

HOUSE BILL 831

F1, N1, L6

4lr1688

By: **Delegates Feldmark, Atterbeary, Guyton, Guzzone, Hill, Lehman, McCaskill, Patterson, Shetty, Taveras, Terrasa, and Ziegler**

Introduced and read first time: January 31, 2024

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Common Ownership Communities and Zoning Authorities – Operation of**
3 **Family Child Care Homes – Limitations**

4 FOR the purpose of prohibiting a provision in certain documents of a cooperative housing
5 corporation from prohibiting or restricting the establishment or operation of certain
6 family child care homes, subject to certain provisions of law; prohibiting a provision
7 in certain documents of a cooperative housing corporation from limiting the number
8 of children for which certain family child care homes provide family child care below
9 a certain number; prohibiting a local jurisdiction in the State from limiting the
10 number of children for which certain family child care homes provide family child
11 care below a certain number by local ordinance, resolution, law, or rule; repealing
12 the authority of a condominium association and a homeowners association to include
13 a provision in its governing documents that prohibits the establishment or operation
14 of certain family child care homes, subject to certain provisions of law; prohibiting a
15 provision in certain documents of a condominium association or a homeowners
16 association from limiting the number of children for which certain family child care
17 homes provide family child care below a certain number; and generally relating to
18 common ownership communities and zoning and the operation of family child care
19 homes.

20 BY adding to
21 Article – Corporations and Associations
22 Section 5–6B–22.1
23 Annotated Code of Maryland
24 (2014 Replacement Volume and 2023 Supplement)

25 BY repealing and reenacting, without amendments,
26 Article – Education
27 Section 9.5–301(a) and (e) through (g)
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2022 Replacement Volume and 2023 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article – Land Use
4 Section 1–401 and 10–103
5 Annotated Code of Maryland
6 (2012 Volume and 2023 Supplement)

7 BY adding to
8 Article – Land Use
9 Section 4–216
10 Annotated Code of Maryland
11 (2012 Volume and 2023 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Real Property
14 Section 11–111.1 and 11B–111.1
15 Annotated Code of Maryland
16 (2023 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – Corporations and Associations**

20 **5–6B–22.1.**

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (2) “FAMILY CHILD CARE HOME” HAS THE MEANING STATED IN §
24 9.5–301 OF THE EDUCATION ARTICLE.

25 (3) “FAMILY CHILD CARE PROVIDER” HAS THE MEANING STATED IN §
26 9.5–301 OF THE EDUCATION ARTICLE.

27 (4) “LARGE FAMILY CHILD CARE HOME” HAS THE MEANING STATED
28 IN § 9.5–301 OF THE EDUCATION ARTICLE.

29 (B) (1) SUBJECT TO THE PROVISIONS OF SUBSECTIONS (C) THROUGH (E)
30 OF THIS SECTION, A PROVISION IN THE ARTICLES OF INCORPORATION OR A
31 PROPRIETARY LEASE OR A PROVISION OF THE BYLAWS OF A COOPERATIVE HOUSING
32 CORPORATION MAY NOT PROHIBIT OR RESTRICT:

1 **(I) THE ESTABLISHMENT AND OPERATION OF A FAMILY CHILD**
2 **CARE HOME OR LARGE FAMILY CHILD CARE HOME; OR**

3 **(II) THE USE OF THE ROADS, SIDEWALKS, AND OTHER COMMON**
4 **ELEMENTS OF THE COOPERATIVE HOUSING CORPORATION BY USERS OF THE**
5 **FAMILY CHILD CARE HOME OR LARGE FAMILY CHILD CARE HOME.**

6 **(2) SUBJECT TO THE PROVISIONS OF SUBSECTION (C) OF THIS**
7 **SECTION, THE OPERATION OF A FAMILY CHILD CARE HOME OR LARGE FAMILY CHILD**
8 **CARE HOME SHALL BE:**

