

**LEXINGTON COMMUNITY ASSOCIATION, INC.**

**AMENDED AND RESTATED**

**BY-LAWS**

**March 26, 2019**

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**AMENDED AND RESTATED  
BY-LAWS FOR  
LEXINGTON COMMUNITY ASSOCIATION, INC.  
A CORPORATION NOT FOR PROFIT ORGANIZED UNDER THE LAWS  
OF THE STATE OF FLORIDA**

SUBSTANTIAL REWORDING OF BY-LAWS. PLEASE SEE ORIGINAL BY-LAWS AS RECORDED IN OFFICIAL RECORDS BOOK 2662 PAGES 1457 THRU 1477 AND LATER AS AMENDED IN OFFICIAL RECORDS BOOK 03329 PAGES 2014 THRU 2023; OFFICIAL RECORDS BOOK 03823 PAGES 4321 THRU 4322 AND OFFICIAL RECORDS BOOK 04138 PAGE 609 IN THE PUBLIC RECORDS FOR LEE COUNTY, FLORIDA.

The Association, through its President and Secretary, as representatives of the members in **Lexington Community Association, Inc.**, pursuant to the amendment powers contained in the By-Laws, after proper notice and discussion, and after recommendation and approval, file these Amended and Restated By-Laws.

**1. Identity.** These are the amended and restated By-Laws of Lexington Community Association, Inc., a corporation not for profit organized under the laws of the State of Florida and organized for the purposes set forth in Articles of Incorporation. These By-Laws as amended and restated replace in their entirety those recorded as above set forth.

1.1 Fiscal year. The fiscal year of the Association shall be the twelve month period commencing May 1<sup>st</sup> of each year and terminating April 30<sup>th</sup> of the succeeding year.

1.2 Seal. The seal of the Association shall bear the name of the corporation, the word “Florida”, the words “Corporation Not For Profit”, and the year of Incorporation.

**2. Definitions.** For Convenience, these By-Laws shall be referred to as the “By-Laws” and the Articles of Incorporation as the “Articles”. The other terms used in these By-Laws shall have the same definitions and meanings as those set forth in the **Declaration of Covenants for Lexington Country Club**, as amended and/or restated, unless herein provided to the contrary, or unless context otherwise requires.

### **3. Member Meetings.**

3.1 Annual Meeting. The annual meeting of the Members shall be held on a date in the month of March, or at a date, place and time determined by the Board of Directors from time to time, unless changed by the Board of Directors on written notice to the Members. The purpose of the meeting shall be, except as provided herein to the contrary, to install Directors and to transact any other business authorized to be transacted, or as stated in the notice of the meeting sent to Members in advance thereof.

3.2 Special Meetings. Special Members' meetings shall be held at such places as provided herein for annual meetings, and may be called by the President or by a majority of the Board of Directors of the Association, and must be called by the President or Secretary upon written request from the Members having the power to cast a majority of votes of the Association. The business conducted at a special meeting shall be limited to that stated in the notice of the meeting.

3.3 Attendance by Owners. All meetings of members shall be open to all Owners and to the extent required by law members shall be entitled to speak.

3.4 Notice of Meeting: Waiver of Notice. Notice of meeting of Members (annual or special), stating the time and place and the purpose for which the meeting is called, shall be given to the Members by the President or Secretary. A copy of the notice shall be posted at a conspicuous place on The Properties for at least forty-eight (48) continuous hours prior to the meeting. The notice of the annual meeting shall be hand delivered, electronically transmitted or sent by regular mail to each Member. In addition the notice may be broadcast on the Common Communication System of the Association not less than fourteen (14) days before any special or annual meeting. The posting and mailing for either a special or annual meeting, which notice shall incorporate an identification of agenda items in case of special meetings, shall be effected not less than fourteen (14) days, nor more than sixty (60) days, prior to the meeting. The Board shall adopt by rule, and give notice to all Neighborhood Associations and Neighborhood Committees of, the specific location on The Properties upon which all notices of meetings shall be posted.

Notice of special meetings may be waived before or after the meeting and the attendance of any Member, either in person or by proxy, shall constitute such Member's waiver of notice of such meeting, and waiver of any and all objections to the place of the meeting, the time of the meeting or the manner in which it has been called or convened, except when the member's attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

An Officer of the Association, or the manager or other person providing notice of a meeting, shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the Association, affirming that notices of meetings were posted and mailed, electronically transmitted or hand delivered in accordance with this Section. No other proof of notice of meeting shall be required.

