

*Nancy E. Rister*

Nancy E. Rister, County Clerk

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Williamson County Texas

STATE OF TEXAS §  
COUNTY OF WILLIAMSON §

AMENDMENT AND CONSOLIDATION OF RULES AND REGULATIONS  
OF  
GABRIELS OVERLOOK P.O.A., INC.,  
(D/B/A GABRIELS OVERLOOK PROPERTY OWNERS ASSOCIATION, INC.)

*As a result of this filing the applicable rules for the Association consist solely of:*  
*(1) the rules filed herewith; and*  
*(2) the Construction Rules filed of record in document no 2013042705*

**Document reference.** Reference is hereby made to that certain Declaration of Covenants, Conditions, Easements & Restrictions Gabriels Overlook – Section One filed as Document No. 2000025866, that certain Declaration of Covenants, Conditions, Easements & Restrictions Gabriels Overlook – Section Two filed as Document No. 2000061650; that certain First Amendment to Declaration of Covenants, Conditions, Easements & Restrictions Gabriels Overlook – Sections One and Two filed as Document No. 2001003269; that certain Second Amendment to Declaration of Covenants, Conditions, Easements & Restrictions Gabriels Overlook – Sections One and Two filed as Document No. 2004048610; that certain Third Amendment to Declaration of Covenants, Conditions, Easements & Restrictions Gabriels Overlook – Section One and Two filed as Document No. 2005092203 (the “**Third Amendment to Section One and Two Declaration**”); and that certain Declaration of Covenants, Conditions, Easements & Restrictions Gabriels Overlook – Section Five filed as Document No. 2005014178; that certain First Amendment to Declaration of Covenants, Conditions, Easements & Restrictions Gabriels Overlook – Section Five filed as Document No. 2005038090; and that certain (Second) First Amendment to Declaration of Covenants, Conditions, Easements & Restrictions Gabriels Overlook – Section Five filed as Document No. 2005092204 (the “**Second Amendment to Section 5 Declaration**”); 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 those certain documents numbered: 2008085936 (priority of payments); 2009028771 (fines/enforcement); 2012003403 (indemnification); 2012042938 (violations/self-help); and 2012000679 (legislatively required rules / collection enforcement / general rules) all in the Official Public Records of Williamson County, Texas (cumulatively, together with all amendments, the “**Repealed Rules**”).

Reference is further made to the Construction Rules filed of record in document no. 2013042705 of the Official Public Records of Travis County Texas (“**Construction Rules**”).

This document represents a consolidation and amendment (the amendment added Section XII (5)(d)) of the Repealed Rules. The rules identified as the Repealed Rules above are hereby replaced and superseded by the rules filed herewith.

The Declarations provide that persons owning residential lots subject to the Declarations are automatically made members of the Gabriels Overlook P.O.A., Inc., d/b/a Gabriels Overlook Property Owners Association (the “**Association**”);

Section 2.01(a) of the Bylaws authorizes the Association’s Board of Directors (the “**Board**”) to adopt and amend rules and regulations governing the property subject to the Declaration. The Board has voted to adopt the additional Rules as provided herein. The following Rules are approved and adopted to supplement the Construction Rules and replace and supersede the Repealed Rules.

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### SECTION I. FLAGS

1. General. An Owner may display flags only on his or her Lot and only in compliance with this Section I. An Owner may not display flags on the Common Areas, or on any other lands owned or maintained by the Association, for any reason or at any time. An owner may have one flag pole, or one residence-mounted flag mount, but not both.
2. Prior Approval Required. All flags, flagpoles, flag mounts, and related installations (e.g., flag lighting) must be approved in advance by the Association's Architectural Control Committee (the "ACC"). An Owner desiring to display a permitted flag must submit plans to the ACC for each installation, detailing the dimensions, type, location, materials, and style/appearance of the flag(s), flagpole, flag mount(s), lighting and related installations. The ACC shall have the sole discretion of determining whether such items and installations comply with this Section I, subject to any appeal rights that may exist elsewhere in the Association's governing documents or under State law.
3. Permitted Flags. An Owner is permitted to display on his or her Lot the flag of the United States of America, the flag of the State of Texas or any state or territory of the United States, an official or replica flag of any branch of the United States armed forces, any official college or university flag, official sports team flag, or decorative flag, subject to the restrictions contained in this Section I.

