

COUNTRYSIDE PROPRIETARY

RESOLUTION NO. 262

As amended

THE OPERATION OF BUSINESS ACTIVITY WITHIN A RESIDENCE IN COUNTRYSIDE

WHEREAS, Section 2(b) of the Articles of Incorporation of CountrySide Proprietary (“Articles”) provides that CountrySide Proprietary (“Association”) shall have the power to do any and all lawful things and acts that the Association may deem to be for the benefit of the CountrySide Proprietary community (“CountrySide”) and the owners and inhabitants thereof, or deemed advisable, proper or convenient for the promotion of the peace, health, comfort, safety or general welfare of the owners and inhabitants thereof;

WHEREAS, Section 2(g) of the Articles further provides that the Association shall have the power to establish rules and regulations for the use of its property;

WHEREAS, Article III, Section 3(b) of the Covenants and Restrictions (“Covenants”) governing CountrySide provides that the Association Board of Directors (“Board”) shall have all powers for the conduct of the affairs of the Association which are enabled by law of the Governing Documents which are not specifically reserved to Members by such Governing Documents;

WHEREAS, Section 55-513A of the Virginia Property Owners’ Association Act (“Act”) authorizes the Board to establish, adopt, and enforce rules and regulations with respect to the use of the common areas and with respect to such other areas of responsibility assigned to the Association by the Declaration;

WHEREAS, Section 55-513 of the Act also authorizes the Board to, among other things, assess charges against any member who is found to be in violation of the Association’s governing documents in an amount not to exceed fifty dollars for a single offense or ten dollars per day for any offense of a continuing nature for a period not to exceed ninety days, provided that the member is given an opportunity to be heard and to be represented by counsel;

WHEREAS, some members of the Association wish to establish professional offices or conduct business activities within their homes;

WHEREAS, Article VI, Section 7 of the Covenants provides that all dwellings in CountrySide shall be used for private residential purposes exclusively, except that a professional office may be maintained in a dwelling, provided that such maintenance and use is limited to the person actually residing in the dwelling, and that such maintenance and use is in strict conformity with the provisions of any applicable zoning law, ordinance, or regulation;

WHEREAS, Article VI, Section 7 of the Covenants defines the term "professional office" as rooms used for office purposes by a member of any recognized profession, including doctors, dentists, lawyers, architects and the like, but not including medical or dental clinics;

WHEREAS, CountrySide is administered under the 1972 Loudoun County Zoning Ordinance which provides that a home occupation can be conducted in a dwelling unit, subject to various standards; and

WHEREAS, the Board deems it in the best interest of the Association and Association members to adopt standards for the purpose of clarifying how the Board and Association committees will interpret and enforce the Covenant provision addressing the use of dwellings in Countryside for business purposes.

NOW THEREFORE, BE IT RESOLVED that the Board duly adopts the following policies regarding the use of dwellings in CountrySide for business purposes, as hereinafter defined.

DEFINITIONS

Home Based Business

A business activity conducted within the dwelling on a Lot by residents of that dwelling which is clearly incidental and secondary to the principal use of the Lot as a dwelling.

Home Based Child Care Business

The accessory use of a dwelling on a Lot by residents of that dwelling to provide care, protection and guidance for one or more children during only part of the 24-hour day, excluding the provider's own children, meaning those related by blood, adoption, or marriage to the provider who maintains the home, and those in foster care with the provider, or in the provider's permanent custody or already residing in the provider's dwelling. The term Home Based Child Care Business is not intended to include babysitting service of a casual, irregular nature in or outside of the child's own home. It is also not intended to include cooperative, reciprocal child care by a group of parents in their respective residences.

GENERAL STANDARDS

The Board does not wish to unreasonably restrain members of the Association from establishing an ancillary professional office within their homes. To protect the residential character of CountrySide, however, the Board believes it is necessary and appropriate to establish general rules and standards regarding such use consistent with what the Association Governing Documents and applicable laws provide. The overriding objective of the following policies is to protect the residential character of CountrySide at all times.

The Board interprets the phrases "professional office" and "office purposes" as used in the Covenants to include offices used for any lawful and generally recognized business purposes, including but not necessarily limited to Home Based Businesses and Home Based Child Care Businesses, as hereinafter defined, *provided that* any and all such businesses are in full compliance with this Resolution, the Association Governing Documents, and all applicable federal, state, and local laws, ordinances, and regulations. All such business purposes are collectively referred to in this Resolution as "Business Activity."

Any member who conducts Business Activity in the home must, at a minimum, comply with the applicable Loudoun County Zoning Ordinance that governs the conduct of certain businesses and occupations in a dwelling unit. In addition, the operator of the Business Activity must obtain and keep current all applicable licenses and permits with the appropriate governmental agencies.