9 **(I) CONSIDERED A RESIDENTIAL ACTIVITY; AND**

10 **(II) A PERMITTED ACTIVITY.**

11 **(3) A PROVISION IN THE ARTICLES OF INCORPORATION OR A**
12 **PROPRIETARY LEASE OR A PROVISION OF THE BYLAWS OF A COOPERATIVE HOUSING**
13 **CORPORATION MAY NOT LIMIT THE NUMBER OF CHILDREN FOR WHICH A FAMILY**
14 **CHILD CARE HOME OR LARGE FAMILY CHILD CARE HOME PROVIDES FAMILY CHILD**
15 **CARE TO BELOW THE NUMBER AUTHORIZED BY THE STATE DEPARTMENT OF**
16 **EDUCATION.**

17 **(C) A COOPERATIVE HOUSING CORPORATION MAY INCLUDE IN THE**
18 **ARTICLES OF INCORPORATION OR A PROPRIETARY LEASE OR THE BYLAWS A**
19 **PROVISION THAT:**

20 **(1) REQUIRES FAMILY CHILD CARE PROVIDERS TO PAY ON A PRO**
21 **RATA BASIS BASED ON THE TOTAL NUMBER OF FAMILY CHILD CARE HOMES OR**
22 **LARGE FAMILY CHILD CARE HOMES OPERATING IN THE COOPERATIVE HOUSING**
23 **CORPORATION ANY INCREASE IN INSURANCE COSTS OF THE COOPERATIVE HOUSING**
24 **CORPORATION THAT ARE SOLELY AND DIRECTLY ATTRIBUTABLE TO THE**
25 **OPERATION OF FAMILY CHILD CARE HOMES OR LARGE FAMILY CHILD CARE HOMES**
26 **IN THE COOPERATIVE HOUSING CORPORATION; AND**

27 **(2) IMPOSES A FEE FOR USE OF COMMON ELEMENTS IN A**
28 **REASONABLE AMOUNT NOT TO EXCEED \$50 PER YEAR ON EACH FAMILY CHILD CARE**
29 **HOME OR LARGE FAMILY CHILD CARE HOME THAT IS REGISTERED AND OPERATING**
30 **IN THE COOPERATIVE HOUSING CORPORATION.**

31 **(D) THE COOPERATIVE HOUSING CORPORATION MAY REQUIRE RESIDENTS**
32 **TO NOTIFY THE COOPERATIVE HOUSING CORPORATION BEFORE OPENING A FAMILY**
33 **CHILD CARE HOME OR LARGE FAMILY CHILD CARE HOME.**

1 **(E) (1) A FAMILY CHILD CARE PROVIDER IN A COOPERATIVE HOUSING**
2 **CORPORATION:**

3 **(I) SHALL OBTAIN THE LIABILITY INSURANCE DESCRIBED**
4 **UNDER §§ 19-106 AND 19-203 OF THE INSURANCE ARTICLE IN AT LEAST THE**
5 **MINIMUM AMOUNTS DESCRIBED UNDER THOSE STATUTES; AND**

6 **(II) MAY NOT OPERATE WITHOUT THE LIABILITY INSURANCE**
7 **DESCRIBED UNDER ITEM (I) OF THIS PARAGRAPH.**

8 **(2) A COOPERATIVE HOUSING CORPORATION MAY NOT REQUIRE A**
9 **FAMILY CHILD CARE PROVIDER TO OBTAIN INSURANCE IN AN AMOUNT GREATER**
10 **THAN THE MINIMUM AMOUNT REQUIRED UNDER PARAGRAPH (1) OF THIS**
11 **SUBSECTION.**

12 **Article – Education**

13 9.5-301.

14 (a) In this subtitle the following words have the meanings indicated.

15 (e) “Family child care home” means a residence in which family child care is
16 provided for up to eight children.

17 (f) “Family child care provider” means an individual who cares for children in a
18 registered family child care home or a registered large family child care home.

19 (g) “Large family child care home” means a residence in which family child care
20 is provided for at least nine children, but not more than 12 children.

21 **Article – Land Use**

22 1-401.

23 (a) Except as provided in this section, this division does not apply to charter
24 counties.