Display of all other flags is prohibited.

4. Additional Requirements Related to Flags.
  - a. Flags must be displayed on an approved flag mount or flagpole. Flags may not be displayed in any other manner.
  - b. The U.S. and Texas flags must be hoisted, flown, and lowered in a respectful manner.
  - c. The U.S. and Texas flags must never be flown upside down and must never touch the ground.
  - d. No mark, sign, insignia, design, or advertising of any kind may be added to a flag.
  - e. If both the U.S. and Texas flags are displayed, they must be of approximately equal size.

- f. If the U.S. and Texas flags are flown on one pole, the U.S. flag must be the highest flag flown and the Texas flag the second highest.
  - g. Only all-weather flags may be displayed during inclement weather.
  - h. Flags must be no larger than 3'x5' in size.
5. Materials and Appearance of Flag Mounts and Flag Poles. A flag mount attached to a dwelling or a freestanding flagpole must be constructed of permanent, long-lasting materials, with a finish appropriate to the materials (per the discretion of the ACC) used in the construction of the mount or flagpole and harmonious with the dwelling.
6. Additional Requirements for Flagpoles. The following additional requirements shall apply to flagpoles installed on Lots:
  - a. No more than one flagpole may be installed on a Lot;
  - b. The flagpole must be free-standing and installed vertically;
  - c. The flagpole must be no greater than 20 feet in height measured from grade level;
  - d. The location and construction of the flagpole must comply with applicable zoning ordinances, may not be located in any easements (including drainage easements), and comply with all setback requirements;
  - e. Unless otherwise approved by the ACC, the location of the pole must be within 10 feet of one of the side-most building lines of the home. The ACC may require the pole to be installed on a particular side; and
  - f. No trees may be removed for pole installation.
7. Lighting of Flag Displays. Any lights installed for the purpose of illuminating a flag must be pre-approved by the ACC. Such light installations must be of a reasonable size and intensity and placed in a reasonable location, for the purpose of ensuring that the lights do not unreasonably disturb or distract other individuals.
8. Maintenance. An Owner is responsible for ensuring that a displayed flag, flagpole, flag mount(s), lighting and related installations are maintained in good and attractive condition at all time at the Owner's expense. Any flag, flagpole, flag mount, light, or related installation or item that is in a deteriorated or unsafe condition must be repaired, replaced, or removed promptly upon the discovery of its condition.
9. Noise Restrictions. An Owner must ensure that external halyards (hoisting ropes) used in combination with the flagpole do not create an unreasonable amount of noise.

## SECTION II. SOLAR DEVICES

1. Conflict with Other Provisions. Per state law, this Section II controls over any provision in any other Association governing document to the contrary, including the Third Amendment to Section One and Two Declaration provision (1) and the Second Amendment to Section 5 Declaration provision (3) to the extent of any conflict.
2. Prior Approval Required. An Owner may install solar energy devices only on property solely owned and solely maintained by the Owner, and only in accordance with the restrictions provided herein. Owners may not install solar energy devices except in accordance with the restrictions provided herein. Prior to installation of any solar energy device, the Owner must submit plans for the device and all appurtenances thereto to the ACC. The plans must provide an as-built rendering, and detail the location, size, materials, and color of all solar devices, and provide calculations of the estimated energy production of the proposed devices.
3. Definition. In this section, "solar energy device" means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting

and transferring solar-generated energy. All solar devices not meeting this definition are prohibited.