Home-based businesses in possession of a Loudoun County Home Occupation Permit issued prior to July 1, 2010 are subject to the 1993 Zoning Ordinance and are grandfathered under this resolution and may continue to abide by the terms of their Home Occupation Permit as it was issued. All Loudoun County Home Occupation Permits issued after July 1, 2010 are subject to the 1972 Ordinance and all requirements contained therein.

To further protect the residential character of CountrySide, the Board establishes the following additional general standards that will be used in the enforcement of this Resolution. As with any general policy of this nature, some discretion on the part of the Board, Association committees and the Managing Agent will be necessary during the enforcement process. The Board reserves the power to be the final arbitrator for the CountrySide community and to make all final judgments in the enforcement of this Resolution.

The Board hereby adopts the additional general standards regarding conducting Business Activity within CountrySide:

- 1) Any member who conducts Business Activity within a home must take all necessary and appropriate steps to preserve the residential character of the property and home in both external appearance and internal use.
- 2) Any member who conducts Business Activity within the home must use the home as a primary place of residence. Business Activity must constitute a secondary, ancillary use. A member may give his or her tenant written permission to conduct Business Activity consistent with the policies and standards established in this Resolution and the Association Governing Documents. Temporary guests or other persons not actually and lawfully residing in a dwelling shall not have the right to conduct Business Activity.
- 3) The Business Activity must not involve the regular use or presence or overnight parking of commercial vehicles within CountrySide. A commercial vehicle shall mean any and all vehicles as defined by Loudoun County Ordinances as a commercial vehicle or any vehicles or vehicle combination used, designed or maintained for transportation of persons for hire, compensation, profit or designed or used primarily for the transportation of property for gain or profit, or any vehicle bearing commercial signs, advertising or visible commercial equipment, including taxi cabs, private or public school buses or church buses.
- 4) The Business Activity must not adversely affect the Association's ability to obtain comprehensive general liability insurance.
- 5) If the Business Activity increases the premium that the Association must pay for any Association insurance policies, the Board may assess the responsible member with the increased cost. If the member does not pay the assessment within 14 days after notice of the

assessment is sent, the Board may prohibit the member from continuing that Business Activity.

- 6) The Business Activity must not involve the presence or employment of any other person or persons within the dwelling other than the dwelling's legal resident occupants unless the business owner is in possession of a Loudoun County Home Occupation Permit issued under the 1993 Ordinance for the resident and CountrySide residence.
- 7) The Business Activity must not involve the provision of services that would result or does result in more than three motor vehicles used in conjunction with the Business Activity, in addition to the homeowners vehicles, to be parked, including overnight parking, at the dwelling at any one time (except for Home Based Child Care Services, as set forth below).
- 8) The Business Activity must not involve the storage, use, or sale of goods, equipment, or materials that are not permitted in a residential dwelling by Loudoun County and Virginia laws.
- 9) The Business Activity must not affect or disrupt the normal traffic pattern or parking patterns anywhere within CountrySide.
- 10) The Business Activity must not increase the regular noise levels or the right of quiet enjoyment of any legal occupant within CountrySide.
- 11) If the primary service of the Business Activity is the care or custody of children, the elderly, or the mentally disabled, the operator must ensure that the patrons will be safely and properly supervised and cared for at all times, particularly during the times of drop-off and pick-up and during any time when the patrons are in the Common Area.
- 12) If the primary service of the Business Activity is the care or custody of children, the operator must register the business with the Loudoun County Department of Housing and Human Services ("Department") and comply with all Department standards and requirements. In addition, as necessary, the homeowner should be licensed by the Commonwealth of Virginia. A Home Based Child Care Business in Countryside cannot serve more children, excluding the provider's own children and children residing in the home, than a single provider is permitted by Loudoun County or other applicable law. Licensed day care providers existing at the time of implementation of this resolution shall be grandfathered.

NOTIFICATION PROCESS

Members who wish to establish a Business Activity must submit to the Managing Agent the following materials before conducting any Business Activity on a Lot:

- A fully completed and signed Notification of Business Activity form (Exhibit 1 to this Resolution);

- A fully completed Acknowledgement of Adjacent Owners form signed by four adjacent property owners who will be most affected by the Business Activity (Exhibit 2 to this Resolution);
- Copy of a Home Occupation Permit issued by Loudoun County;
- Copies of all state and local licenses and permits required to conduct the Business Activity; and
- Copies of all Certificates of Insurance, as required by The Commonwealth of Virginia or Loudoun County, evidencing adequate insurance coverage for the home based on the Business Activity. All policies must name the Association as an additional insured and must, in the sole discretion of the Board, adequately protect the Association from liability for any occurrence on the Common Area incident to or related to the Business Activity.

