

**Magnolia Ridge
Homeowners Association, Inc.
Office of the Directors**



**P.O. Box 142354
Fayetteville, GA 30214**

March 19, 2019

To: Magnolia Ridge Homeowners, Lessees, Licensees and Occupants

Re: Home Based Businesses / Customary Home Occupations

The enabling authorities governing the Magnolia Ridge Homeowners Association, Inc. specify the powers of the Association, governing through its Board of Directors, to maintain and administer the community properties and facilities, as well as administer and enforce protective covenants. Authority to regulate home-based businesses and/or customary home occupations is not specifically granted to the Association or the Board.

However, the Residential Declaration of Protective Covenants, Conditions and Restrictions at Article IV does address prohibited uses and variances. Section 1., thereof provides: “*No site shall be used except for residential and recreational purposes.*”. Section 2., thereof provides: “*No Owner, Lessee, Licensee or Occupant shall create a nuisance.*”. And also, “*No property shall be used in such a manner as to create a nuisance to others, . . .*”.

The prohibition of any use, other than residential, bars the establishment of a home-based businesses as it is commonly defined. Furthermore, the generation of vehicular traffic and parking by a home-based business is viewed by most as a nuisance. City of Fayetteville code appears to not directly address home-based businesses (however, they are generally prohibited by various sections of the zoning codes), but does specifically permit customary home occupations in all residential districts at Sec. 94-156 (2).

City zoning code provides further guidance as to what constitutes a customary home occupation as follows:

Sec. 94-3. Definitions. To wit:

Customary home occupation means an occupation customarily carried on within a dwelling unit for gain or support involving the sale of only those articles, products or services produced on the premises, conducted entirely within the dwelling by members of the immediate family residing in the dwelling unit with equipment customarily used for household purposes and involving no display of articles or products and no outdoor advertising.

Sec. 94-317. Customary home occupations.

(a) **Generally.** In all residential districts, customary home occupations are permitted subject to the following conditions and requirements:

- (1) There shall be no exterior evidence of the home occupation, including but not limited to, the parking of one vehicle, related to the business, which can be seen from a public street or right-of-way.
 - (2) No outside storage of materials and equipment shall be used in connection with the home occupation.
 - (3) No external alterations inconsistent with the residential use of the building shall be permitted.
 - (4) Only vehicles used primarily as passenger vehicles shall be permitted in connection with the conduct of the home occupation, and no on-street parking of customer vehicles shall be permitted.
 - (5) No chemical, electrical or mechanical equipment shall be installed or used, except that which is normally used for household or hobby purposes.
 - (6) No on-site retail sales. Internet sales are allowed.
 - (7) Such use shall be conducted entirely within the dwelling unit and only persons living in the dwelling unit and one non-resident employee shall be allowed to work from the residence.
- (b) **Statement of intent.** A statement of intent shall accompany each application for a customary home occupation. The statement of intent shall include the following information:
- (1) To operate a business from an apartment, the city will require a letter of approval from the owner or manager.
 - (2) To operate a business from rental property, the city will require a letter of approval from the property owner.
 - (3) Verification that applicant, their immediate family residing on the premises, and one non-resident employee will be the only persons to work from this location.
 - (4) Verification that there will be no outside storage of business-related items of any kind.
 - (5) Verification that there will be no signs or advertisement of any kind at this location.
 - (6) Verification that there will be no retail sales of any kind on the premises.

Statement of intent forms may be obtained from the business license department. A copy of the affidavit of intent form is attached hereto [to Ordinance No. 0-13-01 and incorporated herein by reference] as "Exhibit A".

(Ord. of 4-15-96, art. VIII, § 811; Ord. No. 0-11-99, 3-15-99; Ord. No. 0-13-01, § 1, 4-19-01; Ord. No. 0-30-05, art. 16, 8-4-05)

The Board of Director's established Policy is to issue a variance from the Declaration to any Applicant (Owner, Lessee, Licensee or Occupant) who can show that their home-based business or customary home occupation meets the letter and intent of code, and that he/she has obtained any and all permits and licenses required. The Applicant must request a variance on a form created and approved by the Board.

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