

**Proposed Waterleaf Community Development District
Wetland Setback Variance Policy**

Effective: _____

1. **Scope.** This policy applies to requests to modify and/or construct/install improvements within the 30-foot setback from the wetland conservation area owned by the Waterleaf Community Development District (“District”). No modifications of or improvements, including fences, pavers, landscaping, etc., may be constructed or installed within the 30-foot setback from the wetland conservation area without prior written approval from the Hillsborough County Environmental Protection Commission (“EPC”) and the District. This policy is intended to prevent damage which may be caused by unauthorized modification and/or construction within the 30-foot setback from the wetland conservation areas.
2. **Request Procedures.** Individuals who wish to modify, construct or install improvements within the 30-foot setback from the wetland conservation area must (a) submit the appropriate EPC application form to the District Manager or his or her designee, and (b) pay a **\$5,000** fee to offset the costs of processing the request, including but not limited to the EPC processing fee and any and all costs and fees incurred by the District, such as professional service fees of the District’s engineer and/or legal counsel, related to the request (“**Deposit**”). If the Deposit is not fully expended processing the request, any Deposit monies remaining shall be returned to the individual applicant; however, if the costs of processing the request exceed the Deposit amount, the individual applicant shall be required to pay the District for all actual costs incurred by the District in order to process the request. Please note that the EPC must approve any modification to the 30-foot setback from the wetland conservation area before the District can consider approving the request. Please also note that certain improvements may not be permissible in the wetland setback area due to EPC rules and regulations, the District’s access and maintenance requirements, or other factors in the District’s discretion.
3. **Approval.** If approved, the owner(s) of the property must execute an agreement in a form acceptable to the District, which shall be recorded in the Public Records of Hillsborough County, Florida. The District Manager shall have authority to approve applications to be submitted to the EPC; however, while the Board of Supervisors (“Board”) may review applications, there shall be no requirement to bring the application before the Board for approval, unless extraordinary circumstances warrant Board consideration. The District’s approval of an application for submission to the EPC constitutes approval from the District only. The requestor is responsible for obtaining any other necessary approvals, permits and authorizations for the project, including but not limited to approvals from an HOA, county, municipality, or any other entity having an interest in the project or property utilized.
4. **Denial.** The District reserves the right to deny any request that, in its sole discretion, poses an undue risk of damage to District property or improvements; unduly limits the District’s rights to use the easement for its stated purpose; poses an undue risk to the health, safety, or welfare of District residents, guests, staff, and invitees;

and/or is otherwise incompatible with the nature of the easement in question. If a request is denied, the requestor may appeal the denial at the next meeting of the Board that is at least ten (10) days from the notice of denial. The Board's decision upon appeal shall be final.

5. **Encroachment Without Approval.** If improvements are constructed or installed within District-owned property without approval, the District reserves the right to take all available legal action against the person or entity engaging in such unauthorized use.
6. **Severability.** The invalidity or unenforceability of any one or more provisions of these policies shall not affect the validity or enforceability of the remaining provisions, or any part of the policies not held to be invalid or unenforceable.
7. **Sovereign Immunity.** Nothing herein shall constitute or be construed as a waiver of the District's sovereign immunity or limitations on liability contained in Section 768.28, *Florida Statutes*, or other statutes or law.