3.5 Quorum. A quorum at Members' meetings shall be attained by the presence, either in person or by proxy, of thirty percent (30%) of the Members entitled to cast votes at the subject meeting.

3.6 Voting.

3.6.1 Number of Votes. Each Member shall have one (1) vote for each Lot owned, provided that only one (1) vote may be cast for a single lot

3.6.2 Majority Vote. The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum shall have been attained shall be binding for all purposes, except where otherwise provided by law, the Declaration, the Articles or these By-Laws. As used in these By-Laws, the Articles or the Declaration, the terms "majority of Owners" and "majority of the Members" shall mean a majority of the votes entitled to be cast by the Members and shall further mean more than fifty percent (50%) of the then total authorized votes present in person or by proxy at any meeting at which a quorum shall have been attained. Similarly, if some different percentage of Members or votes is required herein or in the Declaration or Articles, it shall mean such different percentage of votes.

3.7 Proxies. Votes to be cast by Members at meetings of the Association Members may

be cast in person or by proxy. However, votes to be cast for the election of Directors to the Association's Board of Directors shall be cast pursuant to **Section 4.2** hereof. A proxy may be made by any Person entitled to vote, but shall only be valid for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it is given. Every proxy shall be revocable at any time at the pleasure of the Person executing it. A proxy must be in writing, signed by the Person authorized to cast the vote for the Unit, name the Person voting by proxy and the person authorized to vote on behalf of such Person and filed with the Secretary (or in the case of the election of a Neighborhood Committee after the Chair thereof has been elected, the Chair of the Committee) before the appointed time of the meeting, or before the time to which the meeting is adjourned. Each proxy shall contain the date, time and place of the meeting for which it is given and, if a limited proxy, shall set forth the matters on which the proxy holder may vote and the manner in which the vote is to be cast. There shall be no limitation on the number of proxies which may be held by any person. If a proxy expressly provides, any proxy holder may appoint, in writing, a substitute to act in his/her/its place. If such provision is not made, substitution is not permitted.

3.8 Adjourned Meetings. If any proposed meeting cannot be organized because a quorum has not been obtained, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for giving notice of a meeting. Except, as required above, proxies given for the adjourned meeting shall be valid for the newly scheduled meeting unless revoked for reasons other than the new date of the meeting.

3.9 Order of Business. If a quorum has been attained, the order of business at annual meetings, special meetings or Neighborhood meetings shall be:

- (a) Call to Order by President (or Neighborhood Committee Chair)
- (b) Appointment by the President of a Chair of the Meeting (who need not be a Member or a Director)
- (c) Proof of Notice of the Meeting or Waiver of Notice

- (d) Reading of Minutes
- (e) Reports of Officers
- (f) Reports of Committees
- (g) Unfinished Business
- (h) Elections
- (i) New Business
- (j) Adjournment

Such order may be waived in whole or in part by direction of the Chair of the meeting.

3.10 Minutes of Meeting. The minutes of all meetings shall be kept in a book available for inspection by Owners or their authorized representatives and members of the Board of Directors at any reasonable time, but not as to matters covered by attorney-client privilege or other matters privileged or protected by law. The Association shall retain these minutes for a period of not less than seven (7) years.

3.11 Action Without A Meeting. Anything to the contrary herein, notwithstanding, to the extent lawful, any action required or which may be taken at any annual or special meeting, may be taken without a meeting, without prior notice and without a vote if a consent in writing, setting forth the action so taken, shall be signed by the Owners entitled to vote thereon as if such were present and voted. In order to be effective, the action must be evidenced by one or more written consents describing the action taken, dated and signed by approving persons having the requisite number of votes and entitled to vote on such action, and delivered to the Secretary of the Association, or other authorized agent of the Association. Written consent shall not be effective to take the corporate action referred to in the consent unless signed by Members having the requisite number of votes necessary to authorize the action within sixty (60) days of the date of the earliest dated consent and delivered to the Association as aforesaid. Any written consent may be revoked prior to the date the Association receives the required number of consents to authorize the proposed action. A revocation is not effective unless in writing and until received by the Secretary of the Association, or other authorized agent of the Association. Within ten (10) days after obtaining such authorization by written consent, notice must be given to Members who have not consented in writing. The notice shall



fairly summarize the material features of the authorized action. A consent signed in accordance with the foregoing has the effect of a meeting vote and may be described as such in any document.