25 (b) The following provisions of this division apply to a charter county:

26 (1) this subtitle, including Parts II and III (Charter county –
27 Comprehensive plans);

28 (2) § 1-101(l), (m), and (o) (Definitions – “Plan”, “Priority funding area”,
29 and “Sensitive area”);

30 (3) § 1-201 (Visions);

- 1 (4) § 1–206 (Required education);
- 2 (5) § 1–207 (Annual report – In general);
- 3 (6) § 1–208 (Annual report – Measures and indicators);
- 4 (7) Title 1, Subtitle 3 (Consistency);
- 5 (8) Title 1, Subtitle 5 (Growth Tiers);
- 6 (9) § 4–104(b) (Limitations – Bicycle parking);
- 7 (10) § 4–208 (Exceptions – Maryland Accessibility Code);
- 8 (11) § 4–210 (Permits and variances – Solar panels);
- 9 (12) § 4–211 (Change in zoning classification – Energy generating systems);
- 10 (13) § 4–212 (Agritourism);
- 11 (14) § 4–213 (Alcohol production);
- 12 (15) § 4–214 (Agricultural alcohol production);
- 13 (16) § 4–215 (Pollinator–friendly vegetation management);
- 14 (17) **§ 4–216 (LIMITATIONS – FAMILY CHILD CARE HOMES AND LARGE**
- 15 **FAMILY CHILD CARE HOMES);**
- 16 (18) § 5–102(d) (Subdivision regulations – Burial sites);
- 17 [(18)] (19) § 5–104 (Major subdivision – Review);
- 18 [(19)] (20) Title 7, Subtitle 1 (Development Mechanisms);
- 19 [(20)] (21) Title 7, Subtitle 2 (Transfer of Development Rights);
- 20 [(21)] (22) except in Montgomery County or Prince George’s County, Title
- 21 7, Subtitle 3 (Development Rights and Responsibilities Agreements);
- 22 [(22)] (23) Title 7, Subtitle 4 (Inclusionary Zoning);
- 23 [(23)] (24) § 8–401 (Conversion of overhead facilities);

1 [(24)] **(25)** for Baltimore County only, Title 9, Subtitle 3 (Single-County
2 Provisions – Baltimore County);

3 [(25)] **(26)** for Frederick County only, Title 9, Subtitle 10 (Single-County
4 Provisions – Frederick County);

5 [(26)] **(27)** for Howard County only, Title 9, Subtitle 13 (Single-County
6 Provisions – Howard County);

7 [(27)] **(28)** for Talbot County only, Title 9, Subtitle 18 (Single-County
8 Provisions – Talbot County); and

9 [(28)] **(29)** Title 11, Subtitle 2 (Civil Penalty).

10 (c) This section supersedes any inconsistent provision of Division II of this article.

11 **4–216.**

12 (A) **(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
13 **INDICATED.**

14 **(2) “FAMILY CHILD CARE HOME” HAS THE MEANING STATED IN §**
15 **9.5–301 OF THE EDUCATION ARTICLE.**

16 **(3) “LARGE FAMILY CHILD CARE HOME” HAS THE MEANING STATED**
17 **IN § 9.5–301 OF THE EDUCATION ARTICLE.**

18 (B) **A LOCAL JURISDICTION MAY NOT, BY LOCAL ORDINANCE, RESOLUTION,**
19 **LAW, OR RULE, LIMIT THE NUMBER OF CHILDREN FOR WHICH A FAMILY CHILD CARE**
20 **HOME OR LARGE FAMILY CHILD CARE HOME PROVIDES FAMILY CHILD CARE TO**
21 **BELOW THE NUMBER AUTHORIZED BY THE STATE DEPARTMENT OF EDUCATION.**

22 10–103.

23 (a) Except as provided in this section, this division does not apply to Baltimore
24 City.

25 (b) The following provisions of this division apply to Baltimore City:

26 (1) this title;

27 (2) § 1–101(m) (Definitions – “Priority funding area”);

28 (3) § 1–101(o) (Definitions – “Sensitive area”);

