

Candlewood Ridge/Carriage Wood Homeowners' Association

Enforcement Policy: No Business Use Covenant

Article VI, Section 1(d) of the CC&Rs:

Article VI, section 1(d) of the homeowners Declaration and Covenants (the "Section") states in pertinent part:

"No trade, craft, business, profession, commercial or manufacturing enterprise or commercial activity of any kind shall be conducted or carried on upon any residential lot, or within any building located in this subdivision on a residential lot,"

Discussion of the Board of Directors has occurred about the fact that, in our present day and age, there are many people, with many professions, who are able to conduct their business by computer, fax and phones without ever having to leave their homes, and without any surrounding neighbors ever being aware of their doing so. The Section we are addressing was created many years ago, when business conduct primarily involved physical indicia and impact adverse to the residential character of a community. A serious question has arisen about how, and the extent to which, this Section should be enforced.

The Board of the Association has considered the possible dilemma posed by this Section, with a view towards reconciling its apparent reading and enforcement with the current state of technology and cultural values. Our culture and the interests of our society are fostering and encouraging people to work out of or from home more and more. Doing so saves time, saves fuel, reduces pollution, and, hopefully, provides more flexibility so that people can spend more time with their family.

The Board sought and has received input from its counsel, attorney Gregory F. Cromwell, on the question of how or whether this Section should be enforced in its broadest sense. Broadest sense enforcement would result in all business conduct, regardless of impact on the community, being proscribed and would require the Association to shut down telecommuters and other owners who conduct work from or in their home without any outward sign of doing so and with no impact on neighbors or our residential community.

The Board has considered the stated purpose of the homeowners' covenants, which indicate in the preamble they are for "the purpose of protecting the value and desirability of our community. And in considering this purpose, the Board has also recognized that to strictly enforce this Section, so that even invisible business conduct is shut down, may ironically harm marketability and the value of our homes and community because purchasers of homes may be discouraged

from purchasing homes in our community if they believe they cannot telecommute from home, or conduct some business activity within the four walls of their home even where their conduct is not visible and has no impact on neighbors or the neighborhood.

Lastly, the Board has considered the practical question of how will the Association learn about or investigate whether an owner/member is conducting a business activity solely within their home and without any visible indication to the outside world. Furthermore, although the least of these considerations, the legal economics of trying to enforce this Section as to such no-impact business conduct would be extremely prohibitive for the Association.

Based on the many factors considered by the Board, and especially because the purpose of the covenants and this particular section will not be adversely affected in doing so, and, in fact, will be enhanced by it, the following enforcement policy is adopted regarding Article VI, Section 1(d) as it pertains to conducting business within a home:

Policy:

Hereafter, the Association will interpret and enforce those parts of Article VI, Section 1(d) (hereinafter the "Section"), regarding prohibiting business conduct or activities on lots or homes, by considering whether the particular conduct or activity involved in each case has any impact on the neighbors, the neighborhood and/or the community as a whole (hereinafter collectively the "community"). If the conduct or activity of an owner/member of the Association would otherwise normally be considered a business or commercial activity but has no impact or effect on the community and its residential character, the Association will not seek to shut it down or ban it under this Section.

In determining whether a particular owner's business activity or conduct has no impact on the community, certain factors will be considered by the Board or Committee appointed to deal with enforcement, including without limitation the following:

- (1) there are no signs or advertising of any kind posted, displayed, exhibited or visible on or near any lot or from any building or vehicle parked on or near the lot. However, this shall not apply to magnetic signs or advertising printing on vehicles unless the vehicle is parked on or near the lot for unreasonably long periods of time;**
- (2) the business activities do not utilize, include, or involve the use of any heavy equipment, power tools or power sources not common to residential use;**

- (3) there are no employees of owner, part or full time, on or about the lot or in any buildings on the lot;**
- (4) there is no parking of vehicles of third parties who are there because of or related to the business being conducted or activities;**
- (5) there is no regular use of or frequent delivery by commercial delivery or supply companies due to or related to the conduct or activities;**
- (6) the owner's conduct or activity does not cause, result in, or contribute to anything which has a visible or auditory impact outside of the lot, including without limitation exterior noise, dust, glare, vibration, odor or smoke;**
- (7) there are no additional vehicles being parked on, about or near the lot, or any other indications that any business conduct or activities are being conducted on the lot or within any building located on the lot.**

The intention of the above indicia is to provide examples of factors which are normally associated with business conduct or activity, which the Association will consider as adverse to the residential character of the community. It is not comprehensive, and owners should be aware that other conduct or activity which adversely impacts residential character of the community will result in the conduct or activity being considered as a violation of Article VI, Section 1(d).

Any business or other activity which would adversely impact the single family residential nature and character of the community remains prohibited, including without limitation children's day care centers and vehicle repair activities. General adverse impact factors which will be considered by the Board of the Association shall include without limitation noise level, additional traffic, parking on the street, noxious odors and other things that impact residential, quiet use of the homes by, and the safety of, community members.

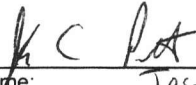
The intent of this section is to give the Board some discretion or flexibility, so that in-home business activities such as telecommuting or working from the home in an unobtrusive and unseen manner will be permitted, while undesirable business conduct or activities which are not compatible or in keeping with the residential character and/or quality of the community will continue to be proscribed and prevented by the Section.


A business which violates or fails to satisfy on a continuing basis one or more of the criteria set forth in this section, shall not be permitted and is expressly prohibited. The Board of Directors shall exercise reasonable discretion in the use of this policy, with the primary objective protecting the residential character of the community. Notwithstanding anything to the contrary in this policy statement, conduct for profit considered immoral or indecent and which would harm the reputation of the community, including without limitation the filming or broadcasting of soft or hard pornographic video, images or text, regardless of the fact it could be done without any of the above impact factors occurring, remains prohibited and will not be permitted under this Section.

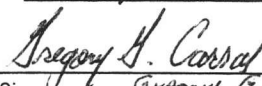
Nothing in or about this policy is intended to change, alter or amend any part of Article VI, Section 1(d), and its provisions remain the same and will be properly enforced by the Association.

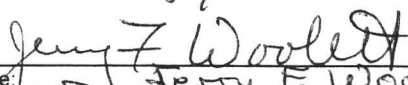
Dated and Adopted this 20th day of July, 2004.

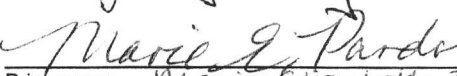
Board of Directors:

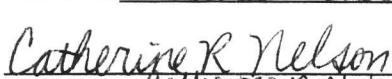

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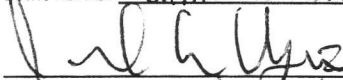

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