#### **4. Directors.**

4.1 Number, Qualifications and Proxy Prohibition. The affairs of the Association shall be governed by a Board of seven (7) Directors who shall be Members. Directors must be natural persons who are eighteen (18) years of age or older. Directors may not vote at Board meetings by proxy.

4.2 Election of Directors. Members of the Board of Directors shall be elected by written ballot, which ballot has been cast by the Member entitled to vote and further subject to the election of directors requirements set forth in **Article III, Section 2 (a) of the Declaration**. Proxies may not be used to elect the Board of Directors for the Association by the Neighborhood Associations or Neighborhood Committees. The Association shall prepare and cause to be printed a sufficient number of ballots for the election. Not less than sixty (60) days before a scheduled election the Association shall mail by separate Association mailing, to each Member entitled to vote, a first notice of the date of the Neighborhood election along with a blank candidate information sheet. Any Member desiring to be a candidate for the Association's Board of Directors must return written notice to the Association not less than forty (40) days before a scheduled election. Notice of intent to be a candidate must be sent by mail or electronically and must be received by the Association at least forty (40) days in advance of the scheduled election in order for a candidate's name to be placed on ballot, provided, however, this does not apply to any candidate placed on a ballot by nomination from the floor during the scheduled election. No less than fourteen (14) days prior to the scheduled election, the association shall mail a second notice of the election to all members entitled to vote therein, together with a ballot which shall list all candidates for that Neighborhood's Director position on the Association's Board of Directors. Upon request of a candidate, the Association shall include his or her candidate information sheet (no larger than 8 and ½ inches by 11 inches) which must be furnished by the candidate to the Association thirty-five (35) days before to the election, to be included with the mailing of the ballot, with the cost of the mailing

and copying to be borne by the Association. **However, the Association has no responsibility for or liability for the truth or accuracy of contents of the information sheets prepared by the candidates.** The names of the candidates on the ballot shall be listed alphabetically by surname. Ballots shall contain appropriate space to facilitate nominations from the floor to the extent required by law. Absentee ballots to be cast must be received by the Association Secretary by 5:00 PM Eastern time on the day preceding the election. The Secretary shall count and tabulate the absentee ballots and the Secretary or the Secretary's duly appointed representative shall cast the tabulated absentee ballot results at the Neighborhood meeting. Elections shall be decided by a plurality of those ballots cast. In the event that only one candidate has qualified to run for a position on the Board of Directors of the Association from a Neighborhood, such candidate shall be declared elected. No Unit Owner shall permit any other person to vote his, her or its ballot. Any ballots determined to be improperly cast shall be declared invalid. Results of an election shall be furnished by the Association Secretary to any Member upon their request.

#### 4.3 Vacancies and Removal.

4.3.1 Vacancies. Except as to vacancies resulting from removal of Directors by Members (as addressed in 4.3.2 below) if a vacancy occurs on the Association's Board of Directors between annual meetings of Members, the affected Neighborhood Association or Neighborhood Committee shall conduct a special election to fill the unexpired term of the person leaving the Board. However, if 90 days or fewer remained on the term of the person leaving the Board as of the effective date of the vacancy, then the President or Committee Chairperson of the affected Neighborhood Association or Neighborhood Committee shall fill the unexpired term of the person leaving the Board. If the President or Committee Chairperson of the affected Neighborhood Association or Neighborhood Committee is unwilling or unable to serve on the Board, then the affected Neighborhood Association or Neighborhood Committee shall appoint someone to fill the unexpired term of the person leaving the Board.

4.3.2 Removal. Any Association Director elected by Neighborhood Members may

be removed by concurrence of a majority of the votes of that Neighborhood's Members at a special meeting called for that purpose or by written agreement signed by that Neighborhood's Members entitled to cast a majority of all the Neighborhood's votes. The vacancy in the Association's Board of Directors so created shall be filled by that Neighborhood's Members at a special meeting called for such purpose.

4.4 Term. Except as provided in the **Articles of Incorporation, Article V**, the term of each Director's service shall be two (2) years or until his successor is duly elected and has taken office, or until removed in the manner provided in Section 4.3.2 above.