4. **Prohibited Devices.** Owners may not install solar energy devices that:
  - a. threaten the public health or safety;
  - b. violate a law;
  - c. are located on property owned by the Association;
  - d. are located in an area owned in common by the members of the Association;
  - e. are located in an area on the property Owner's property other than:
    - i. on the roof of the home (or of another structure on the Owner's lot allowed under the Association's governing documents); or
    - ii. in a fenced yard or patio owned and maintained by the Owner;
  - f. be installed in a manner that voids material warranties; or
  - g. be installed without prior approval by the ACC.
5. **Limitations on Roof-Mounted Devices.** If the device is mounted on the roof of the home, it must:
  - a. extend no higher than or beyond the roofline;
  - b. be located only on the back of the home – the side of the roof opposite the street. The ACC may grant a variance in accordance with state law if the alternate location is substantially more efficient<sup>1</sup>;
  - c. conform to the slope of the roof, and have all top edges parallel to the roofline;
  - d. not have a frame, a support bracket, or visible piping or wiring that is any color other than silver, bronze, or black tone commonly available in the marketplace.
6. **Limitations on Devices in a Fenced Yard or Patio.** If the device is located in a fenced yard or patio, it may not be taller than the fence line.
7. **Solar shingles.** Any solar shingles must:
  - a. Be designed primarily to:
    - i. be wind and hail resistant;
    - ii. provide heating/cooling efficiencies greater than those provided by customary composite shingles; or
    - iii. provide solar generation capabilities; and
  - b. When installed:
    - i. resemble the shingles used or otherwise authorized for use on property in the subdivision;
    - ii. are more durable than and are of equal or superior quality to the shingles used or otherwise authorized for use on property in the subdivision;
    - iii. match the aesthetics of the property surrounding the Owner's property.

### **SECTION III. RAIN BARREL AND RAINWATER HARVESTING SYSTEMS**

1. **Rain Barrels and Rainwater Harvesting Systems.** Owners may install rain barrels or rainwater harvesting systems only with pre-approval from the Association, and only in accordance with the restrictions described in this Section III.
2. **Prohibited Locations.** Owners are prohibited from installing rain barrels or rainwater harvesting systems, or any part thereof, in the following locations:
  - a. on property owned by the Association;
  - b. on property owned in common by the members of the Association; or

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<sup>1</sup> If an alternate location increases the estimated annual energy production of the device more than 10 percent above the energy production of the device if located on the back of the home, the Association will authorize an alternate location in accordance with these rules and state law. It is the Owner's responsibility to determine and provide sufficient evidence to the ACC of all energy production calculations. All calculations must be performed by an industry professional.

- c. on property between the front of the Owner's home and an adjoining or adjacent street.
3. Pre-Approval Required for All Rain Barrels or Rainwater Harvesting Systems. Prior to any installation of any rain barrel or rain harvesting system (or any part thereof), prior written permission must be received from the ACC.  

Owners wishing to install such systems must submit plans showing the proposed location, color(s), material(s), shielding, dimensions of the proposed improvements, and whether any part of the proposed improvements will be visible from the street, another lot, or a common area (and if so, what part(s) will be visible). The location information must provide information as to how far (in feet and inches) the improvement(s) will be from the side, front, and back property line of the Owner's property.
4. Color and Other Appearance Restrictions. Owners are prohibited from installing rain barrels or rainwater harvesting systems that:
  - a. are of a color other than a color consistent with the color scheme of the Owner's home;
  - b. display any language or other content that is not typically displayed by such a barrel or system as it is manufactured; or
  - c. are not constructed in accordance with plans approved by the Association.
5. Additional Restrictions if Installed in Side Yard or Improvements are Visible. If any part of the improvement is installed in a side yard, or will be visible from the street, another lot, or common area, the Association may impose restrictions on the size, type, materials, and shielding of, the improvement(s) (through denial of plans or conditional approval of plans).

#### **SECTION IV. RELIGIOUS DISPLAYS**

1. General. Residents may display on the entry door or door frame of the resident's dwelling one or more religious items, subject to the restrictions outlined in paragraph (2) below. Allowed "religious items" are limited to those items that the display of which is motivated by the resident's sincere religious belief.
2. Prohibited Items. No religious item(s) displayed may:
  - a. threaten the public health or safety;
  - b. violate a law;
  - c. contain language, graphics, or any display that is patently offensive to a passerby;
  - d. be located anywhere other than the main entry door or main entry door frame of the dwelling;
  - e. extend past the outer edge of the door frame of the door; or
  - f. have a total size (individually or in combination) of greater than 25 square inches.
3. Remedies for Violation of Religious Display Rules. Per state statute, if a religious item(s) is displayed in violation of these religious display rules, the Association may remove the offending item without prior notice. This remedy is in addition to any other remedies the Association may have under its other governing documents or State law.
4. Seasonal Religious Holiday Decorations. This rule will not be interpreted to apply to otherwise-permitted temporary seasonal religious displays such as Christmas lighting or Christmas wreaths. What is considered a Seasonal Religious Holiday Decoration shall be in the sole discretion of the Board, and the Board may impose time limits and other restrictions on the display of Seasonal Religious Holiday Decorations in its discretion. Seasonal Religious Holiday Decorations must comply with all other provisions of the governing documents, but are not subject to this Section IV.

