

Article - Real Property

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§11–111.1.

(a) (1) In this section the following words have the meanings indicated.

(2) “Child care provider” means the adult who has primary responsibility for the operation of a family child care home.

(3) “Family child care home” means a unit registered under Title 5, Subtitle 5 of the Family Law Article.

(4) “No–impact home–based business” means a business that:

(i) Is consistent with the residential character of the dwelling unit;

(ii) Is subordinate to the use of the dwelling unit for residential purposes and requires no external modifications that detract from the residential appearance of the dwelling unit;

(iii) Uses no equipment or process that creates noise, vibration, glare, fumes, odors, or electrical or electronic interference detectable by neighbors or that causes an increase of common expenses that can be solely and directly attributable to a no–impact home–based business; and

(iv) Does not involve use, storage, or disposal of any grouping or classification of materials that the United States Secretary of Transportation or the State or any local governing body designates as a hazardous material.

(b) (1) The provisions of this section relating to family child care homes do not apply to a condominium that is limited to housing for older persons, as defined under the federal Fair Housing Act.

(2) The provisions of this section relating to no–impact home–based businesses do not apply to a condominium that has adopted, prior to July 1, 1999, procedures in accordance with its covenants, declaration, or bylaws for the regulation or prohibition of no–impact home–based businesses.

(c) (1) Subject to the provisions of subsections (d) and (e)(1) of this section, a recorded covenant or restriction, a provision in a declaration, or a provision of the bylaws or rules of a condominium that prohibits or restricts commercial or

business activity in general, but does not expressly apply to family child care homes or no-impact home-based businesses, may not be construed to prohibit or restrict:

(i) The establishment and operation of family child care homes or no-impact home-based businesses; or

(ii) Use of the roads, sidewalks, and other common elements of the condominium by users of the family child care home.

(2) Subject to the provisions of subsections (d) and (e)(1) of this section, the operation of a family child care home or no-impact home-based business shall be:

(i) Considered a residential activity; and

(ii) A permitted activity.

(d) (1) (i) Subject to the provisions of paragraphs (2) and (3) of this subsection, a condominium may include in its declaration, bylaws, or rules and restrictions a provision expressly prohibiting the use of a unit as a family child care home or no-impact home-based business.

(ii) A provision described under subparagraph (i) of this paragraph expressly prohibiting the use of a unit as a family child care home or no-impact home-based business shall apply to an existing family child care home or no-impact home-based business in the condominium.

(2) A provision described under paragraph (1)(i) of this subsection expressly prohibiting the use of a unit as a family child care home or no-impact home-based business may not be enforced unless it is approved by a simple majority of the total eligible voters of the condominium under the voting procedures contained in the declaration or bylaws of the condominium.

(3) If a condominium includes in its declaration, bylaws, or rules and restrictions, a provision prohibiting the use of a unit as a family child care home or no-impact home-based business, it shall also include a provision stating that the prohibition may be eliminated and family child care homes or no-impact home-based businesses may be approved by a simple majority of the total eligible voters of the condominium under the voting procedures contained in the declaration or bylaws of the condominium.

(4) If a condominium includes in its declaration, bylaws, or rules and restrictions a provision expressly prohibiting the use of a unit as a family child care home or no-impact home-based business, the prohibition may be eliminated and

family child care or no–impact home–based business activities may be permitted by the approval of a simple majority of the total eligible voters of the condominium under the voting procedures contained in the declaration or bylaws of the condominium.

(e) A condominium may include in its declaration, bylaws, or rules and restrictions a provision that:

(1) Regulates the number or percentage of family child care homes operating in the condominium, provided that the percentage of family child care homes permitted may not be less than 7.5 percent of the total units of the condominium;

(2) Requires child care providers to pay on a pro rata basis based on the total number of family child care homes operating in the condominium any increase in insurance costs of the condominium that are solely and directly attributable to the operation of family child care homes in the condominium; and

(3) Imposes a fee for use of common elements in a reasonable amount not to exceed \$50 per year on each family child care home or no–impact home–based business which is registered and operating in the condominium.

(f) (1) If the condominium regulates the number or percentage of family child care homes under subsection (e)(1) of this section, in order to assure compliance with the regulation, the condominium may require residents to notify the condominium before opening a family child care home.

(2) The condominium may require residents to notify the condominium before opening a no–impact home–based business.

(g) (1) A child care provider in a condominium:

(i) Shall obtain the liability insurance described under §§ 19–106 and 19–203 of the Insurance Article in at least the minimum amount described under that statute; and

(ii) May not operate without the liability insurance described under item (i) of this paragraph.

(2) A condominium may not require a child care provider to obtain insurance in an amount greater than the minimum amount required under paragraph (1) of this subsection.

(h) A condominium may restrict or prohibit a no–impact home–based business in any common elements.

(i) To the extent that this section is inconsistent with any other provision of this title, this section shall take precedence over any inconsistent provision.

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