4.5 Organizational Meeting. The organizational meeting of newly-elected Directors shall be held within ten (10) days of the date of the annual meeting where the new Directors have been installed. The Directors calling the organizational meeting shall give at least three (3) days advance notice thereof, stating the time and place of the meeting.

4.6 Meetings. Meetings of the Board of Directors may be held at such time and place as shall be determined from time to time, by a majority of the Directors. Notice of meetings shall be given in accordance with applicable Florida law to each Director, personally or by mail (surface or electronic), telephone or telegraph, and shall be transmitted at least three (3) days prior to the meeting. Meetings of the Board of Directors at which a quorum of the Board is present shall be open to all Owners. To the extent the law otherwise grants a member the right to speak, a member shall have that right. In addition, any Member has the right to speak after the meeting is called to order and prior to the first agenda item of a meeting of the Board of Directors, provided that such Member gives advance notice in writing of a desire to speak and limits his or her comments to a maximum time of three (3) minutes or as otherwise provided by law.

Members shall be given fourteen (14) days advance notice of any meeting when the purpose of such meeting is to discuss a special assessment or to promulgate rules or any changes to use of Lots in accordance with the requirements of this Section.

4.6.1 Special Meetings. Special meetings of the Directors may be called by the President and must be called by the President or Secretary at the written request of one-third (1/3) of the Directors.

4.7 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said Director of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of such meeting, and a waiver of any and all objections to the place of the meeting, to the time of the meeting or the manner in which it has been called or convened, except when a Director states at the beginning of the meeting, or promptly upon arrival at the meeting, any objection to the transaction of affairs because the meeting is not lawfully called or convened.

4.8 Quorum and Voting. A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors present in person or by speakerphone conference call. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors, or certain specified Directors, is specifically required by the Declaration, the Articles or these By-Laws.

4.8.1 Director's Vote. Each Director shall have one (1) vote on all matters coming before the Board, such vote to be cast only by the Director (i.e., not by proxy).

4.9 Adjourned Meetings. If at any proposed meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present, provided notice of such newly scheduled meeting is given as required hereunder. At any newly scheduled meeting, any business that might have been transacted at the meeting as originally called may be transacted.

4.10 Joinder in Meeting by Approval of Minutes. The joinder of a Director in the action of a meeting by signing and concurring in the minutes of that meeting shall constitute the approval of that Director of the business conducted at the meeting, but such joinder shall not allow the applicable Director to be counted as being

present for purposes of a quorum.

4.11 Presiding Officer. The presiding officer at Directors' meetings shall be the President (who may, however, designate any other person to preside). In the absence of the President the Vice President shall preside.

4.12 Order of Business. If a quorum has been attained, the order of business at Directors' meetings shall be:

- (a) Proof of Notice of meeting;
- (b) Reading and disposal of any unapproved minutes;
- (c) Reports of officers and committees;
- (d) Election of officers;
- (e) Unfinished business;
- (f) New business;
- (g) Adjournment.

Such order may be waived in whole or in part by direction of the presiding officer.

4.13 Minutes of Meetings. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Directors, Members or their authorized representatives, at any reasonable time, provided, however, minutes of meetings between the Board of Directors and an attorney or with regard to personnel matters may not be made available for inspection by Members or their representatives. The Association shall retain these minutes for a period of not less than seven (7) years.

4.14 Committees Generally. The Board may by resolution also create Committees and appoint persons to such Committees and vest in such Committees such powers and responsibilities as the Board shall deem advisable.

4.15 Neighborhood Committees.

- (a) Owners of Units in a neighborhood of the Association shall meet annually to elect a Neighborhood Committee, as defined in the **Declaration**. Notice for such annual meeting shall be posted by the Secretary of the Association at a conspicuous place on The Properties at least fourteen (14) days prior to the meeting. The quorum for the meeting shall be Owners representing at least a majority of the Units

in the neighborhood, in person or by proxy.

(b) The Owners shall elect a five (5) person Neighborhood Committee by casting votes (in person or by proxy, which may be a general proxy to the extent permitted by law) for up to five (5) candidates. The persons receiving the five (5) highest votes shall be declared elected as the Neighborhood Committee until the next annual meeting of the neighborhood.

(c) Within five (5) days of its election the Neighborhood Committee shall hold an organizational meeting at which it shall, at a minimum (i) elect a Chair and (ii) establish a date, place and time for the annual meeting of the Owners. The Chair shall then advise the Secretary of the Association of the results of the foregoing actions.