## SECTION V. RECORD PRODUCTION

1. Effective Date. Notwithstanding any language to the contrary and regardless of date of adoption of these rules, the effective date of this Section V is January 1, 2012.
2. Conflict with Other Provisions. Per state law, this Section V controls over any provision in any other Association governing document to the contrary.
3. Request for Records. The Owner or the Owner's authorized representative requesting Association records must submit a written request by certified mail to the mailing address of the Association or authorized representative as reflected on the most current filed management certificate. The request must contain:
  - a. sufficient detail to describe the books and records requested, and
  - b. an election either to inspect the books and records before obtaining copies or to have the Association forward copies of the requested books and records.
4. Timeline for record production.
  - a. If inspection requested. If an inspection is requested, the Association will respond within 10 business days by sending written notice by mail, fax, or email of the date(s) and times during normal business hours that the inspection may occur. Any inspection will take place at a mutually-agreed time during normal business hours, and the requesting party must identify any books and records the party desires the Association to copy.
  - b. If copies requested. If copies are requested, the Association will produce the copies within 10 business days of the request.
  - c. Extension of timeline. If the Association is unable to produce the copies within 10 business days of the request, the Association will send written notice to the owner of this by mail, fax, or email, and state a date, within 15 business days of the date of the Association's notice, that the copies or inspection will be available.
5. Format. The Association may produce documents in hard copy, electronic, or other format of its choosing.
6. Charges. Per state law, the Association may charge for time spent compiling and producing all records, and may charge for copy costs if copies are requested. Those charges will be the maximum amount then allowed under the Texas Administrative Code (1 T.A.C. Sec. 70.3). The Association may require advance payment of actual or estimated costs. As of July, 2011, a summary of the maximum permitted charges for common charges are:
  - a. Paper copies - 10¢ per page
  - b. CD - \$1 per disc
  - c. DVD - \$3 per disc
  - d. Labor charge for requests of more than 50 pages - \$15 per hour
  - e. Overhead charge for requests of more than 50 pages - 20% of the labor charge
7. Private Information Exempted from Production. Per state law, the Association has no obligation to provide information of the following types:
  - a. Owner violation history
  - b. Owner personal financial information
  - c. Owner contact information other than the owner's address
  - d. Information relating to an Association employee, including personnel files
8. Existing Records Only. The duty to provide documents on request applies only to existing books and records. The Association has no obligation to create a new document, prepare a summary of information, or compile and report data.

## **SECTION VI. RECORD RETENTION**

1. **Effective Date.** Notwithstanding any language to the contrary and regardless of the date of adoption of these rules, the effective date of this Section VI is January 1, 2012.
2. **Record Retention.** The Association will keep the following records for at least the following time periods:
  - a. Contracts with terms of at least one year; 4 years after expiration of contract
  - b. Account records of current Owners; 5 years
  - c. Minutes of Owner meetings and Board meetings; 7 years
  - d. Tax returns and audits; 7 years
  - e. Financial books and records (other than account records of current Owners); 7 years
  - f. Governing documents, including Articles of Incorporation/Certificate of Formation, Bylaws, Declaration, Rules, and all amendments; permanently
3. **Other Records.** Records not listed above may be maintained or discarded in the Association's sole discretion.

