

# GREAT OAK HOMEOWNERS ASSOCIATION, INC.

## POLICY RESOLUTION NO. 2015-01

### RELATING TO RESIDENTIAL USE RESTRICTION (HOME OFFICES)

**WHEREAS**, the Declaration of Covenants, Conditions and Restrictions for Great Oak (“Declaration”) and Sections 55-513 and 55-515 of the Property Owners’ Association Act (“POA Act”) require all Owners and all those entitled to occupy the Lots to comply with the Declaration and the Association’s rules and regulations (“Rules and Regulations”); and

**WHEREAS**, Section 55-513 of the Act and Section 7.33 of the Declaration confer upon the Association’s Board of Directors (“Board”) the power to establish, adopt and enforce Rules and Regulations with respect to the use of the Common Areas and Lots and with respect to such other areas of responsibility assigned to the Association; and

**WHEREAS**, Section 7.24 of the Declaration provides that no Lot shall ever be used for any business, commercial, mercantile, storage, vending or other non-residential purpose, except that home offices are allowed if they meet certain criteria;

**WHEREAS**, it is apparent that the intent behind the residential use restriction is to protect the aesthetics, property values, safety and residential character of the Great Oak development; and

**WHEREAS**, the Board has determined that there is a need to adopt a policy to help clarify the restriction set forth in Section 7.24 of the Declaration and to apprise Owners and residents of the standards on which the Board will rely when enforcing the that Section’s residential use restriction.

**NOW, THEREFORE, IT IS HEREBY RESOLVED THAT** the Association’s Board of Directors hereby duly adopts the following Rules and Regulations pertaining to the Declaration’s residential use restriction:

#### **I. GENERAL RULES**

A. **General Prohibition Against Commercial Use.** Except for Home Offices (as defined below) that are specifically permitted by these Rules, no Lot within the Great Oak development shall be used, in whole or in part, for business, commercial or other non-residential purposes, including but not limited to conducting a business, trade, profession or other occupation on or within a Lot. Residents of a Lot within Great Oak are authorized and permitted to have one Home Office per Lot, but only if such use is consistent with the requirements and limitations set forth in these Rules.

1. For purposes of this Resolution, the term “*Home Office*” means a room within a Lot’s dwelling that is set up with a telephone, computer, file cabinet, desk or other work-related equipment for the room’s exclusive or primary use by the dwelling’s resident to conduct his or her job or business.

2. Except as otherwise defined in these Rules, capitalized terms used in these Rules have the same meaning as defined in the Declaration.

B. **Standards for Permitted Home Offices.** Home Offices are permitted *only if* the Home Office complies with *all* of the following requirements and limitations:

1. The business or other commercial activity associated with the Home Office must be conducted, or carried on, solely within the Home Office, and the Home Office use must be clearly incidental and subordinate to the principal use of the Lot as a residence.

2. The business or other commercial activity associated with the Home Office must be carried on solely by individuals residing in the dwelling as their principal place of residence – not by employees, subcontractors or other persons who do not also reside in the dwelling. This does not preclude clients or customers from coming to the Lot as long as all other provisions of these Rules are complied with.

3. Pursuant to Section 7.24 of the Declaration, the Home Office must not generate a significant number of visits to the Lot by clients, customers or other persons related to the business or other commercial activity being conducted out of the Home Office. For purposes of this restriction, the phrase “*significant number of visits*” means (i) *more than one visit or trip to the Lot per day by or for any one client, customer or other third party, and/or* (ii) *more than a total of 10 visits or trips to the Lot per day by clients, customers or other third parties*. This restriction is intended to limit the negative impact on the community flowing from increased vehicular and pedestrian traffic, noise and litter, and from excessive wear and tear on the Common Area private streets and other facilities.

4. Pursuant to Section 7.24 of the Declaration, there must be no exterior evidence that the Lot is used in any way other than for a residential dwelling. For example, there can be no exterior storage or display of materials, equipment or goods used in conjunction with the Home Office, no exterior business signs, and no other exterior alterations to the residential character of the Lot.

5. Pursuant to Section 7.2 of the Declaration, the use of the Home Office must not produce offensive or annoying noise, vibrations, smoke, dust or odor perceptible outside of that dwelling, or otherwise adversely affect the surrounding properties.

