directors. Any action which may be taken at a meeting of the Board of Directors may be taken without a meeting if written consent to the action so taken is signed by all the directors and filed with the minutes of the proceedings of the Board, whether done before or after the action is so taken.

Section 5. Chairman. A Chairman of the Board of Directors shall be elected by the directors and shall preside over all Board meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of President, a Chairman shall be elected by the Board of Directors to serve until a new President is elected.

Section 6. Participation In Meetings by Means of Conference Telephone. Members of the Board of Directors, or any committee of the Board, may participate in a meeting of the Board or of such committee by means of a conference telephone or similar communications device by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

- (a) exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;
- (b) declare the office of a Member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Directors;
- (c) employ a manager, independent contractors, or such other employees as it deems necessary and prescribe their duties; and to contract with a management company to manage the operation of the Association. In the event a contract is entered into with a management company, such contract must be terminable by the Board of Directors without cause or penalty on not more than ninety (90) days notice and any management contract made with the Declaration shall be for a term of not more than three years;
- (d) employ attorneys to represent Association when necessary; and
- (e) appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- (a) cause to be kept as complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members or at any special meeting when such statement is requested in writing by Members entitled to at least one-fourth ($\frac{1}{4}$) of the votes appurtenant to Class A Lots;

- (b) supervise all officers, agents and employees of the Association and see that their duties are properly performed;
- (c) as more fully provided in the Declaration, to:
 - (1) fix the amount of the annual assessment against each Lot at least thirty (30) days before January 1 of each year.
 - (2) send written notice of each assessment to every Owner subject thereto at least fifteen (15) days and before January 1 of each year.
 - (3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same.
- (d) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and
- (e) provide such notices to and obtain such consents from the owners and holders of first deeds of trust on Lots within Turnberry Subdivision as is required by the Declaration or these By-Laws.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of the Association shall be a President, who shall at all times be Members of the Board of Directors, a Secretary, and a Treasurer (or a single Secretary/Treasurer), and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, be removed, or be otherwise disqualified to serve.

Section 4. Special Appointment. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

Section 5. Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving

written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

(a) President. Shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board are carried out, shall sign all leases, promissory notes, mortgages, deeds and other written instruments, and, in the absence of the Treasurer, shall sign all checks.

(b) Vice-President. The Vice-President shall act in the place instead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, keep corporate seal of the Association and affix it on all papers requiring a seal, serve notice of meetings of the Board and of the Members, keep appropriate current records showing the Members of the Association and their addresses, and perform such other duties as required by the Board.

(d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all funds of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all checks of the Association, shall keep proper books of account, shall cause an annual audit of the Association's books to be made by an independent public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE IX

COMMITTEES

The Board of Directors of the Association shall appoint a Nominating Committee, as provided in these By-Laws, and may appoint as Architectural Review Committee, as

provided in the Declaration. The Board of Directors may appoint such other committees as it deems appropriate in carrying out its purpose.

ARTICLE X

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member or his authorized agent with just cause and by appointment. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XI

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: Turnberry Homeowners Association, Inc., Charlotte, North Carolina, 1995.

ARTICLE XIII

AMENDMENTS AND CONFLICTS

Section 1. Amendments. These By-Laws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present at a meeting duly called for such purpose, in person or by proxy, except that the Federal Housing Administration, the Veterans Administration or the Federal National Mortgage Association shall have the right to veto amendments while there is a Class B Membership.

Section 2. Conflicts. In case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIV

FISCAL YEAR

The fiscal year of the Association shall begin on the first day of January and end on the last day of December of every year, except that the first fiscal year shall begin on the date of Incorporation.