

This instrument prepared by:  
Christine Kenefick  
Resident and Member  
River Oaks at Aquarina Homeowners Association  
360 Hammock Shore Drive  
Melbourne Beach, FL 32951

**SEVENTH AMENDMENT TO THE DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS FOR RIVER OAKS AT AQUARINA**

THIS SEVENTH AMENDMENT to the declaration of Covenants, Conditions and Restrictions for River Oaks at Aquarina ("Seventh Amendment") is made this 16<sup>th</sup> day of March by River Oaks at Aquarina Homeowners Association, Inc., a Florida Corporation.

WITNESSETH

WHEREAS, River Oaks at Aquarina Homeowners Association, Inc. is the association under Declaration of Covenants, Conditions, and Restrictions for River Oaks at Aquarina, recorded on September 25, 1995 in Official Records Book 3507, Page 1670, Public Records of Brevard County, Florida (the "Declaration"); and

WHEREAS, The Declaration was amended by the First Amendment to the Declaration of Covenants, Condition, and Restrictions for River Oaks at Aquarina, recorded in Official Records Book 3624, Page 3748, Public Records of Brevard County, Florida; and

WHEREAS, the Declaration was amended by the Second Amendment to the Declaration of Covenants, Condition, and Restrictions for River Oaks at Aquarina, recorded in Official Records Book 4179, Page 3574, Public Records of Brevard County, Florida; and

WHEREAS, The Declaration was amended by the Third Amendment to the Declaration of Covenants, Condition, and Restrictions for River Oaks at Aquarina, recorded in Official Records Book 4019, Page 0246, Public Records of Brevard County, Florida; and

WHEREAS, the Declaration was amended by the Fourth Amendment to the Declaration of Covenants, Condition, and Restrictions for River Oaks at Aquarina, recorded in Official Records Book 4210, Page 1579, Public Records of Brevard County, Florida; and

WHEREAS, the Declaration was amended by the Fifth Amendment to the Declaration of Covenants, Condition, and Restrictions for River Oaks at Aquarina, recorded in Official Records Book 4763, Page 3799, Public Records of Brevard County, Florida; and

WHEREAS, the Declaration was amended by the Sixth Amendment to the Declaration of Covenants, Condition, and Restrictions for River Oaks at Aquarina, recorded in Official Records Book 5760, Page 6428, Public Records of Brevard County, Florida; and

WHEREAS, THE River Oaks at Aquarina Declaration of Covenants, Conditions, and Restrictions can be amended, as provided for in Section I, Paragraph three (3) by owners of at least two-thirds (2/3) of the voting interest of the Association which owners have duly voted for said amendment by a properly and officially called meeting of the members.

NOW, THEREFORE, River Oaks at Aquarina Homeowner’s Association, Inc. hereby amends the Declaration of Covenants, Conditions, and Restrictions of River Oaks at Aquarina with Amendment Seven to transfer certain parcels described herein from ownership by the Association to members of the Association. This amendment was approved by a majority greater than two thirds of the voting interest of the Association on March 18, 2009

**AMENDMENT SEVEN TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR RIVER OAKS AT AQUARINA**

Words in the text which are **BOLDED** indicate additions to the present text.

32. CONSERVATION AREA. (previously paragraph 34)

A. PURPOSE. This area is designated as a conservation area to assure that the property will be retained forever in a natural condition and to prevent any use of the property that will impair or interfere with the environmental value of the property. “Conservation Area” or “Conservation Easement Area” shall mean and refer to all of such areas so designated as Conservation Area upon plat recorded in Plat Book 41, Page 77, of the Public Records of Brevard County, Florida. The Conservation Easement Areas shall and are hereby declared to be subject to a Conservation Deed Restriction in favor of the St. Johns River Water Management District, its successors and assigns, for the purpose of retaining and maintaining the Conservation Easement Areas in their predominantly natural condition as a wooded water recharge, detention and percolation and environmental conservation area. In furtherance of Conservation Easement, each of the following uses of the conservation Easement Areas are hereby prohibited and restricted without prior written consent of the St. Johns River Water Management District, to-wit:

- (1) The construction or place of buildings, roads, signs, billboards or other advertising, utilities, or any other structures and improvements on or above; and
- (2) The dumping or placing of soil or other substances or materials as landfill or the dumping or placing of trash, waste or unsightly or offensive materials; and
- (3) The removal or destruction of trees, shrubs or other vegetation from the Conservation Easement Areas; and
- (4) The excavation, dredging or removal of loam, peat, gravel, rock, soil, or other material substance in such a manner as to affect the surface of the Conservation Easement Areas; and

(5) Any use which would be detrimental to the retention of the Conservation Easement Areas in their natural condition; and

(6) Any use which would be detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife preservation; and

(7) Any acts or uses detrimental to such retention of land or water areas; and

(8) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

The Conservation Easement Areas hereby created and declared shall be perpetual.

Members of the Association, **owners**, and all subsequent owners, and the St. Johns River Water Management District shall have the right to enter upon the Conservation Easement Areas at all reasonable times and in a reasonable manner, to assure compliance with the aforesaid prohibitions and restrictions.

Members of the Association, **owners**, and all subsequent owners of any land upon which there is located any conservation easement shall be responsible for the periodic removal of trash and other debris which may accumulate on such easement parcel.

The prohibitions and restrictions upon the Conservation Easement Areas as set forth in this paragraph may be enforced by the St. Johns River Water Management District or the Department of Environmental Protection by proceedings at law or in equity including, without limitation, actions for injunctive relief. The provisions of this Conservation Easement Area restriction may not be amended without the prior written approval from the St. Johns Water River Management District.

