

(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 day care homes do not apply to a homeowners association 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 homeowners association that has adopted, prior to July 1, 1999, procedures in accordance with its covenants, declaration, or bylaws for the prohibition or regulation 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 homeowners association that prohibits or restricts commercial or business activity in general, but does not expressly apply to family day care homes or no-impact home-based businesses, may not be construed to prohibit or restrict:

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

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

(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