(d) At each subsequent annual meeting, which shall be conducted as aforesaid and at which the Chair of the Neighborhood Committee shall preside, a new election of the Neighborhood Committee shall be held per (a) and (b) above, and the Neighborhood Committee shall then proceed per (c) above. A Neighborhood Committee member may be re-elected as many times as he/she receives the requisite number of votes.

(e) The Neighborhood Committee need not meet more than annually but may meet as often as it deems appropriate (and shall meet within a reasonable time after the Board of Directors requests that it do so for the purpose of responding to any questions put to it by the Board), but other than as provided in (c) above shall be advisory only.

(f) In the event of a vacancy on a Neighborhood Committee, the remaining members thereof shall select an Owner from the Neighborhood to serve until the next annual meeting of such Neighborhood.

(g) The foregoing shall not apply to a Board of Directors of a Neighborhood Association, which shall be elected and governed by its own Declaration, By-Laws and Articles of Incorporation.

## 5. Authority of the Board.

5.1 Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles or these By-Laws may not be delegated to the Board of Directors by Owners. Such powers and duties of the Board of Directors shall include, without limitation (except as limited elsewhere herein), the following:

- (a) Operating and maintaining (whether entirely or in supplement to other maintenance) all types of Common Areas and other Association property and the Surface Water Management System
- (b) Determining the expenses required for the operation of the Association and The Properties.
- (c) Employing and dismissing the personnel necessary for the maintenance and operation of the Common Areas and the Association's property.
- (d) Adopting and amending rules and regulations concerning the details of the operation and use of The Properties.
- (e) Maintaining bank accounts on behalf of the Association and designating the signatories required therefor.
- (f) Purchasing, leasing or otherwise acquiring title to, or interest in, property in the name of the Association or its designees, for the use and benefit of its Members.
- (g) Purchasing, leasing or otherwise acquiring Lots, Units or other property, including, without limitation, Lots, Units or other property at foreclosure or other judicial sales, all in the name of the Association, or its designee.
- (h) Selling, leasing, mortgaging or otherwise dealing with Lots, Units or other

property acquired by the Association, or its designee.

(i) Organizing corporations and appointing persons to act as designees for the Association in delegable matters

(j) Obtaining and reviewing insurance for the Common Areas, the Association and the Directors and Officers.

(k) Making repairs, additions and improvements to, or alterations of Common Areas and repairs to and restoration of same, in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or otherwise.

(l) Enforcing obligations of the Owners, allocating revenue and expenses and taking such other actions as shall be deemed necessary and proper for the sound management of the Association.

(m) Levying fines against, and ordering suspensions of privileges for, applicable Owners in accordance with the Declaration.

(n) Borrowing money on behalf of the Association when required in connection with the operation, care, upkeep and maintenance of Common Areas or the acquisition of real property, and granting mortgages on and/or security interests in Association Owned property, provided, however, that the consent of the Members having power to cast at least two thirds (2/3rds) of the votes cast by the Members shall be required for the borrowing of any sum which would cause the total outstanding indebtedness of the Association to exceed an amount equal to ten percent (10%) of the budgeted gross expenses of the Association for the fiscal year in which the vote is taken.

(o) Contracting for the management and maintenance of the Common Areas and the Association and authorizing a duly licensed management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records,



enforcement of covenants, restrictions and rules and maintenance, repair and replacement of the Common Areas and other Association property with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the Declaration, the Articles and these By-Laws, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association in accordance with Chapter 720 of the laws of the State of Florida regarding competitive bidding procedures for certain contracts for equipment, materials and services.

(p) Contracting with the County and other governmental and quasi-governmental entities.

(q) Adopting and administering a hurricane education and hurricane evacuation plan in accordance with applicable governmental requirements.

(r) Exercising (i) all powers specifically set forth in the Declaration, the Articles, these By-Laws and applicable laws and regulations of the State of Florida, (ii) all powers incidental thereto, and (iii) all other powers of a Florida corporation not for profit.

(s) All of the foregoing is expressly limited by the provisions of the Declaration prohibiting or qualifying certain actions including, but without limitation, as set forth therein with respect to violation hearings, dispute resolution and litigation.

