



**A RESOLUTION ESTABLISHING RULES AND REGULATIONS REGARDING
HOME BASED BUSINESSES AND CUSTOMARY HOME OCCUPATIONS**

WHEREAS, pursuant to the *Georgia Property Owner's Association Act* and the *Magnolia Ridge Residential Declaration of Protective Covenants, Conditions and Restrictions (the "Declaration")*, the Association, acting through its Board, has the right to adopt reasonable rules and regulations which are binding on all Owners, Lessees, Licensees and Occupants; as those terms and others herein are defined in the Declaration. The Board therefore may issue reasonable rules and regulations for the express purpose of curing any ambiguity in or any inconsistency between the provisions contained in the Declaration; and

WHEREAS, the enabling authorities governing the Association do not grant specific authority to the Association or its Board to regulate home-based businesses and customary home occupations. However, the Declaration 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, . . .*"; and

WHEREAS, the Declaration's prohibition of any use, other than for residential purposes, bars the establishment of a home-based business as it is commonly defined. City of Fayetteville code does not appear to directly address home-based businesses (however, various sections of the zoning code generally prohibit same). Zoning code at Sec. 94-156 (2) specifically permits customary home occupations in all residential districts. City zoning code also provides guidance as to what defines a customary home occupation at Sec. 94-3 and subjects customary home occupations to certain conditions and requirements at Sec. 94-317; and

WHEREAS, based on the above findings, the Board deems it necessary to enact Rules and Regulations establishing policy regarding the issuance of Variances to permit the establishment of home-based businesses and/or customary home occupations on lots and in residences subject to the Declaration. The Board believes that these actions meet both the letter and intent of the Declaration at ARTICLE IV., Section 5., as cause for the Board to grant reasonable variance from the provisions of the Declaration.

NOW, THEREFORE, be it resolved by the Board of Directors of the Magnolia Ridge Homeowners Association, Inc., that if an Applicant's (an Owner, Lessee, Licensee or Occupant) home-based business or customary home occupation meets the letter and intent of applicable codes, and the Applicant can show that he/she has obtained any and all permits and licenses required to conduct a home-based business or customary home occupation, then Board policy shall be to accept such compliance with code, permits and licensing as prima-fascia evidence that the Applicant is abiding by the Declaration.

The Applicant shall request a variance from the Declaration on a form created and approved by the Board. Thereafter, the Board shall issue a variance specifically as to Article IV., Section 1., of the Declaration regarding land use. However, the provisions of Section 2., thereof regarding nuisances shall not be waived in any case.

The above Rules and Regulations establishing Policy shall become effective on the date of this Resolution and shall remain in full force and effect until rescinded, amended or replaced.

Resolved by majority vote of the Board of Directors on the Nineteenth day of March, 2019



President of the Association



Vice President of the Association