

Official Public Records

*Nancy E. Rister*

Nancy E. Rister, County Clerk

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Williamson County Texas

STATE OF TEXAS

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COUNTY OF WILLIAMSON

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AMENDMENT TO BYLAWS  
OF

GABRIEL'S OVERLOOK PROPERTY OWNERS ASSOCIATION, INC.

Document reference. Reference is hereby made to that certain Declaration of Covenants, Conditions, Easements & Restrictions Gabriel's Overlook - Section One filed as Document No. 2000025866, that certain Declaration of Covenants, Conditions, Easements & Restrictions Gabriel's Overlook - Section Two filed as Document No. 2000061650; that certain First Amendment to Declaration of Covenants, Conditions, Easements & Restrictions Gabriel's Overlook - Sections One and Two filed as Document No. 2001003269; that certain Second Amendment to Declaration of Covenants, Conditions, Easements & Restrictions Gabriel's Overlook - Sections One and Two filed as Document No. 2004048610; that certain Third Amendment to Declaration of Covenants, Conditions, Easements & Restrictions Gabriel's Overlook - Section One and Two filed as Document No. 2005092203; and that certain Declaration of Covenants, Conditions, Easements & Restrictions Gabriel's Overlook - Section Five filed as Document No. 2005014178; that certain First Amendment to Declaration of Covenants, Conditions, Easements & Restrictions Gabriel's Overlook - Section Five filed as Document No. 2005038090; and that certain (Second) First Amendment to Declaration of Covenants, Conditions, Easements & Restrictions Gabriel's Overlook - Section Five filed as Document No. 2005092204; all in the Official Public Records of Williamson County, Texas (cumulatively, and together with any other amendments filed of record, the "Declarations").

Reference is further made to that certain Amendment to Bylaws of Gabriel's Overlook Property Owners Association, Inc., filed as Document No. 2010051471 in the Official Public Records of Williamson County, Texas (together with Exhibit "A" attached thereto, the "Bylaws").

WHEREAS the Declarations provide that owners of residential lots subject to the Declarations are automatically made members of the Gabriel's Overlook P.O.A., Inc., d/b/a Gabriel's Overlook Property Owners Association, Inc. (the "Association");

WHEREAS the Association and the related property are governed in accordance with the Bylaws;

WHEREAS Section 1.04 of the Bylaws provides that the Association's board of directors (the "Board") may vote to amend the Bylaws from time to time; and

WHEREAS the Board has voted to amend the Bylaws as set forth below;

THEREFORE the Bylaws have been, and by these presents are, amended as provided below:

1. By renumbering Article Eight (Adoption of Initial Bylaws) as Article Nine.
2. By ADDING a new Article Eight (Oak Wilt Management):

**"ARTICLE EIGHT - OAK WILT MANAGEMENT"**

**8.01 Oak Wilt Monitoring and Management.** The existence of the Oak Wilt disease in Central Texas is well known and documented. In fact, the Texas Forestry Service (TFS) has confirmed areas of Oak Wilt in Gabriel's Overlook. Tree maintenance is part of maintenance of a lot. If oak wilt is left unattended it can spread and kill adjacent native Live Oaks, Red Oaks and Spanish Oaks. The purpose of this amendment is to implement a means of treatment and containment, with the support of TFS, to

limit the spread through the root system of infected trees. The addendum will also address preventative measures. The intent is through financial support, good communication and a cooperative spirit to work together as a community and individual property owners for solutions to this problem. The amendment is sensitive to property owner's rights. Every property owner has a vested interest in his or her property and wants to be respectful of the property of neighbors.

8.02 Remedial Action Generally. Property owners who have cause to believe Oak Wilt exists on their property should contact a certified arborist to determine if the disease exists and recommendations for treatment. Should the presence of Oak Wilt be determined by a certified arborist, the POA should be notified and a copy of any arborist's report should be provided to the association. The association will then contact TFS or another certified arborist of the association's choosing to formulate a plan to determine the extent and best method to treat. (The "Oak Wilt Plan"). The Oak Wilt plan for specific property (or properties) affected will be presented to the property owners for discussion at a meeting – see Section 8.06.01. No action may be undertaken by the Association on an owner's Lot without written owner approval – see Section 8.07.

