

**RIVERS EDGE COMMUNITY DEVELOPMENT DISTRICT**  
**Policy for Improvements within District Easements**

*Effective: September 20, 2023*

1. **IMPORTANT NOTE:** As a matter of policy, the District will not approve installation of improvements in District Easements absent extenuating circumstances.
2. If a resident desires to install improvements within a District Easement, the resident must:
  - a. Submit a written variance request to the District, through the District Manager or his or her designee, prior to commencement of such installation. The request must be made by the owner of the property and may be made in conjunction with its application to the HOA for construction of improvements, consistent with the applicable Declaration of Covenants.
  - b. Pay an initial application fee of **\$250** for the initial review of the application which may, in the District's discretion, include a site visit.
  - c. If the District grants approval, pay an additional fee of **\$150** to cover the costs of preparing and recording a Variance Agreement, and sign and notarize the Variance Agreement provided by District staff in substantially the form attached as **Attachment A**, with any additional modifications required by the District.
3. The variance request must contain, at a minimum, the following information:
  - a. The contact information of the person making the variance request;
  - b. The lot number or street address of the lot on which the improvement is to be installed;
  - c. A description of the improvement(s) to be installed;
  - d. A description of what extenuating circumstances justify the easement encroachment;
  - e. A diagram showing the proposed location of the improvement(s); and
  - f. The anticipated commencement date of the installation of said improvement(s).
4. The District Engineer will perform an initial review of the variance request to determine if the proposed improvement(s) would have a negative impact on any District improvements. Such review may include, in the District Engineer's discretion, conducting an in-person site inspection. At the conclusion of the installation of any approved improvements, the District Engineer shall conduct a post-installation review to certify that the improvements do not exceed the scope of the approval.
5. After completing the review, the District Engineer shall recommend one of the following actions to the District and the resident:
  - a. Approve the variance request;
  - b. Approve the variance request with conditions; or
  - c. Deny the variance request.
6. If the District Engineer recommends approving the request, unless other considerations necessitate denying the request, District staff shall coordinate execution of the Variance Agreement in substantially the form attached hereto as **Attachment A**, with such revisions as may be deemed necessary and approved by District Counsel, in consultation with District staff. Upon execution of the agreement, District staff shall record the agreement in the Official Records of St. Johns County.
7. If the District Engineer recommends denying the request, District staff shall notify the applicant that the variance request was denied and that the proposed improvements may not be installed within the District Easement(s).
8. There shall be no requirement to bring the variance request before the Board of Supervisors ("Board") for approval, unless the District Manager determines extraordinary circumstances warrant Board

consideration. However, if the applicant disagrees with the District's determination, the applicant may request that the matter be brought before the Board for reconsideration.

9. The District's approval of a variance request constitutes approval from the District only. The resident is responsible for obtaining any other necessary approvals, permits and authorizations, including but not limited to approvals from the HOA, St. Johns County, the St. Johns River Water Management District, and any other entities having an interest in the property, as applicable. The District is in no way responsible for informing residents of what other approvals they may need to obtain.
10. If improvements are constructed within a District Easement without prior approval, including improvements that exceed the scope of any prior approval, the District reserves the right to require the resident to remove, relocate, or modify the improvement(s) at the resident's sole expense. If the resident is unresponsive to the District's requests, the District may remove said improvement(s) on its own and charge the resident the cost of said removal. The District also reserves the right to take any appropriate legal action to enforce its rights under this policy or to collect any costs due.

**Attachment A**

After recording, please return to:  
Rivers Edge Community Development District  
c/o District Manager  
475 West Town Place, Suite 114  
St. Augustine, Florida 32092

**VARIANCE AGREEMENT FOR INSTALLATION OF IMPROVEMENTS  
WITHIN CDD EASEMENT**

This *Variance Agreement for Installation of Improvements within CDD Easement* (“**Agreement**”) is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and among \_\_\_\_\_ (“**Owner**”) and the Rivers Edge Community Development District (“**CDD**”), a local unit of special purpose government created pursuant to Chapter 190, Florida Statutes.

**WITNESSETH:**

**WHEREAS**, Owner is the owner of the property located within the CDD at the following address:

\_\_\_\_\_  
\_\_\_\_\_, as more specifically described as Lot \_\_ of the Plat titled \_\_\_\_\_, as recorded at Book \_\_, Page \_\_\_\_\_, of the Official Records of St. Johns County, Florida (“**Property**”); and

**WHEREAS**, Owner desires to erect certain improvements described as \_\_\_\_\_ (“**Improvements**”) within a CDD easement area (“**Easement**”) located on the Property (“**License Area**”), as depicted at **Exhibit A**; and

**WHEREAS**, due to the CDD’s legal interests in the Easement, among other reasons, Owner requires the CDD’s consent before constructing and/or installing improvements within the Easement; and

**WHEREAS**, the CDD has agreed to consent to the construction and/or installation of the Improvements within the License Area, subject to the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is understood and agreed as follows:

1. **Recitals.** The recitals set forth above are acknowledged as true and correct and are incorporated herein by reference.
2. **License for Improvements Installation & Maintenance; Limitation.** Subject to the terms of this Agreement, the CDD hereby grants Owner the right, privilege, and permission to install and maintain the Improvements on the License Area.
3. **Owner Responsibilities.** The Owner has the following responsibilities:

- a. The Owner shall be fully responsible for the installation and maintenance of the Improvements.
- b. The Owner shall be responsible for ensuring that the installation and maintenance of the Improvements are conducted in compliance with all applicable laws (including but not limited to building codes, set back requirements, etc.).
- c. By entering into this Agreement, the CDD does not represent it has authority to provide all necessary approvals for the installation of the Improvements. Instead, the Owner shall be responsible for obtaining any and all applicable permits and approvals relating to the work (including but not limited to any approvals of the any applicable homeowners' association, St. Johns County, or the St. Johns County Water Management District, as well as any other necessary legal interests and approvals).
- d. The Owner shall ensure that the installation and maintenance of the Improvements does not damage any property of CDD or any third party's property, and, in the event of any such damage, the Owner shall immediately repair the damage or compensate the CDD for such repairs, at the CDD's option.
- e. Owner's exercise of rights hereunder shall not interfere with CDD's rights under the Easement. The CDD shall have the right to access its Easement and to use it for its intended purposes. Further, the Improvements shall be installed in such a manner as to not interfere with or damage any CDD infrastructure that may be located within the Easement. It shall be Owner's responsibility to locate and identify any such pre-existing infrastructure improvements. Further, the Owner shall pay a licensed and insured professional contractor to mark any existing improvements and/or utilities prior to installation of the Improvements.
- f. Upon completion of the installation, the Improvements will be owned by the Owner. Owner shall be responsible for the maintenance and repair of any such Improvements and agrees to maintain the Improvements in good condition.
- g. Additionally, the Owner shall keep the License Area free from any materialmen's or mechanic's liens and claims or notices in respect to such liens and claims, which arise by reason of the Owner's exercise of rights under this Agreement, and the Owner shall immediately discharge any such claim or lien.

4. **Removal and/or Replacement of Improvements.** Owner acknowledges the legal interest of the CDD in the Easement(s) described above and understands the grant provided herein in no way permits interference with the CDD's use. Owner will exercise the privilege granted herein at Owner's own risk and agrees that Owner releases and waives any claim on behalf of itself and successors and assigns any damages against CDD for any injuries or damages suffered on account of the exercise of such privilege, regardless of the fault or negligence of the CDD. Owner further acknowledges that the permission granted herein is given to Owner as an accommodation and that, if necessary for the proper operation of CDD infrastructure or performance of the CDD's maintenance responsibilities, the CDD may require the Owner to remove all, or any portion or portions, of the Improvements installed upon the License Area at Owner's expense, or, in the event of a threat to the health, safety or welfare of the CDD or its residents or property, the CDD may remove the Improvements and hold the Owner responsible for the cost of such removal. The CDD agrees to give Owner notice to the extent possible.

5. **Indemnification.** Owner agrees to indemnify, defend and hold harmless the CDD, as well as its officers, supervisors, staff, agents and representatives, and successors and assigns, against all liability for damages and expenses resulting from, arising out of, or in any way connected with, this Agreement or the exercise of the privileges granted hereunder.

6. **Covenants Run with the Land.** This Agreement, and all rights and obligations contained herein, shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns, including, but without limitation, all subsequent owners of any portions of the property described herein and all persons claiming under them. Whenever the word “Owner” is used herein, it shall be deemed to mean the current owner of the Property and its successors and assigns.

7. **Sovereign Immunity.** Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the CDD beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, *Florida Statutes*, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

8. **Default.** A default by either party under this Agreement – including but not limited to Owner’s failure to meet its obligations under Section 3 above – shall entitle the other to all remedies available at law or in equity, which may include, but not be limited to, the right of damages and/or specific performance.

9. **Attorney’s Fees & Costs.** The prevailing party in any litigation to enforce the terms of this Agreement shall be entitled to reasonable attorney’s fees and costs.

10. **Counterparts.** This Agreement may be executed in counterparts. Any party hereto may join into this Agreement by executing any one counterpart. All counterparts when taken together shall constitute one agreement.

[THIS SPACE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the parties have caused these presents to be executed the day and date first above written.

**Witnesses:**

**Owner**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name

STATE OF FLORIDA )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_. He/she  is personally known to me or  produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
(Print, Type or Stamp Commissioned Name of Notary Public)

*[signatures continue on following page]*

[SIGNATURE PAGE TO VARIANCE AGREEMENT FOR  
INSTALLATION OF IMPROVEMENTS WITHIN CDD EASEMENT.  
COMPLETE IF NECESSARY FOR MULTIPLE OWNERS]

**Witnesses:**

**Owner**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name

STATE OF FLORIDA )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_. He/she  is personally known to me or  produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
(Print, Type or Stamp Commissioned Name of Notary Public)

*[signatures continue on following page]*

[SIGNATURE PAGE TO VARIANCE AGREEMENT FOR  
INSTALLATION OF IMPROVEMENTS WITHIN CDD EASEMENT]

**Witnesses:**

**Rivers Edge  
Community Development District**

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Chair of the Board of Supervisors

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name

STATE OF FLORIDA )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, as Chair of the Board of Supervisors of the Rivers Edge Community Development District, on behalf of said district. He/she  is personally known to me or  produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
(Print, Type or Stamp Commissioned Name of Notary Public)

*[end of signature pages]*



**Exhibit A to Variance Agreement**

[attach survey sketch showing location of improvements]