## **SECTION VII. PAYMENT PLANS**

1. **Effective date.** Notwithstanding any language to the contrary and regardless of date of adoption of these rules, the effective date of this payment plan rule is January 1, 2012.
2. **Eligibility for Payment Plan.**

**Standard payment plans.** An Owner is eligible for a Standard Payment Plan (*see* Rule 2 below) *only if*:

- a. The Owner has not defaulted under a prior payment plan with the Association in the prior 24-month period;
- b. The Owner requests a payment plan no later than 30 days after the Association mails certified mail, return receipt requested notice to the Owner under Property Code §209.0064 (notifying the owner of the amount due, providing 30 days for payment, and describing the options for curing the delinquency). It is the Owner's responsibility to confirm that the Association has received the Owner's request for a payment plan within this 30-day period. It is recommended that requests be in writing; and
- c. The Association receives the executed Standard Payment Plan and the first payment within 15 days of the Standard Payment Plan being sent via email, fax, mail, or hand delivered to the Owner.

**Other payment plans.** An Owner who is not eligible for a Standard Payment Plan may still request that the Association's Board grant the Owner an alternate payment plan. Any such request must be directed to the person or entity currently handling the collection of the debt (i.e., the property manager or Association's attorney). The decision to grant or deny an alternate payment plan, and the terms and conditions for any such plan, will be at the sole discretion of the Association's Board.

3. **Standard Payment Plans.** The terms and conditions for a Standard Payment Plan are:
  - a. **Term.** Standard Payment Plans are for a term of 3 months.
  - b. **Payments.** Payments will be made at least monthly and will be roughly equal in amount or have a larger initial payment (small initial payments with a large balloon payment at the end of the term are not allowed). Payments must be received by the Association at

the designated address by the required dates and may not be rejected, returned or denied by the Owner's bank for any reason (i.e., check returned NSF).

- c. Assessments and other amounts coming due during plan. The Owner will keep current on all additional assessments and other charges posted to the Owner's account during the term of the payment plan, which amounts may but need not be included in calculating the payments due under the plan.
  - d. Additional charges. The Owner may be held responsible for reasonable charges related to administering the payment plan (administrative fees include preparation of the plan), and for interest in the amount of ten percent (10%), all of which shall be included in calculating the total amount due under the plan and the amount of the related payments. The Owner will not be charged late fees or other charges related to the delinquency during the time the owner is complying with all terms of a payment plan.
  - e. Contact information. The Owner will provide relevant contact information and keep same updated.
  - f. Additional conditions. The Owner will comply with such additional conditions under the plan as the Board may establish.
  - g. Default. The Owner will be in default under the plan if the Owner fails to comply with any requirements of these rules or the payment plan agreement.
4. Account Sent to an Attorney/Agent for Formal Collections. An Owner does not have the right to a Standard Payment Plan after the 30-day timeframe reference in paragraph 2(b). Once an account is sent to an attorney or agent for collection, the delinquent Owner must communicate with that attorney or agent to arrange for payment of the debt. The decision to grant or deny the Owner an alternate payment plan, and the terms and conditions of any such plan, is solely at the discretion of the Board.
5. Default. If the Owner defaults under any payment plan, the Association may proceed with any collection activity authorized under the governing documents or state law without further notice. If the Association elects to provide notice of default, the Owner will be responsible for all fees and costs associated with the drafting and sending of such notice. All late fees and other charges that otherwise would have been posted to the Owner's account may also be assessed to the Owner's account in the event of a default.
- Any payments received during a time an Owner is in default under any payment plan may be applied to out-of-pocket costs (including attorneys fees for administering the plan), administrative and late fees, assessments, and fines (if any), in any order determined by the Association, except that fines will not be given priority over any other amount owed but may be satisfied proportionately (e.g. a \$100 payment may be applied proportionately to all amounts owed, in proportion to the amount owed relative to other amounts owed).
6. Board Discretion. To the extent allowed by law, the Association's Board may vary the obligations imposed on Owners under these rules on a case-by-case basis as it may deem appropriate and reasonable. No such action shall be construed as a general abandonment or waiver of these rules, nor vest rights in any other Owner to receive a payment plan at variance with the requirements set forth in these rules.
7. Legal Compliance. These payment plan rules are intended to comply with the relevant requirements established under Texas Property Code §209. In case of ambiguity, uncertainty, or conflict, these rules shall be interpreted in a manner consistent with all such legal requirements.