8.03 Annual Association Expenditures. The maximum annual expenditure for oak wilt containment, by the Association, shall be the lesser of \$40,000 or the available funds in the General Maintenance Reserve at the time the Board approves such expenditure. When the Board authorizes an expenditure for oak wilt containment, it will amend the operating budget for the expenditure, with the General Maintenance Reserve as the funding source. Association expenditures shall not exceed this maximum annual amount absent approval of a majority of owner's casting votes at an Association annual meeting (or, if prior to the annual meeting, a majority of a quorum of owners submitting ballots by a given deadline).

8.04 Maximum Cumulative Association Expenditures. The maximum cumulative expenditures incurred over the years from the inception of this amendment shall not exceed \$150,000 absent approval of a majority of owner's casting votes at an Association annual meeting (or, if prior to the annual meeting, a majority of a quorum of owners submitting ballots by a given deadline).

8.05 Remedial Action for Common Areas. The association bears the responsibility of maintaining common areas in all aspects of care. Therefore, if oak wilt is identified in the common area, the association will formulate an Oak Wilt Plan based on TFS or a certified arborist recommendations, and carry out such plan on the common areas to the extent such plan is approved by the Board.

8.06 Remedial Action for lots: Notice to owners: Oak Wilt plan development. In the event that TFS, or the Association (a certified arborist acting at the behest of the association) determines new areas of Oak wilt, the following process will be followed:

8.06.01. In all instances a second opinion from a certified arborist will be obtained (if TFS makes the initial determination, or a certified arborist makes the initial determination of oak wilt, in all cases a second opinion from a certified arborist will be obtained.) This second arborist will recommend treatment (the "Oak Wilt Plan"), taking into special consideration any TFS recommendations, so as to maximize the ability of the Association to obtain funding assistance from TFS. Individual/group property owners will be notified in writing and a meeting between the owner(s), a representative of the Association, and TFS or certified arborist, will be scheduled. Discussion of the condition, identification of location of infected trees, and planning with the property owners for the best method of treatment will be addressed in meeting with the affected property owners.

8.06.02. Description of specific remedy options, as set forth in the Oak Wilt Plan, will be presented to property owners for their acceptance and approval.

8.06.03. Subject to the POA spending caps outlined herein, the property owner has the right to address the oak wilt treatment plan independently or with the financial assistance of the POA if agreement is reached on the Oak Wilt Plan. The plan will be funded by the Association IAW 8.03 and 8.04 above with potential contribution from TFS.

8.06.04 In addition, in the event tree removal becomes a necessary action, a sum of \$500 will be provided to the subject property owner to assist with tree replacement selected from a list of approved trees not susceptible to Oak Wilt.

8.07 Remedial action for Lots Performed by Association/Authority& Rights. Upon written approval of a lot owner, the association and/or it's agent is authorized to enter the property to perform remedial action determined under the Oak Wilt Plan. Once approved, the owner will cooperate in good faith with the association to allow access to the contractors performing the action, and the work will be contracted and funded by the association under the provisions of 8.03 and 8.04.

Any/all recommendations by TFS or another certified arborist as it pertains to the identification of oak wilt on a property or the Oak Wilt Plan, will be made available to the owner.

Minimally invasive trenching and restoration of affected property are the major considerations of the Oak Wilt Plan. To the extent the Association funds any work contemplated hereunder, any property subjected to damage, will be restored in a timely manner following the work. Included but not restricted to are: driveways, sidewalks, irrigation systems, fences, utilities, septic, etc. However, should any damage to roots of adjacent trees be damaged during trenching, the association bears no responsibility.

8.08 Oak Wilt Rules. Guidelines will be detailed in this article specific to trimming, pruning, maintenance as set forth by TFS (re: [texasoakwilt.org](http://texasoakwilt.org)) and a compilation of recognized best practices. The following rules specific to Oak trees is mandated and subject to fines for violation of these preventative measures to limit the spread of Oak Wilt.

