

**KINGSTOWNE RESIDENTAL OWNERS CORPORATION**

**Policy Resolution No. 16  
(Board's Policy Concerning the Operation of Home Occupations)**

WHEREAS, the Board of Trustees recognizes that some members of the community wish to operate businesses and various forms of commercial activity within their homes;

WHEREAS, the Board of Trustees recently reviewed its "home occupation" policy in the context of Article V of the Supplementary Declaration of Covenants, Conditions and Restrictions for the various Neighborhoods within Kingstowne, which states:

All Lots and Living Units designated for residential use shall be used, improved, and devoted exclusively to residential use, except home occupations may be pursued if permitted by Fairfax County, subject to reasonable rules to prevent unreasonable adverse impact adjacent Lots or Living Units.

WHEREAS, the Board of Trustees previously adopted Policy Resolution No. 9 to establish general rules for home businesses which were designed to prevent "unreasonable adverse impact" on adjacent Lots or Living Units;

WHEREAS, the Board of Trustees now deems it in the best interest of the community to replace Section I, A of Policy Resolution No. 9 with updated and expanded standards designed to clarify how the Board and Committees will interpret and enforce Article V, Section 2.

NOW, THEREFORE, BE IT RESOLVED, THAT THE BOARD ADOPTS THE FOLLOWING POLICY:

**GENERAL PURPOSE OF POLICY**

The Board of Trustees seeks to protect and promote the residential character of the Kingstowne community; however, the Board concurrently recognizes that some forms of home occupations and commercial activity do not cause an "unreasonable adverse impact" on neighbors. The purpose of this policy is to help the Board, its Committees, and the community's membership in its efforts to define the parameters of home occupations and commercial activity, which are acceptable within the Kingstowne community.

Those members who wish to take advantage of the Board's home occupation policy must strictly comply with the terms of this policy. If the Board receives a formal complaint about a member's home business activity, the proprietor of the home occupation shall have the burden to show that his or her activity satisfies the criteria of this policy; however, if the proprietor of the home occupation received prior approval from the Board for the activity, the burden to show that the activity does not satisfy the criteria of this policy shall rest with the complainant.

## CRITERIA OF POLICY

- 1) Any member who establishes a “home professional office” (that term signifies an office for a licensed or certified practitioner) or conducts business activity within the home must preserve the residential character of the property in both its external and internal appearance.
- 2) Any member who establishes a home professional office or conducts business activity within the home must use the home as a primary place of residence. The home professional office or business activity must constitute a secondary use ancillary to the use of the dwelling as a residence.
- 3) The activity of the home professional office or business must not attract or use commercial vehicles within the community.
- 4) The activity of the home professional office or business must not adversely affect the Corporation's ability to obtain or maintain its insurance coverage(s). The Board reserves the right to require the member to name Kingstowne as an additional insured on the member's insurance policy in a manner satisfactory to the Board. If the member does not comply with the Board's requirement, the Board reserves the right to prohibit the member from operating the home professional office or business activity within the community.
- 5) The activity of the home professional office or business must not involve the provision of services to any more than 3 visitors/customers within the dwelling at any one time (except for childcare services, as set forth below).
- 6) The home professional office or business activity must not use any exterior advertisement or display of any kind to show that the member uses the dwelling in any way other than for a residential dwelling.
- 7) The activity of the home professional office or business must not involve the storage, use, or sale of goods, equipment or materials which are not customarily part of, or found within, a residential dwelling.
- 8) The activity of the home professional office or business must not unreasonably disrupt the normal traffic or parking patterns anywhere within the community.
- 9) The activity of the home professional office or business must not create unreasonable audible disturbances or noise. At all times, the activity of the home professional office or business must not infringe the right of quiet enjoyment of any legal occupant within the community.
- 10) The activity of the home professional office or business must be lawful in all respects and must fully comply with all applicable federal, state, and county laws

and ordinances. In addition, the operator of the professional office or business must obtain all applicable permits and licenses from the appropriate government agencies, which the proprietor must make available to the Board upon request.

