

BARKERS RIDGE HOMEOWNERS ASSOCIATION, INC.

RESOLUTION PERTAINING TO INCIDENTAL OR HOME BUSINESS ACTIVITY

WHEREAS, the Board of Directors under the terms of the dedicatory instruments governing all sections within the Barkers Ridge Homeowners Association, Inc. (the “Association”), is charged with the responsibility of enforcing, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereinafter imposed by the provisions of the Restrictions governing the community (the “Restrictions”); and

WHEREAS, from time to time homeowners violate the Restrictions set forth for the community and fail to respond to the demands from the board to place their properties in compliance with the Restrictions on file for the Barkers Ridge Homeowners Association; and

WHEREAS, under the terms of Restrictions governing the sections which comprise the Barkers Ridge Homeowners Association, lots located within same can only be used for residential purposes; and

WHEREAS, the Association recognizes that, although the Restrictions state that a lot can only be used for residential purposes, the non overt, unintrusive manner in which some businesses may be conducted has changed since the original Restrictions were written; and

WHEREAS, the Association recognizes that the central concern arising from the conducting of commercial business activity from a residence within the Barkers Ridge Homeowners Association relates to the external impact same may have to neighboring properties both in terms of the exterior appearance of a residence as well as the activities which emanate from the non residential endeavor, and

WHEREAS, the Association deems it to be in the best interest of the Association to adopt a uniform manner of construing activities that will be deemed non residential in nature and, therefore, in violation of the Restrictions in place for the Barkers Ridge Homeowners Association; and

WHEREAS, the Association deems it in the Association’s interest to prepare and file a policy resolution to illuminate to the residents of the Barkers Ridge Homeowners Association those non residential activities predetermined, based upon resident input and historical perspective, to be a nuisance, noxious, or offensive to residents within the Barkers Ridge Homeowners Association and to establish a parameter of rules through which such activities will be curtailed; and

WHEREAS, the Board of Directors determined that adoption of such a policy would be appropriate and in accordance with, *inter alia*, Tex. Non-Profit Corporations Act. Art. 1396-2.02 (15); and

WHEREAS, during the course of business, a vote of the Board of Directors was taken to approve adoption of the proposed policy pursuant to the Association's Bylaws; and

WHEREAS, upon review of the votes cast for the resolution proposal, it was determined that the below-described policy resolution pertaining to incidental or home business activity was passed by a vote of the Board of Directors; NOW THEREFORE

BE IT RESOLVED THAT, in order to define the extent of and the manner in which the Association will enforce the single family residential use restriction in place for the Barkers Ridge Homeowners Association by and through the provisions set forth in the dedicatory instruments on file for each section comprising the Barkers Ridge Homeowners Association, the Association adopts the following policy resolution setting forth the parameter of acceptable non residential activity conducted on lots located within the Barkers Ridge Homeowners Association:

BACKGROUND

All single family residences (hereinafter sometimes referred to as "Home or Homes") located within the Barkers Ridge Subdivision are subject to Restrictions which are legally enforceable. The Restrictions govern the appearance and use of these Homes and are primarily intended to (a) maintain the quality and integrity of the community and (b) to sustain and enhance the investment homeowners have made in that home. Except where found by competent authority of federal, state, county, or city government to be consistent with public policy, no license or permit which may be applied for or granted to the homeowner or occupant modifies or replaces the legal obligation to the homeowner to comply with the Restrictions.

Although the Restrictions state that no lot shall be used for anything but residential purposes, the Association recognizes that the manner in which some business may be conducted has changed since the original Restrictions were written. In that regard, the Association is attempting through this resolution to illuminate to its membership the manner in which it construes the single family use provision set forth in the Restrictions by further defining those non residential activities predetermined, based upon resident input and historical perspective, to be a nuisance, noxious, or offensive to residents within the Barkers Ridge Subdivision and to establish a parameter of rules through which such activities will be curtailed. Therefore, the Association has defined the basis and extent to which it will enforce the provision of the Restrictions relating to operating a business from a Home as set forth in article III, Section 1 of the Restrictions, (referred to hereinafter as "Incidental Business"), and has identified those activities which will be deemed to constitute a noxious, offensive, or nuisance activity under the various Restrictions and, as such, will be deemed a use of the property not residential in nature. To that end, this policy resolution addresses Incidental Business and the intentions of Association as follows:

1. INTENT

The Incidental Business must:

- a. Be compatible with residential uses;
- b. Be secondary to the use of the Homes as a single family residence;
- c. Be limited in extent; and
- d. Not detract from the residential character of the neighborhood.

2. DEFINITION

An Incidental Business is defined as any business or commercial activity that is conducted from Homes which are subject to the Restrictions of the Barkers Ridge Homeowners Association.

3. ELIGIBILITY

- a. No person other than a resident of the Homes shall be engaged or employed in the Incidental Business.
- b. The Home where the Incidental Business is conducted must be the principal or primary residence of the provider of the labor, work, or service provided by the Incidental Business.

