

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

- (i) Considered a residential activity; and
- (ii) A permitted activity.

(d) (1) (i) **[Subject]** EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH AND SUBJECT to the provisions of paragraphs (2) and (3) of this subsection, a homeowners association may include in its declaration, bylaws, or recorded covenants and restrictions a provision expressly prohibiting the use of a residence as a family day care home or no-impact home-based business.

(II) A HOMEOWNERS ASSOCIATION MAY NOT INCLUDE A PROVISION DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH EXPRESSLY PROHIBITING THE USE OF A RESIDENCE AS A FAMILY DAY CARE HOME IN ITS DECLARATION, BYLAWS, OR RECORDED COVENANTS AND RESTRICTIONS UNTIL THE LOT OWNERS, OTHER THAN THE DEVELOPER, HAVE 90% OF THE VOTES IN THE HOMEOWNERS ASSOCIATION.

~~[(ii)]~~(III) A provision described under subparagraph (i) of this paragraph expressly prohibiting the use of a residence as a family day care home or no-impact home-based business shall apply to an existing family day care home or no-impact home-based business in the homeowners association.

(2) A provision described under paragraph (1)(i) of this subsection expressly prohibiting the use of a residence as a family day 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 homeowners association, NOT INCLUDING THE DEVELOPER, under the voting procedures contained in the declaration or bylaws of the homeowners association.

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

(4) If a homeowners association includes in its declaration, bylaws, or recorded covenants and restrictions a provision expressly prohibiting the use of a residence as a family day care home or no-impact home-based business, the prohibition may be eliminated and family day 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 homeowners association under the voting procedures contained in the declaration or bylaws of the homeowners association.

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

- (1) ~~Regulates the number or percentage of family day care homes~~