### HOME OCCUPATIONS NOT PERMITTED

Under no circumstances shall the Board deem the following home occupations in compliance with Kingstowne's permitted home occupation policy:

- 1) Veterinary care of any kind;
- 2) Fee-based animal care of any kind;
- 3) Barbershops, beauty parlors, or hair care service of any kind;
- 4) Eating establishments;
- 5) Gift shops;
- 6) Repair services;
- 7) Antique shops.

### APPLICATION FOR APPROVAL PROCESS

Members who comply with the criteria of the Board's policy do not need to submit an application for approval; however, the application-for-approval process is available to any member who wishes to establish a home occupation and seek prior approval from the Board of Trustees. By obtaining approval from the Board of Trustees for a home occupation, the member will receive a presumption of entitlement to conduct the activity. Any member who seeks to establish a home occupation without approval from the Board of Trustees accepts the risk of doing so. The Board reserves the power to require members to cease any unapproved home occupation if it receives any formal complaints about the activity. Obtaining prior approval from the Board of Trustees will shift the burden of proof to the complainant if and when a member complains about the activity from the operator's home.

If a member decides to file an application, the member must ensure that the application contains precise detail concerning the proposed use which the member or the legal occupant desires to make of the dwelling and why the Board of Trustees should approve the application.

The Board of Trustees reserves the power to require the applicant to send a notice of the application to other members within the community, as selected by the Board.

The Board of Trustees shall consider all applications at duly called meetings, which shall be open to the membership. Members may reserve time at the meeting to speak about the application.

The Board reserves the power to revoke any approval previously issued if another member

of the Association files a complaint and demonstrates just cause for such revocation; however, the complainant shall have the burden of proof. The process for revocation of an approval shall be the same as the regular enforcement policy, as expressed below.

#### ENFORCEMENT POLICY

The Board of Trustees lacks the resources and desire to conduct inspections of the community to enforce Article V, Section 2; accordingly, the Board hereby adopts a complaint-driven policy of enforcement.

Absent the receipt of a written complaint from a member in good standing, the Board of Trustees shall not undertake any action to place the community under inspection as a means of enforcement of Article V, Section 2; however, if a member in good standing submits a written complaint against another member to the Board, then the Board shall conduct a review of the matter.

(Board members may file complaints only in their capacity as individual members of the community. If a Board member (or an occupant of his/her household) files a complaint, that Board member must recuse himself/herself from all of the proceedings as a Board member.)

Upon receipt of a complaint, the Board shall review the complaint in order to determine whether it is signed, dated, and sufficiently clear and credible in the establishment of probable cause that a member has committed or is committing a violation of Article V, Section 2, as interpreted within this Resolution. If so, the Board shall send a notice of complaint to the member alleged to be in violation and will follow the enforcement procedures set forth in Policy Resolution No. 14.

#### CONFIDENTIALITY

Any member who files a complaint may request the Board to keep his/her identity confidential; however, if the complainant does not attend any hearing called by the Board to review a complaint, the complainant's lack of attendance and participation at the hearing may serve as the Board's basis for dismissing the complaint. While the Corporation may use best efforts to honor any requests for confidentiality, the Corporation cannot guarantee such protections and is required to and shall comply with all lawful requests for the production of copies of any complaints and/or related communications which may disclose the identity of the complaining party. The Board shall provide notice of hearings to the complainant in the same manner as it provides notice to the alleged offender and provide complainants with the same rights of participation at the hearing.

This Resolution was duly adopted by the Board of Trustees on this 7<sup>th</sup> day of September 2016.

KINGSTOWNE RESIDENTIAL OWNERS CORPORATION

By:

  
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Jeanne McCarroll, President

Certificate of Mailing

I hereby certify that a copy of this Resolution was mailed to all owners at their address of record this 1<sup>st</sup> of December 2016.



Ronda DeSplinter, General Manager