## **SECTION VIII. VOTING**

1. **Conflict with Other Provisions.** Per state law, this Section VIII controls over any provision in any other Association governing document to the contrary, including Bylaws Sections 3.15 through 3.17, to the extent of any conflict.
2. **Voting Methods.** In addition to voting methods allowed by the Association's governing documents, notwithstanding any language in the governing documents to the contrary, per state law, the Board of directors of the Association may in its discretion allow voting rights of owners to be exercised in any one or more of the following manners: in person, by proxy, by absentee ballot, or by electronic ballot.
3. **Form of Proxy or Ballot.** The Board may dictate the form for all proxies, ballots, or other voting instruments or vehicles. No form other than the form put forth by the Board will be accepted.
4. **Absentee and Electronic Ballots.** Any absentee ballot must contain notice language as required by state law. Any absentee or electronic ballot will be counted for quorum purposes only for items appearing on the ballot. Any vote cast at a meeting of the Association will supersede any absentee ballot or electronic ballot submitted by the Owner for that proposal. Any vote cast by absentee or electronic ballot will not be counted if the proposal voted on differs from the exact language on the absentee or electronic ballot.

## **SECTION IX. NOTICE OF BOARD MEETINGS**

1. **Effective Date.** Notwithstanding any language to the contrary and regardless of date of adoption of these rules, the effective date of this Section IX is January 1, 2012.
2. **Conflict with Other Provisions.** Per state law, this Section IX controls over any provision in any other Association governing document to the contrary, including Bylaws Section 2.06, 2.07, and 2.09, to the extent of any conflict.
3. **Notice of Board Meetings.** Except as otherwise provided in these rules, all regular and special Board meetings must be open to Owners, and notice of all regular and special Board meetings will be given either:
  - a. By mail to all Owners, at least 10 but no more than 60 days in advance of the meeting;  
OR
  - b. By, at least 72 hours in advance of any meeting:
    - i. either posting notice in a conspicuous place in the common area (or with the Owner's permission, a conspicuous place on a private lot), *or* on an Association website, *and*
    - ii. emailing notice to all Owners who have registered their email address with the Association in accordance with these rules.

Notice pursuant to this section must contain the date, hour, place, and general subject of the meeting, including a general description of any matter to be brought up in executive session.

4. **Exception to Notice Requirement.** The notice described in (3) above is not required if:
  - a. The Board meets by telephone, email, or in any alternate manner whereby all directors speak their opinion and are heard (or the opinion/discussion can be read via email) by all other directors;
  - b. The Board acts by unanimous written consent on routine or administrative matters; *or*
  - c. The meeting is necessary to address an urgent or emergency situation that requires immediate action.

However, notice must be given per paragraph (3) above for any meeting at which the Board discusses or takes formal action (takes a binding vote) regarding: levying a fine; levying a damage assessments; initiation of foreclosure actions; initiation of enforcement actions (except for temporary restraining orders or violations involving a health or safety threat; increases in assessments; levying special assessments; appeals from denials of architectural control approval; or suspending rights of an Owner before the Owner has an opportunity to appear before the Board.)

5. Summary of Actions Taken Without Board Meeting. Board actions taken without notice given under paragraph (3) must be summarized orally at the next Board meeting for which notice under paragraph (3) is given, including a summary of any actual or estimated expenditures approved, and documented in the minutes of the next noticed Board meeting.
6. Definition of "Meeting"; Work Sessions. A meeting or other gathering at which one or more Board members is present is not a Board meeting for purposes of this rule unless formal action (a binding vote) is taken by the Board members at such meeting on behalf of the Association. For example, work sessions of the Board, provided no formal action is taken, do not require notice and need not be open to Owners.
7. Executive Session. The Board may exercise the right to adjourn a Board meeting and reconvene in a closed executive session for issues involving personnel matters, pending or threatened litigation, contract negotiations, enforcement actions, confidential attorney communications, matters involving the invasion of owners' privacy, or matters that are to remain confidential by request of the affective parties and agreement of the Board. Decisions made in executive sessions must be summarized orally in general terms, including any expenditures approved, and recorded in the minutes.

#### **SECTION X. TRANSFER FEES**

1. Transfer Fees. In addition to fees for issuance of a resale certificate, fees are due upon the sale of any property in accordance with the then-current fee schedule, including any fee charged by the Association's managing agent.