5.2 Emergency Powers. In the event of any “emergency” as defined Paragraph (k) of this Section below, and a quorum of the Board is not available or otherwise not feasible to obtain, the Board with no less than three (3) Directors present and voting in person or by phone may exercise the emergency powers described in this Section and any other emergency powers authorized by Sections 617.0207 and 617.0303, Florida Statutes (2005), as amended from time to time.

(a) The Board may name as assistant officers persons who are not Directors, which assistant officers shall have the same authority as the executive officers to whom

they are assistant during the emergency, to accommodate the incapacity or absence of any officer of the Association to whom they are assistant.

(b) The Board may relocate the principal office of the Association or designate alternative principal offices or authorize the Association's officers to do so.

(c) During any emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practicable manner, including, without limitation, e-mail, publication, radio, surface mail, telephone or television, and on shortened advance notice and posting, provided proof of notice is attached to any meeting minutes.

(d) During an emergency, the Board may change or postpone any annual meeting date scheduled to take place during the anticipated period of the emergency to a date and time determined by the Board, even if such change will result in not holding an annual meeting in a particular calendar year, as long as the annual meeting is held no more than eighteen (18) months after the prior annual meeting date.

(e) Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association shall bind the Association and shall have the rebuttable presumption of being reasonable and necessary.

(f) In an emergency as set forth in this Section below, and notwithstanding other provisions of the Declaration, the Articles or the By-Laws to the contrary, the Board may use reserve funds to meet Association needs, and may use reserve funds as collateral for loans. By adoption of this provision, the Owners specifically authorize the Board to use reserve funds for nonscheduled purposes in the event of any emergency and to seek the replacement of such reserves used upon cessation of the emergency requiring the use thereof.

(g) Notwithstanding any provision to the contrary in the Declaration, the Articles or the By-Laws, the Board may adopt emergency assessments of the Members to cover the costs of the Association not otherwise recoverable in addressing the needs

of the Association with respect to the impact of the emergency with such notice deemed applicable by the Board.

(h) Notwithstanding any provision to the contrary in the Declaration, the Articles of Incorporation or the By-Laws, The Board may adopt emergency rules and regulations governing the use and occupancy of Units, Common Areas (regardless of type as defined by the Declaration) and The Properties.

(i) Any officer, Director, or employee of the Association acting with a reasonable belief that his or her actions are lawful in accordance with these emergency provisions in these By-Laws shall incur no liability for doing so, except in the case of willful misconduct.

(j) These emergency provisions in these By-Laws shall supersede any inconsistent or contrary provisions of the Declaration, the Articles or these By-Laws during the period of the emergency, provided, however, that the power granted to levy assessments shall extend until costs of addressing the needs of the Association with respect to the impact of the emergency have been recovered.

(k) For purposes of this Section only, an “emergency” exists only during a period of time the Association or the immediate geographic area in which the Association is located is subject to:

- (1) a state of emergency declared by local civil or law enforcement authorities;
- (2) a hurricane warning;
- (3) a partial or complete evacuation order;
- (4) federal or state “disaster area” status;
- (5) a catastrophic occurrence, whether natural or manmade, which seriously damages or threatens to seriously damage the physical existence of The Properties, such as, but not limited to, an earthquake, tidal wave, fire, hurricane, tornado, war, civil unrest, or, act of terrorism; or
- (6) an unanticipated set of circumstances, which, if not acted upon with immediacy, is likely to cause imminent and significant financial harm to the Association, the Unit Owners, or The Properties.

## 6. Officers.

6.1 Executive Officers. The executive officers of the Association shall be a President, a Vice President, a Treasurer and a Secretary (none of whom except the President need be Directors), all of whom shall be elected by the Board of Directors and who may be peremptorily removed at any meeting by concurrence of a majority of all the Directors. A person may hold more than one office, except that the President may not also be the Secretary. No person shall sign an instrument or perform an act in the capacity of more than one office. The Board of Directors from time to time shall elect such other officers and designate their powers and duties as the Board shall deem necessary or appropriate to manage the affairs of the Association. Officers need not be Owners. All officers serve at the pleasure of the Board and may be replaced or recalled by the Board with or without cause.

6.2 President. The President shall be the chief executive officer of the Association. He or she shall have all the powers and duties that are usually vested in the office of president of an Association.

6.3 Vice President. The Vice President shall exercise the powers and perform the duties of the President during the President's temporary inability or temporary unavailability to act. He or she also shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the vice president of an association and as may be required by the Directors or the President.