- 1 (4) § 1–201 (Visions);
- 2 (5) § 1–206 (Required education);
- 3 (6) § 1–207 (Annual report – In general);
- 4 (7) § 1–208 (Annual report – Measures and indicators);
- 5 (8) Title 1, Subtitle 3 (Consistency);
- 6 (9) Title 1, Subtitle 4, Parts II and III (Home Rule Counties –
- 7 Comprehensive Plans; Implementation);
- 8 (10) § 4–104(b) (Limitations – Bicycle parking);
- 9 (11) § 4–205 (Administrative adjustments);
- 10 (12) § 4–207 (Exceptions – Maryland Accessibility Code);
- 11 (13) § 4–210 (Permits and variances – Solar panels);
- 12 (14) § 4–211 (Change in zoning classification – Energy generating systems);
- 13 (15) § 4–215 (Pollinator–friendly vegetation management);
- 14 (16) **§ 4–216 (LIMITATIONS – FAMILY CHILD CARE HOMES AND LARGE**
- 15 **FAMILY CHILD CARE HOMES);**
- 16 (17) § 5–102(d) (Subdivision regulations – Burial sites);
- 17 [(17)] (18) Title 7, Subtitle 1 (Development Mechanisms);
- 18 [(18)] (19) Title 7, Subtitle 2 (Transfer of Development Rights);
- 19 [(19)] (20) Title 7, Subtitle 3 (Development Rights and Responsibilities
- 20 Agreements);
- 21 [(20)] (21) Title 7, Subtitle 4 (Inclusionary Zoning); and
- 22 [(21)] (22) Title 11, Subtitle 2 (Civil Penalty).

Article – Real Property

24 11–111.1.

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

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

3 (3)] “Family child care home” [means a unit registered under Title 5,
4 Subtitle 5 of the Family Law] **HAS THE MEANING STATED IN § 9.5–301 OF THE**
5 **EDUCATION Article.**

6 (3) **“FAMILY CHILD CARE PROVIDER” HAS THE MEANING STATED IN §**
7 **9.5–301 OF THE EDUCATION ARTICLE.**

8 (4) **“LARGE FAMILY CHILD CARE HOME” HAS THE MEANING STATED**
9 **IN § 9.5–301 OF THE EDUCATION ARTICLE.**

10 [(4)] (5) “No-impact home-based business” means a business that:

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

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

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

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

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

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

29 (c) (1) Subject to the provisions of [subsections] **SUBSECTION (d) [and (e)(1)]**
30 of this section, a recorded covenant or restriction, a provision in a declaration, or a provision
31 of the bylaws or rules of a condominium [that prohibits or restricts commercial or business
32 activity in general, but does not expressly apply to family child care homes or no-impact
33 home-based businesses, may not be construed to prohibit or restrict]:

1 (i) **MAY NOT PROHIBIT OR RESTRICT:**

2 1. The establishment and operation of family child care
3 homes or **LARGE FAMILY CHILD CARE HOMES; OR**

4 2. **THE USE OF THE ROADS, SIDEWALKS, AND OTHER**
5 **COMMON ELEMENTS OF THE CONDOMINIUM BY USERS OF THE FAMILY CHILD CARE**
6 **HOME OR LARGE FAMILY CHILD CARE HOME; AND**

7 (ii) **IF THE RECORDED COVENANT OR RESTRICTION, PROVISION**
8 **IN A DECLARATION, OR PROVISION OF THE BYLAWS OR RULES OF A CONDOMINIUM**
9 **OTHERWISE PROHIBITS OR RESTRICTS COMMERCIAL OR BUSINESS ACTIVITY IN**
10 **GENERAL BUT DOES NOT EXPRESSLY APPLY TO NO-IMPACT HOME-BASED**
11 **BUSINESS, MAY NOT BE CONSTRUED TO PROHIBIT OR RESTRICT** no-impact
12 home-based businesses[; or

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

15 (2) Subject to the provisions of [subsections] **SUBSECTION (d) [and (e)(1)]**
16 of this section, the operation of a family child care home, **LARGE FAMILY CHILD CARE**
17 **HOME**, or no-impact home-based business shall be:

18 (i) Considered a residential activity; and

19 (ii) A permitted activity.

20 (3) **A RECORDED COVENANT OR RESTRICTION, A PROVISION IN A**
21 **DECLARATION, OR A PROVISION OF THE BYLAWS OR RULES OF A CONDOMINIUM MAY**
22 **NOT LIMIT THE NUMBER OF CHILDREN FOR WHICH A FAMILY CHILD CARE HOME OR**
23 **LARGE FAMILY CHILD CARE HOME PROVIDES FAMILY CHILD CARE TO BELOW THE**
24 **NUMBER AUTHORIZED BY THE STATE DEPARTMENT OF EDUCATION.**

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

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

33 (2) A provision described under paragraph (1)(i) of this subsection
34 expressly prohibiting the use of a unit as a [family child care home or] no-impact

1 home-based business may not be enforced unless it is approved by a simple majority of the
2 total eligible voters of the condominium under the voting procedures contained in the
3 declaration or bylaws of the condominium.