6. The Home Office must not violate, or create or result in a violation of, any other provision of the Declaration or Rules and Regulations, and must not violate any applicable state, local or federal laws, codes, ordinances or regulations. For instance, per Section 7.24 of the Declaration, all zoning related approvals for such use must be obtained as required by Fairfax County.

C. **Government Permits and Licenses.** Issuance of a local, state or federal permit, license or other governmental authorization for carrying out a particular business, trade or profession or for a particular use of the Lot shall not in any way be a substitute for or otherwise relieve an Owner or resident from complying with the requirements of these Rules or other governing documents of the Association.

D. **Examples of Permitted Home Offices.** The types of Home Offices that would typically be permitted under the Declaration and these Rules include, for example, those used by telecommuters, writers, composers, artists and bookkeepers, so long as all requirements of these Rules were complied with.

E. **Examples of In-Home Businesses Not Permitted.** The types of in-home businesses that are not permitted under the Declaration and these Rules include, for example, retail sales or service businesses that (i) require customers or vendors to visit the Lot more than once a day, (ii) that require noisy machinery or equipment, (iii) that violate the county zoning ordinance, such as limitations on “home occupations,” *and/or* (iv) that require the use of other parts of the dwelling or Lot other than just the one room containing the Home Office, such as a “home child care facility” or “family day home” as defined by state or county law or ordinance, barbershops, beauty parlors and repair shops.

F. **Activities Not Prohibited Under These Rules.** Notwithstanding anything to the contrary in these Rules, nothing in these Rules shall be interpreted to prohibit: (1) occasional (sporadic or infrequent, not regular) babysitting on a part-time, hourly basis that does not require any county or state licensing or permits; (2) the carrying out of Association business by Board members, committee members and other authorized agents of the Association; or (3) a dwelling’s residents using computers in more than one room for purposes of teleworking.

## **II. ENFORCEMENT**

A. **Violations.** No Owner shall use, or allow his Lot to be used, in violation of the Association’s governing documents. Any Owner using or allowing the use of his or her Lot, in whole or part, in violation of the residential use restriction contained in the Declaration or as set forth in these Rules must immediately cease and desist or be subject to enforcement action by the Association to compel compliance with the Association’s governing documents. Owners are responsible for their own violations and for violations by their tenants, guests, employees, agents and members of their household.

B. **Remedies.** The Board may impose violation charges against the noncompliant Owner and suspend the right to use Association-provided services and facilities (per Subsections 12.1.7 and 12.1.8 of the Declaration). In addition to (or instead of) those remedies, if an Owner or resident persists in the operation of a Home Office or other business or commercial use of a Lot or dwelling in violation of the Declaration or these Rules after the Association sends a violation notice, then the Board may file a lawsuit to seek a court injunction, notify any appropriate governmental authorities, and/or undertake any other remedies available to the Association as the Board of Directors deems necessary or appropriate. The costs incurred by the Association in pursuing such remedies or proceedings, including attorney’s fees, shall be assessed against the responsible Owner as permitted under Subsection 12.1.1 of the Declaration.

**Resolution’s Effective Date: February 16, 2015**

**GREAT OAK HOMEOWNERS ASSOCIATION, INC.**

**RESOLUTION ACTION RECORD**

Resolution Type: Policy No. 2015-01

Pertaining to: Relating to Residential Use Restriction (Home Offices)

Duly adopted by the Board of Directors at a Board meeting held on Feb. 9, 201<sup>5</sup>/<sub>4</sub>, after due notice and a hearing pursuant to Section 7.33 of the Association's Declaration.

NAME	TITLE	YES	NO	ABSTAIN	ABSENT
<u>WEICHANG WANG</u>	Director	✓			
<u>RAN AYEDEAS</u>	Director	✓			
<u>Angelica Steele</u>	Director	✓			
<u>Seth Sampath</u>	Director	✓			
<u>Spencer Daulton</u>	Director	✓			
<u>Pat O'Neil</u>	Director	✓			
<u>Joe Est</u>	Director	✓			

ATTEST:

Angelica Steele  
Secretary

2/16/15  
Date

Resolution's Effective Date: February 16, 2015.

**CERTIFICATION OF MAILING**

I hereby certify that a copy of the foregoing Policy Resolution was mailed on \_\_\_\_\_, 201<sup>5</sup>/<sub>4</sub>, by first-class, postage prepaid, US Mail to all Owners as reflected in the Association's books and records.

Jessica Appano  
Managing Agent  
Great Oak Homeowners Association, Inc.