4. CONDUCT OF THE INCIDENTAL BUSINESS

- a. There shall be no exterior indication of the Incidental Business or variation from the residential character of the Home.
- b. The use shall not require additional off street parking spaces for employees, clients, or customers of the Incidental Business.
- c. The Incidental Business shall not create greater vehicular or pedestrian traffic than normal for other Homes in the Barkers Ridge Subdivision which are not conducting Incidental Business.
- d. The business shall not require any continuing deliveries or pickups other than what might normally occur at Homes in the Barkers Ridge Subdivision which are not conducting Incidental Business.
- e. No advertising display signs indicating or suggesting that an Incidental Business is being conducted on the site will be permitted, whether on the site itself or on any vehicle at the site.

- f. Any advertising of the business elsewhere shall only carry the name and telephone number of the Incidental Business.
- g. Other than business cards, no advertising shall indicate the residential address of the Incidental Business nor refer to the Barkers Ridge Homeowners Association or the Barkers Ridge community in any manner.
- h. There shall be no use or storage of tractor trailers, semi trucks, heavy equipment such as construction equipment, trailers or food vending vans/vehicles used in an Incidental Business.
- i. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive or other restricted materials used by or for the Incidental Business shall be used or stored at the Homes.
- j. The Incidental Business shall not produce offensive noise, obnoxious odors, vibrations, smoke, fumes, heat, or dust detectable to normal sensory perception beyond the premises.
- k. No equipment or process shall be used which creates visual or audible electrical interference in any radio or television receiver or any other equipment beyond the premises or cause fluctuation in line voltage beyond the premises.
- l. No more than fifteen percent (15%) of the Home nor Thirty percent (30%) of the floor area of the garage shall be utilized for the Incidental Business.
- m. The Incidental Business shall not require any external alterations to the residence nor provide any visible evidence from the exterior of the Home that it is being used for any other purpose than that of a residence.
- n. No portion of the yard surrounding the Home and visible from the street, or observable from adjacent property, shall be used for storage of any materials related to the Incidental Business.
- o. Other than the resident's personal transportation or employer furnished transportation, there shall be no vehicles or equipment on the property associated with the Incidental Business which would not normally be found at a residence. No sign that lists the address of the Incidental Business shall be on any vehicles owned by the resident.
- p. Nothing in this document is intended to relate to or encourage garage or yard sales which are regulated by the State of Texas.

- q. Any modification to the Home, whether or not related to the Incidental Business, may be subject to the prior approval of the Architectural Committee of the Association. It is the responsibility of the homeowner to submit any plans for such modifications and obtain any required approvals in writing prior to commencing such modifications.
- r. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Home, except, that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose.
- s. No spirituous, vinous or malt or medicated bitters capable of producing intoxication shall ever be sold, or offered for sale, at the Homes or any part there.
- t. No Home shall be used for illegal or immoral purposes.
- u. The Incidental Business shall not generate any more, or type of, garbage or trash than would normally be created at a Home where no Incidental Business is being conducted.

5. ENFORCEMENT

- a. The Association will take steps to legally enforce including, but not limited to, the commencement of legal actions on the basis of nuisance, if necessary, any reported violations of these Incidental Business rules of the Association which are violated and not promptly corrected by the homeowner.
- b. The Association will pursue full and prompt enforcement of any state, county or city laws, ordinances or other directives related to the conduct of Incidental Business conducted from a Home, or any other cause, which affects the Barkers Ridge Homeowners Association.
- c. The Association will advise and cooperate with any law enforcement agency that determines that any Incidental Business is, in fact, illegal.
- d. The Association will notify the appropriate law enforcement agency of any violation of parking ordinances or laws.
- e. All other provisions of the Restrictions to which the Homes are subject will continue to be enforced by the Association.
- f. Except as herein provided, no Home shall be used for anything other than residential purposes.

- g. Failure of the Association to enforce, in any instance, any of the policy provisions herein shall not diminish or negate the authority of the Association to require strict compliance with these provisions.
- h. No prior deviation from the policy provisions herein shall alter or negate the intent and authority of the Association to fully enforce these provisions with respect to Incidental Business.
- i. With respect to these provisions, the then current Association Board of Directors shall serve as the final authority in any dispute that arises under these provisions.

BE IT FURTHER RESOLVED that a copy of this resolution shall be filed in the Real Property Records of Harris County, Texas.

The resolution was adopted by the Board of Directors on _____,
 _____, and shall be effective on _____, _____.

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BARKERS RIDGE HOMEOWNERS ASSOCIATION, INC.

DIRECTOR'S BALLOT FOR ADOPTION OF INCIDENTAL BUSINESS RESOLUTION

The Board of Directors has recently investigated its deed restriction enforcement policy in connection with non residential activities being conducted from residences located within the Barkers Ridge Homeowners Association. It has, as a result, been suggested that the Association may be able to avoid litigation of certain violations by illuminating to the residents of the Barkers Ridge Homeowners Association those non residential activities predetermined, based upon resident input and historical perspective, to be a nuisance, noxious, or offensive to residents within the Barkers Ridge Homeowners Association and to establish a parameter of rules through which such activities will be curtailed. Consequently, the Barkers Ridge Homeowners Association, Inc. has drafted a Resolution Pertaining to Incidental or Home Business Activity. This ballot represents the undersigned directors vote as to the adoption of the resolution.

_____ Yes, I vote to adopt the proposed policy

_____ No, I vote against the proposed policy.

Director

Date