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

11 (4) If a condominium includes in its declaration, bylaws, or rules and
12 restrictions a provision expressly prohibiting the use of a unit as a [family child care home
13 or] no-impact home-based business, the prohibition may be eliminated and [family child
14 care or] no-impact home-based business activities may be permitted by the approval of a
15 simple majority of the total eligible voters of the condominium under the voting procedures
16 contained in the declaration or bylaws of the condominium.

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

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

22 (2) Requires **FAMILY** child care providers to pay on a pro rata basis based
23 on the total number of family child care homes **OR LARGE FAMILY CHILD CARE HOMES**
24 operating in the condominium any increase in insurance costs of the condominium that are
25 solely and directly attributable to the operation of family child care homes **OR LARGE**
26 **FAMILY CHILD CARE HOMES** in the condominium; and

27 [(3)] (2) Imposes a fee for use of common elements in a reasonable
28 amount not to exceed \$50 per year on each family child care home, **LARGE FAMILY CHILD**
29 **CARE HOME**, or no-impact home-based business which is registered and operating in the
30 condominium.

31 (f) (1) [If the condominium regulates the number or percentage of family child
32 care homes under subsection (e)(1) of this section, in order to assure compliance with the
33 regulation, the] **THE** condominium may require residents to notify the condominium before
34 opening a family child care home **OR LARGE FAMILY CHILD CARE HOME**.

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

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

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

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

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

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

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

13 11B–111.1.

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

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

17 (3) “Family child care home” [means a unit registered under Title 9.5,
18 Subtitle 3] **HAS THE MEANING STATED IN § 9.5–301** of the Education Article.

19 (3) **“FAMILY CHILD CARE PROVIDER” HAS THE MEANING STATED IN §**
20 **9.5–301 OF THE EDUCATION ARTICLE.**

21 (4) **“LARGE FAMILY CHILD CARE HOME” HAS THE MEANING STATED**
22 **IN § 9.5–301 OF THE EDUCATION ARTICLE.**

23 [(4)] (5) “No–impact home–based business” means a business that:

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

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

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

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

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

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

11 (c) (1) Subject to the provisions of [subsections] SUBSECTION (d) [and (e)(1)]
12 of this section, a recorded covenant or restriction, a provision in a declaration, or a provision
13 of the bylaws or rules of a homeowners association [that prohibits or restricts commercial
14 or business activity in general, but does not expressly apply to family child care homes or
15 no-impact home-based businesses, may not be construed to prohibit or restrict]:

16 (i) [The establishment] **MAY NOT PROHIBIT OR RESTRICT THE:**

17 1. **ESTABLISHMENT** and operation of family child care
18 homes or **LARGE FAMILY CHILD CARE HOMES; OR**

19 2. **USE OF THE ROADS, SIDEWALKS, AND OTHER**
20 **COMMON ELEMENTS OF THE HOMEOWNERS ASSOCIATION BY USERS OF THE FAMILY**
21 **CHILD CARE HOME OR LARGE FAMILY CHILD CARE HOME; AND**

22 **(II) IF THE RECORDED COVENANT OR RESTRICTION, PROVISION**
23 **IN A DECLARATION, OR PROVISION OF THE BYLAWS OR RULES OF A HOMEOWNERS**
24 **ASSOCIATION OTHERWISE PROHIBITS OR RESTRICTS COMMERCIAL OR BUSINESS**
25 **ACTIVITY IN GENERAL BUT DOES NOT EXPRESSLY APPLY TO NO-IMPACT**
26 **HOME-BASED BUSINESS, MAY NOT BE CONSTRUED TO PROHIBIT OR RESTRICT**
27 **no-impact home-based businesses[; or**

28 (ii) Use of the roads, sidewalks, and other common areas of the
29 homeowners association by users of the family child care home].

30 (2) Subject to the provisions of [subsections] SUBSECTION (d) [and (e)(1)]
31 of this section, the operation of a family child care home, **LARGE FAMILY CHILD CARE**
32 **HOME**, or no-impact home-based business shall be:

33 (i) Considered a residential activity; and

1 (ii) A permitted activity.