6.4 Secretary. The Secretary shall keep the minutes of all proceedings of the Directors and the Members. The Secretary shall attend to the giving of all notices to the Members and Directors and other notices required by law. The Secretary shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. The Secretary shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the Directors or the President.

6.5 Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. The Treasurer shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. The Treasurer shall submit a treasurer's report to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of treasurer of an association and as may be required by the Directors or the President. All monies and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board of Directors.

- 7. Fiduciary Duty.** The Officers and Directors of the Association have a fiduciary relationship to the Owners.
- 8. Compensation.** Neither Directors nor officers shall receive compensation for their services as such, but this provision shall not preclude the Board of Directors from employing a Director or Officer as an employee of the Association nor preclude contracting with a Director or Officer for the management of the Association or for any other service to be supplied by such Director or Officer. Directors and Officers may be compensated for all actual and proper out of pocket expenses relating to the proper discharge of their respective duties, including, but not limited to, expenses of travel on Association business approved by the Directors.
- 9. Resignations.** Any Director or Officer may resign his or her post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn prior thereto. The acceptance of a resignation shall not be required to make it effective.

**10. Fiscal Management.** The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:

10.1 Budget. The Board of Directors shall adopt an annual budget for the Association at least sixty (60) days prior to the beginning of each fiscal year with at least thirty (30) days notice of the Assessments to be levied thereunder given to all Members. Such budget shall contain projected revenues and reasonably distinct line items for the expenses of operating the Association and the Common Areas including, without limitation, those for insurance, maintenance, professional fees, management fees, salaries and other employee expenses and general office and overhead items. Each such budget shall also contain or be accompanied by any Village Assessment budget and by a compilation of projected revenues and expenses for each Neighborhood for which Neighborhood Assessments will be levied. To the extent that reserves are established per **Section 10.2** below, then a schedule of same shall be prepared with each item to be shown as being for its particular type of Common Areas, if any.

10.2 Reserves. The Board of Directors may elect to establish reserves for general contingencies and/or for the deferred maintenance and replacement (in whole or in part) of components of Common Areas. Such reserves may be funded through contributions from purchasers of Lots/Units, as part of General, Village or Neighborhood Assessments or otherwise as the Board determines. In no event, other than for an emergency as set forth by **Section 5** above, may reserve funds be used for or spent for operating expenses. Except as set forth by **Section 5** above where such funds were collected as part of Village or Neighborhood Assessments, they are only to be used for a purpose(s) related to the Village or Neighborhood from which they were received.

10.3 Depository. The depository of the Association shall be such institutions as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from these accounts shall be made only by checks or an institution's approved fund withdrawal forms signed by such person or persons as are authorized by the Directors.

The Board of Directors shall, by appropriate resolution (which may be on a form of resolution provided by a depository institution) designate the persons authorized to sign Association checks or withdrawal forms and may require two (2) signatures on all checks or forms or those for amounts in excess of that set by the Board.

10.4 Fidelity Bonds. Fidelity bonds shall be obtained by the Association for all persons handling or responsible for Association funds in such amounts as shall be determined by a majority of the Board, but in no event less than the amounts required by standards adopted by applicable mortgage lenders or insurers. The premiums on such bonds shall be paid by the Association.

10.5 Accounting Records and Reports. The Association shall maintain accounting records in the state, according to good and proper accounting practices normally used by similar associations, and in accordance with Florida Law. The records shall be open to inspection by Owners or their authorized representatives at reasonable times and written summaries of them shall be prepared at least annually. The records shall include, but not be limited to, all documents related to the operation of the Association excluding any document that is an attorney-client privileged communication or otherwise privileged or protected by law.

10.5.1 Financial Report. In accordance with and as required by Florida Law as may be amended from time to time the Association shall prepare an annual financial report with audited financial statements within sixty (60) days after the close of the Association's fiscal year. The Association shall provide written notice to the Members that a copy of the annual financial report is available upon request by a Member or his/her/its authorized representative at no charge to said Members.

10.6 Payments. All payments made by an Owner shall be applied as provided in these By-Laws and in the Declaration or as otherwise determined by the Board.