#### **SECTION XI. EMAIL ADDRESSES**

1. Email Addresses. An Owner is required to keep a current email address on file with the Association if the Owner desires to receive email communications from the Association. Failure to supply an email to the Association or to update the address in a manner required by these rules may result in an Owner not receiving Association emails. The Association has no duty to request an updated address from an Owner, in response to returned email or otherwise. The Association may require Owners to sign up for a group email, email list serve or other such email subscription service in order to receive Association emails.
2. Updating Email Addresses. An Owner is required to notify the Association when email addresses change. Such notice must be in writing and delivered to the Association's managing agent by fax, mail, or email. The notice must be for the sole purpose of requesting an update to the Owner's email address. For example, merely sending an email from a new email address, or including an email address in a communication sent for any other purpose other than providing notice of a new email address, does not constitute a request to change the Owner's email in the records of the Association.

#### **SECTION XII. ENFORCEMENT/COLLECTIONS**

1. Purpose. The Board desires to adopt a standardized Assessment Collection and Enforcement Policy to set forth its determinations on such issues.
2. Scope. This policy applies to all members of the Association, said members having a contractual obligation to pay assessments and other charges to the Association under the governing documents of the Association.
3. The Policy.
  - a. Introduction. The Association's primary source of income is member-paid Assessments, and without such income the Association cannot provide and maintain the facilities and services that are critical to the quality of life of association residents and the protection of property values. The Association has experienced, and expects to continue to experience, situations in which members are delinquent in their obligation to pay Assessments or members are otherwise in violation of the governing documents. Therefore the Board has adopted, and by these presents does hereby adopt, the Assessment Collection and Enforcement Policy set forth below.

Per the Declaration the Association may collect, and has a lien for all amounts due, including assessments, fees, interests, costs, and reasonable attorney's fees.

- b. Due Dates. All Assessments and other amounts due are due within 30 days of the due date, or if none given, within 30 days of the date the related invoice, ledger, or other notice is sent to the Member.
  - c. NSF Fees. Checks, ACH payments, or other type of payment returned for insufficient funds, dishonored automatic bank drafts, or other similar item will result in the assessment of a fee determined by the board from time to time, in the minimum amount of \$30. Late fees shall also be assessed as appropriate.
4. Delinquency/Collection. Per Declaration Section 2.06, the annual assessment is due on or before April 1 each year. Per Declaration Section 2.06, if the annual assessment is not paid in full by May 1 of each year, the assessment is deemed delinquent and subject to a late charge. Any other amount due not paid within 30 days of its due date (or if none given, within 30 days of the date the related invoice, ledger, or other notice is sent to the member) shall be deemed Delinquent. Delinquencies shall be handled as follows:
  - a. Interest, Late Fees, Collection Costs. Delinquencies may be charged interest on the sum owing at the rate of 10% per annum), until paid in full. In addition to interest a late fee in an amount as determined from time to time by the Board may be assessed. The owner is responsible for all costs of collection including attorneys fees.
  - b. 30 days past due, Courtesy Notice. Once an Assessment or other amount due becomes 30 days past due, the Association, acting through its Board, managing agent, or some other Board designee, will email or mail a written notice to the related Member reminding him or her of the amount owed and requiring that it be paid immediately.
  - c. 60 days past due, Second Notice. When an account is approximately 60 days past due, the Association, acting through its managing agent, shall send notice via certified mail, return receipt requested and otherwise complying with the requirements of Texas Property Code §209.0064 (including giving the owner a final 30 days to cure the delinquency prior to the account being turned over to an attorney.)
  - d. Formal Collection Action; 90 days past due. Once an Assessment is past due for more than 90 days and the notice described in Section 4(c) above has been sent, the account shall be turned over to the Association's attorney to initiate formal collection action. Unless otherwise determined by the Board, all attorney collection action is pre-authorized, including but not limited to sending a 30-day demand letter, filing of a Notice of Lien or similar instrument in the Official Public Records, and initiating and carrying out a foreclosure of the Association's lien against the Lot, all in accordance with state-law notice and procedural requirements.
  - e. Power of Sale. In conjunction with the Association's authority granted by the Declaration to foreclose its lien, the Association is vested with a power of sale. The President of the Association may act as

trustee for any such sale and is granted the authority to designate one or more agents and/or substitute trustees to exercise the Association's power of sale in conjunction with foreclosure of the Association's lien.