2 **(3) A RECORDED COVENANT OR RESTRICTION, A PROVISION IN A**
3 **DECLARATION, OR A PROVISION OF THE BYLAWS OR RULES OF A HOMEOWNERS**
4 **ASSOCIATION MAY NOT LIMIT THE NUMBER OF CHILDREN FOR WHICH A FAMILY**
5 **CHILD CARE HOME OR LARGE FAMILY CHILD CARE HOME PROVIDES FAMILY CHILD**
6 **CARE TO BELOW THE NUMBER AUTHORIZED BY THE STATE DEPARTMENT OF**
7 **EDUCATION.**

8 (d) (1) (i) Except as provided in subparagraph (ii) of this paragraph and
9 subject to the provisions of paragraphs (2) and (3) of this subsection, a homeowners
10 association may include in its declaration, bylaws, or recorded covenants and restrictions a
11 provision expressly prohibiting the use of a residence as a [family child care home or]
12 no-impact home-based business.

13 (ii) [A homeowners association may not include a provision
14 described under subparagraph (i) of this paragraph expressly prohibiting the use of a
15 residence as a family child care home in its declaration, bylaws, or recorded covenants and
16 restrictions until the lot owners, other than the developer, have 90% of the votes in the
17 homeowners association.

18 (iii) A provision described under subparagraph (i) of this paragraph
19 expressly prohibiting the use of a residence as a [family child care home or] no-impact
20 home-based business shall apply to an existing [family child care home or] no-impact
21 home-based business in the homeowners association.

22 (2) A provision described under paragraph (1)(i) of this subsection
23 expressly prohibiting the use of a residence as a [family child care home or] no-impact
24 home-based business may not be enforced unless it is approved by a simple majority of the
25 total eligible voters of the homeowners association, not including the developer, under the
26 voting procedures contained in the declaration or bylaws of the homeowners association.

27 (3) If a homeowners association includes in its declaration, bylaws, or
28 recorded covenants and restrictions a provision prohibiting the use of a residence as a
29 [family child care home or] no-impact home-based business, it shall also include a
30 provision stating that the prohibition may be eliminated and [family child care homes or]
31 no-impact home-based businesses may be approved by a simple majority of the total
32 eligible voters of the homeowners association under the voting procedures contained in the
33 declaration or bylaws of the homeowners association.

34 (4) If a homeowners association includes in its declaration, bylaws, or
35 recorded covenants and restrictions a provision expressly prohibiting the use of a residence
36 as a [family child care home or] no-impact home-based business, the prohibition may be
37 eliminated and [family child care or] no-impact home-based business activities may be
38 permitted by the approval of a simple majority of the total eligible voters of the homeowners

1 association under the voting procedures contained in the declaration or bylaws of the
2 homeowners association.

3 (e) A homeowners association may include in its declaration, bylaws, rules, or
4 recorded covenants and restrictions a provision that:

5 (1) Requires **FAMILY** child care providers to pay on a pro rata basis based
6 on the total number of family child care homes operating in the homeowners association
7 any increase in insurance costs of the homeowners association that are solely and directly
8 attributable to the operation of family child care homes in the homeowners association; and

9 (2) Imposes a fee for use of common areas in a reasonable amount not to
10 exceed \$50 per year on each family child care home or no-impact home-based business
11 which is registered and operating in the homeowners association.

12 (f) (1) [If the homeowners association regulates the number or percentage of
13 family child care homes under subsection (e)(1) of this section, in order to assure compliance
14 with this regulation, the] **THE** homeowners association may require residents to notify the
15 homeowners association before opening a family child care home **OR LARGE FAMILY**
16 **CHILD CARE HOME**.

17 (2) The homeowners association may require residents to notify the
18 homeowners association before opening a no-impact home-based business.

19 (g) (1) A **FAMILY** child care provider in a homeowners association:

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

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

25 (2) A homeowners association may not require a **FAMILY** child care
26 provider to obtain insurance in an amount greater than the minimum amount required
27 under paragraph (1) of this subsection.

28 (h) A homeowners association may restrict or prohibit a no-impact home-based
29 business in any common areas.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2024.