- 11. Roster of Owners.** Each Owner shall file with the Association a copy of the deed or other document showing his/her/its ownership. The Association shall maintain such information in a roster of Owners. The Association may rely upon the accuracy of such information for all purposes until notified in writing of changes therein as provided above. Only Owners of record on the date notice of any meeting requiring their vote is to be given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting other Owners shall produce adequate evidence, as provided above, of their interest and shall waive in writing notice of such meeting. All notices the Association is required to send to Members/Owners shall be sent to last address the Member/Owner has provided to the Association in writing for the providing of such notice.
- 12. Parliamentary Rules.** Except when specifically or impliedly waived by the chair of a meeting (either Members or Directors), Robert's Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with applicable law, the Declaration, the Articles or these By-Laws; provided, however, that a strict or technical reading of said Robert's Rules shall not be made so as to frustrate the will of the persons properly participating in said meeting.
- 13. Amendments.** Except as may be provided in the Declaration to the contrary, these By-Laws may be amended in the following manner:
- 13.1 Proposal for Amendment. A resolution for the adoption of a proposed amendment to these By-Laws may be proposed either by a majority of the Board of Directors or by Members having the right to cast not less than one-third (1/3) of the votes of the Members of the Association.
- 13.2 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of mailing at which a proposed amendment is to be considered.
- 13.3 Adoption. Directors and Members not present in person or by proxy at a meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the Secretary at or prior to the meeting. The approval must be:
- (a) by not less than a sixty-six and two-thirds (66 2/3rds) vote of the Members



present in person or by proxy, at a duly called meeting of the Association at which a quorum has been attained.

13.4 Proviso. No amendment of these By-Laws may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or preserved to the Association or a particular Neighborhood or Village without the consent of the applicable party or members therein, in each instance, unless otherwise provided by law.

13.5 Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of these By-Laws, which certificate shall be executed by the President or Vice President and attested by the Secretary of the Association with the formalities of a deed. The amendment shall be effective when the certificate and a copy of the amendment are recorded in the Public Records of Lee County.

**14. Rules and Regulations.** The Board of Directors may, from time to time, adopt, modify, amend or add to rules and regulations concerning the operation of the Association and the use of The Properties. Copies of such modified, amended or additional rules and regulations shall be furnished by the Board of Directors to each affected Owner upon request and the Board shall use reasonable efforts to publicize any rules adopted, amended or repealed by it.

**15. Official Records.** From the inception of the Association, the Association shall maintain a copy of each of the following, where applicable, which shall constitute the official records of the Association:

- (a) Any plans, permits, warranties and other items provided by Declarant;
- (b) A reproducible copy of the recorded Declaration of the Association and all amendments thereto;
- (c) A reproducible copy of the recorded By-Laws of the Association and all amendments thereto;
- (d) A reproducible copy of the certified Articles of Incorporation of the Association and all amendments thereto;

- (e) A reproducible copy of the current Rules and Regulations of the Association;
- (f) A book or books containing the minutes of all meetings of the Association and of the Board of Directors, which minutes shall be retained for a period of not less than seven (7) years;
- (g) A current roster of all Owners, their mailing addresses, Lot identifications and, if known, telephone numbers;
- (h) All current insurance policies of the Association or copies thereof;
- (i) A current copy of any management agreement(s), lease(s), or other contract(s) to which the Association is a party or under which the Association or the Owners as a group have an obligation or responsibility;
- (j) Deeds, Bills of Sale or other transfer instruments for all property owned by the Association; and
- (k) Accounting records for the Association and accounting records for each Lot, according to good accounting practices. All accounting records shall be maintained for a period of not less than seven (7) years. The accounting records shall include, but not be limited to:
  - (1) Accurate, itemized and detailed records for all receipts and expenditures;
  - (2) A current account and a monthly, bimonthly, or quarterly statement of the account for each Lot designating the name of the Owner, the due date and amount of each Assessment, the amount paid upon the account, and the balance due; and
  - (3) All audits, reviews, accounting statements, and financial reports of the Association.

15.1 Record Storage. To the extent practicable a copy of the aforesaid Official Records shall be stored off-site in a facility certified for the protection of such records.


**16. Construction.** Whenever the context so permits herein, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders.


**17. Captions.** The captions herein are inserted only as a matter of convenience and for reference, and in no way define or limit the scope of these By-Laws or the intent of any

provisions hereof.

The foregoing was adopted as the amended and restated By-Laws of **LEXINGTON  
COMMUNITY ASSOCIATION, INC.**, a corporation not for profit under the laws of the State  
of Florida as of the 26<sup>th</sup> day of March, 2019

Approved:

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Secretary

