



**A RESOLUTION ESTABLISHING RULES AND REGULATIONS REGARDING  
WALKWAYS OTHER THAN SIDEWALKS**

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 Declaration at ARTICLE VI., Section 8., requires: "*The builder of any dwelling within the subdivision shall construct a sidewalk which shall run continuously along the entire road frontage of the front yard of such dwelling. All sidewalks shall be constructed of concrete and be forty-eight (48") inches in width.*" The Subdivision Regulations of Fayetteville at Sec. 78-187 provide further guidance on sidewalks, and the Declaration and Fayetteville code are similar in scope and intent; and

WHEREAS, a "sidewalk" is defined as a usually paved walk for pedestrians at the side of a street<sup>1</sup>. A "walkway" is defined as a passage for walking<sup>2</sup>. A "sidewalk" therefore is a distinct subset of "walkways"; and

WHEREAS, the Declaration at ARTICLE II., defines a walkway as an "Improvement", which is subject to the development standards of ARTICLE VI., and the submission of plans to the Architectural Control Committee (the "Committee") for review and approval prior to commencing any construction or alteration. Because Section 8., of ARTICLE VI., specifically refers to sidewalks, it is apparent that it was not the intent of the drafters of the Declaration that Section 8., would apply to walkways other than sidewalks, since walkways are generally located on a lot's interior. Since there are no other guidelines in the Declaration for the development of walkways, the strict application of Section 8., creates ambiguity in or inconsistency between the provisions, and fails to meet the real and demonstrated needs of the Owners, Lessees, Licensees and Occupants to construct or reconstruct walkways on the interior of their lots. Furthermore, the strict application of these provisions creates practical difficulties and unnecessary hardship upon the Owners, Lessees, Licensees and Occupants; and

WHEREAS, based on the above findings, the Board deems it necessary to enact Rules and Regulations regarding the construction or reconstruction of walkways. The Board believes that this action meets 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.

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<sup>1</sup> Merriam-Webster Dictionary

<sup>2</sup> Merriam-Webster Dictionary

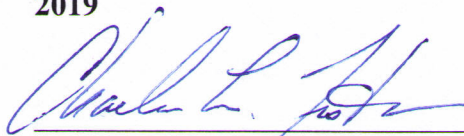
NOW, THEREFORE, be it resolved by the Board of Directors of the Magnolia Ridge Homeowners Association, Inc., that the following Rules and Regulations are applicable to the construction or reconstruction of walkways, and shall be have the same force and effect as if written into ARTICLE VI., DEVELOPMENT STANDARDS of the Declaration:

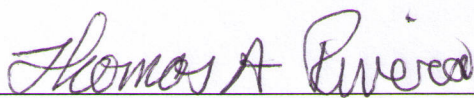
**Walkways:**

1. For purposes of the Declaration at ARTICLE VI., Section 8., a walkway shall not be deemed a sidewalk unless it meets the definition of a sidewalk as set forth above.
2. All sidewalks shall be constructed to comply with the Declaration and City of Fayetteville code.
3. All walkways other than sidewalks shall be constructed of poured concrete, concrete or stone pavers, brick or a combination of same. There shall be no minimum for walkway width – however, the de facto minimum standard width for a walkway is two to three feet.

The above Rules and Regulations 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**

  
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President of the Association

  
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Vice President of the Association