1. Avoid pruning/trimming of Oak trees during the spring, which TFS defines as February 1<sup>st</sup> - June 30<sup>th</sup>. This is when the beetle which spreads the disease is most active. It is strongly suggested any trimming, other than the exceptions listed below, be done in the months of Dec.-Jan. based on Central Texas climate.

Exceptions are:

- To accommodate public safety concerns such as hazardous limbs, traffic visibility, or emergency utility line clearance.
- To repair damaged limbs (storms other anomalies)
- To remove limbs rubbing on a building, roof, other branches or raise low limbs over a street.
- On sites where construction schedules take precedence, pruning any live tissue should only be done to accommodate required clearance.
- Dead branch removal where live tissue is not exposed.

2. In all cases, paint fresh wounds on oaks, including pruning cuts and stumps with wound dressing (pruning paint) immediately after pruning or live tree removal at all times of the year.

All trimmed branches must be removed same day as cut or sufficiently chipped and bagged to

prevent introduction of disease carrying beetles.

3. Cut and dispose of diseased red oaks immediately.

4. Clean all pruning tools with a 10% bleach solution or Lysol between sites and/or trees.

Other recommendations include:

- Exercise care when using a string trimmer to not damage/create open wound on trees.
- Identify susceptible, high-value oak trees in proximity to oak wilt infection centers. Seek recommendation from arborist re: injection of high-value oaks with fungicide. (propiconazole known as Alamo)
- Plant resistant trees (reference a list of quality/ non-susceptible trees which are well adapted to central Texas)
- Avoid wounding susceptible oaks during planting.
- Avoid wounding oak trees: Specifically, attention to avoid damage using string trimmers or other trimming tools.
- It is advisable to protect trees, especially smaller trees, during deer rutting season. Damage caused by wind or animal on Oaks - paint the open wound.


**8.09 ADDITIONAL OAK WILT MAINTENANCE CONTROL RESTRICTIONS:** Preventative measures are most important to controlling spread of Oak Wilt. Efforts are extended to care and storage of firewood. If possible, avoid using Oak firewood of unknown origin. If oak is used, follow these guidelines for purchase, selection and storage.

- Never store firewood close to healthy Oak trees.
- Do not use diseased wood for firewood.
- Buy only the amount you will use within the winter.
- When purchasing Oak, buy only dry/seasoned firewood. (dry weighs less, bark is normally loose, and there is a cracking pattern on the cut ends. Remember, the person selling firewood bears no responsibility for the wood they sell) Oak Wilt can't survive in dry wood. It is best to buy firewood that is seasoned at least one year.
- If in doubt about your firewood, cover the stack with plastic and bury the edges to act as a barrier to insects.

Subject solely to the amendments set forth above, the Bylaws remain in full force and effect.

**GABRIELS OVERLOOK PROPERTY OWNERS ASSOCIATION, INC.**

Acting By and Through its Board of Directors, as evidenced by signature of a majority of directors below.

  
Signature

Printed name: Randall Rice

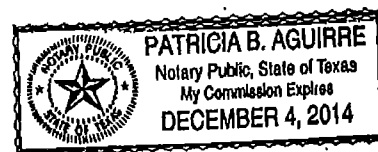
Date: 29 Feb 2012

STATE OF TEXAS §

COUNTY OF Williamson §

This instrument was acknowledged before me on the 29<sup>th</sup> day of February, 2012, by Randall Rice in the capacity stated above.

Patricia B. Aguirre  
Notary Public, State of Texas



\_\_\_\_\_  
Signature

Printed name: Mark Wilson

Date: \_\_\_\_\_

STATE OF TEXAS §

COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2012, by Mark Wilson in the capacity stated above.

\_\_\_\_\_  
Notary Public, State of Texas

Kevin Mueller  
Signature

Printed name: Kevin Mueller

Date: 29 FEB 2012

STATE OF TEXAS §

COUNTY OF Travis §

This instrument was acknowledged before me on the 5 day of March, 2012, by Kevin Mueller in the capacity stated above.



Brittani Riane Darnell  
Notary Public, State of Texas

x 10/21/14

**After recording, please return to:**

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