Notwithstanding the foregoing, for Business Activities being conducted within CountrySide *prior* to the adoption of this Resolution, the individual conducting the Business Activity must submit the above materials to the Managing Agent by December 31, 2010. If such materials are not submitted within such time-frame, then the Board will require the operator cease the Business Activity until the required materials are submitted.

ENFORCEMENT POLICY

The Board authorizes the Management Agent to conduct inspections and enforce this Resolution. In addition, the Management Agent will respond to complaints or violations of this Resolution.

Upon receipt of a written complaint, the Management Agent shall review the complaint to determine whether the complaint sufficiently establishes probable cause that a member has committed or is committing a violation of this Resolution. If the Management Agent determines that such cause exists, the Management Agent shall send a notice of violation to the member / occupant (“member” and “occupant” shall hereafter be referred to as “member”).

The notice of violation shall provide the member with notice detailing the nature of the violation and request the member, within seven days, to a) cease the alleged activity or b) offer a written explanation or denial of the violation.

If the Management Agent, in its sole discretion, determines that the response of the member is not satisfactory, or if the member does not cease the activity, the Management Agent shall, by certified mail, notify the member of an opportunity to be heard before the Board.

The Management Agent shall deliver written notice of the time, date and place of the hearing to the member by hand or certified mail, return receipt requested, at least 14 days prior to the date of the hearing. At the hearing, the Board shall provide the member with a reasonable amount of time to respond to the complaint. The member may have counsel present at the hearing.

If the member does not respond to the complaint or is not present at the Board hearing, the Board shall deem the member to have waived the right to a hearing and the Board shall have the power to impose monetary charges under Section 55-513 of the Act.

Following the evidentiary portion of the hearing, the Board of Directors reserves the right to deliberate in Executive Session, as permitted pursuant to Section 55-510.1C of the Act, to discuss the evidence and the Board's decision.

Members are legally responsible for ensuring that all persons actually and lawfully residing in the member's dwelling comply with this Resolution. All references to "member" herein also apply to all persons actually and lawfully residing in the member's dwelling. Temporary guests or other persons not actually and lawfully residing in a dwelling shall not have the right to conduct Business Activity.

In addition to the enforcement remedies referenced in this Resolution, the Board may exercise other enforcement remedies authorized by law and by the Association Governing Documents, including, but not limited to, filing a law suit seeking injunctive relief, damages, fees and/or expenses.

APPENDIX

At the time this Resolution went into effect, CountrySide was administered under the 1972 Loudoun County Zoning Ordinance. That ordinance states that a home occupation can be conducted in a dwelling unit, provided that:

- No person other than members of the family residing on the premises shall be engaged in such occupation.
- The use of the dwelling for the home occupation shall be clearly incidental and subordinate to the use of the dwelling for residential purposes. Not more than 25 percent of the gross floor area of the dwelling unit nor 25 percent of said gross floor area if conducted in an accessory structure, shall be used in the conduct of the home occupation.
- There shall be no change in the outside appearance of the building or lot, nor other visible evidence of the conduct of such home occupation other than one sign, not exceeding one square foot in area, non-illuminated.
- There shall be no sales, other than items handcrafted on the premises, in connection with such home occupation.
- No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of such home occupation shall be met by off-street parking and other than in a required front yard.

- No equipment or process used in such home occupation shall create noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

Home Occupation permits issued for Home Based Businesses located in CountrySide prior to July 1, 2010 were issued under the 1993 Zoning Ordinance. This ordinance allows the business owner to employ one employee that is not a resident of the home.

Home Based Childcare Businesses are permitted provided they comply, at a minimum, with the Loudoun County Ordinance that sets the following standards:

- 1) All homes must be registered with Loudoun County pursuant to the County Code.
- 2) When calculating the total number of children cared for, resident children under the age of 14 shall be included.
- 3) The home shall be the principal residence of the operator of the child care home.
- 4) The home shall comply with any and all requirements of Loudoun County and Virginia laws.
- 5) Unless exempted by (6) below, a minimum of 75 square feet per child of outdoor play space shall be provided on the lot the child care home is located and shall be shown on a schematic plat of the lot at the time of issuance of a zoning permit. Such play area shall be fenced, as per Section 5-609(B)(1)(a), unless the applicant can show that the play area provides proper protection from traffic and other hazards and to neighboring yards.
- 6) No play area shall be required on-site when it is demonstrated that the child care home is located within 1,000 feet of an existing park or play space of at least two times the size required for the Child Care Home, providing that such park or play space may be accessed without crossing an arterial or collector road. Such park or play space shall either be a public park or play space, or shall be dedicated to such uses as part of a local community association or planned unit development.