All rights and obligations arising hereunder are appurtenances and covenants running with the land of the Conservation Easement Areas, and shall be binding upon, and shall inure to the benefit of the Association, and its successors and assigns. Upon conveyance by the Association to third parties of any land affected hereby, the Association shall have no further liability or responsibility hereunder, provided the deed restriction including the Conservation Areas are properly recorded.

B. **RIGHTS**. St. Johns River Water Management District and Brevard Mosquito Control District may enter the property to inspect and carry out mosquito control and other activities.

C. **PROHIBITED USES**. Construction of utilities or structures (other than provided for in 32D below) on or above the grounds, excavation or placing of fill, removal or planting of trees or other vegetation if not approved in writing by St. Johns River Water Management District. All prohibited are:

- (1) Dumping of trash, waster or other offensive materials.
- (2) Activities detrimental to drainage, water conservation, soil conservation or fish and wildlife habitat preservation.
- (3) The use by power boats off the fishing pier/observation deck permitted under subsection D, herein below.

D. RESERVED RIGHTS. The owners of Lots 19, 20, 21 and 22 may seek approval from the applicable regulatory agencies, and if approval is granted may construct a fishing pier/observation deck of less than five hundred (500) square feet surface area over the river. **Effective April 1, 2009 owners of lots 12, 13, 14, 15, 16, 17, and 18, may also seek approval from the applicable regulatory agencies, and if approval is granted may construct a fishing pier/observation deck of less than five hundred (500) square feet surface area over the river.** These uses are not prohibited in the conservation area, and are not inconsistent with the purpose of this area. Mooring of motorized boats at the fishing pier/observation decks is strictly prohibited. Trimming of mangroves in the Conservation Easement property **owned by lot owners of lots 13, 14, 15, 16, 17, and 18, and the remainder of Parcel D, owned in common by the River Oaks at Aquarina Homeowner's Association, Inc.** is authorized only in areas identified in the attached Exhibit C. Mangrove trimming is permitted within the portions of the Conservation Easement which are located on single family lot numbers 19, 20, 21, and 22 of the River Oaks at Aquarina subdivision. Mangrove trimming within all of these single family lots must be performed in accordance with the exemption provisions of the Mangrove Trimming Act (Section 403.9326, Florida Statutes (1999)).

**The owners of Conservancy Area Sub Parcels 13A through 18A (Sub parcels D.1 through D.6) may only deed these properties to their successors, future owners of lots 13 through 18, or the River Oaks Homeowners Association. All conservancy area sub parcels can only be deeded to the properties directly adjacent to the respective sub parcel as established by the permanent concrete markers placed at the boundary of lots 12 through 18, or back to the River Oaks Homeowners Association. The current or future owners of Lot 12 may choose to purchase sub parcel D at a later time with the same terms and conditions that were applicable to the sale of sub parcels 13A through 18A.**

E. RESPONSIBILITY TO REMOVE TRASH AND OTHER DEBRIS. River Oaks at Aquarina Homeowners Association, Inc. and all subsequent owners of the conservation area shall be responsible for the periodic removal of trash and other debris which may accumulate on such conservation areas.

F. MANGROVE TRIMMING IN THE CONSERVATION AREA. The Board of Directors of the River Oaks at Aquarina Homeowners Association, Inc. obtained a permit from the St. John's River Water Management District (SJRWMD) and Department of Environmental


Protection (DEP) for trimming of the mangroves in Conservation Area sub parcels 13A through 18A, owned by lot owners 13, 14, 15, 16, 17, 18, and the remaining section of Parcel D owned in common by the Association. The current property owners of Conservancy sub Parcels 13A through 18A may at their own expense trim mangroves, provided all applicable exemptions or permits are obtained and the trimming is done in accordance with such exemption or permit. In the event any owner trims the mangrove in sub Parcels 13A through 18A of the Conservation Area, in such a way that violates the permit issued by the SJRWMD or DEP, or violates any other state or federal regulatory law, then such owner shall indemnify and hold the Association and its officers and directors harmless for any loss or claim. For purposes of this document, loss or claim shall be deemed to include any possible loss or claim, including penalties, administrative fines, damages, or any court costs or attorney's fees incurred in defense of such loss or claim. Should the Association sustain any loss or claim, then such homeowner who causes the loss or claim shall promptly reimburse the Association its damages for the loss or claim within thirty days, and failing that, the Association shall be entitled to impose a lien against the offending property owner, and may enforce that lien as provided for in Articles III and IV of the Declaration of Covenants, Conditions, and Restrictions.

IN WITNESS WHEREOF, The President of the River Oaks at Aquarina Homeowners Association has executed this Seventh Amendment on the day and year first above written.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

RIVER OAKS AT AQUARINA  
HOMEOWNERS ASSOCIATION, INC.

  
Witness Signature

  
By: Gerard Phelan, President

CHRISTINE KENEFICK  
Witness Printed Name


  
Witness Signature

HENRY RICHER  
Witness Printed Name

STATE OF FLORIDA

COUNTY OF BREVARD

THE FORGOING instrument was acknowledged before me this 16 day of March, 2010, by Gerard Phelan, as President of the RIVER OAKS at ACQUARINA HOMEOWNERS ASSOCIATION, who is personally known to me.

  
Notary Public Signature

My Commission Expires:

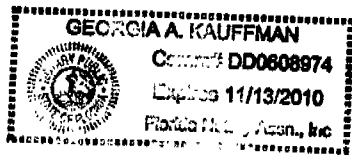


EXHIBIT C

CONSERVATION AREA