- f. Authority to Vary from Policy. In handling any particular Delinquent Assessment, the Board of Directors retains the authority to vary from this Assessment Collection Policy as may be appropriate given the particular facts and circumstance involved, so long as the related action is in compliance with the Declaration and State law. Variances from policy may include adding additional courtesy letters, or omitting a courtesy letter, provided that at minimum all notice requirements of state law are met.
- g. Payment plans. Payment plans shall be offered as described in the Association's payment plan rule.
- h. Nonassessment items first. To the maximum extent allowed by law, all monies received from an owner may be applied first to nonassessment obligations of the Owner, such as fines, late charges, returned check charges, attorneys fees, user fees. Damages, etc., regardless of notations on checks and otherwise.

5. Non-monetary violations.

- a. Notices of Violation: Prior to levying a property damage assessment against an owner, fining an owner, or suspending the owner's usage rights to the common area due to a violation, the association shall comply with the notice requirements of Ch. 209, Texas Property Code.

The management company shall, upon becoming aware of a violation(s) of the deed restrictions, send first a courtesy warning letter requesting compliance. If compliance is not achieved in response to a courtesy letter, the management company shall send a letter certified mail, return receipt giving notice of the violation(s) in accordance with Ch. 209, Texas Property Code.

The Board may deviate from this standard procedure, including instructing the managing agent to omit or add courtesy warning(s), in its sole discretion.

- b. Damage assessment; enforcement costs. The association may assess the Owner's account for any damages caused by the Owner, or the Owner's residents, tenants, guests or invitees. The owner may be held responsible for all enforcement costs, including attorney's fees.
- c. Fines. If the violation is not cured by the deadline given in the certified mail notice described in subsection (a), a fine shall automatically be levied. Fine amounts shall be as determined by the board or according to below-described fine schedule.

*Standard Fining Schedule*

**Introduction**

(I) In order to encourage compliance with the architectural, use and environmental standards governing our community, the Board has established a General Schedule of Fines for uncorrected violations of the Declarations governing the Gabriels Overlook subdivision. These fines are in addition to other legal remedies available to the Association under its governing documents and state law, including but not limited to the right to file suit, to levy fees or charges for delinquent payments, and to seek reimbursement for legal fees or property damage repair expenses. Typically, the Association will issue violation notices and fines according to the General Fine Schedule. However, the Board reserves the right to vary from the General Fines Schedule, including as to which notice will be sent and the amount of any fine, as it deems appropriate on a case-by-case basis, excepting that an owner will always be entitled to a 30-day cure period in the event of a First Violation.

### General Fine Schedule

(2) First Violation -- warning letter. An owner is charged with a First Violation when neither the owner nor any person for whom the owner is responsible has committed the same or a similar violation in the preceding six months. In the event of a First Violation, a warning letter will be sent to the owner giving notice of the violation and requesting that it be cured within 30 days of the date on the notice or, in the case of a violation that is a one-time event, requesting that it not be repeated. No fine will be assessed in conjunction with a warning letter, but the notice may clarify that the owner will be subject to a fine if the violation is not cured in a timely manner.

(3) Second Violation -- \$50.00. An owner is charged with a Second Violation when the owner has already been charged with (i.e., held responsible for) a First Violation that is the same or a similar violation and the related cure period has lapsed. In the event of a Second Violation, a fine of \$50.00 will be levied. The owner shall be provided a reasonable opportunity to cure the violation and avoid the fine if (i) required by state law; or (ii) the Board, in its sole discretion, decides to grant the owner that opportunity.

(4) Third Violation -- \$100.00. An owner is charged with a Third Violation when the owner has already been charged with (i.e., held responsible for) a Second Violation that is the same or a similar violation. In the event of a Third Violation, a fine of \$100.00 will be levied, and the owner will be warned that any continuation or repeat of the violation will subject the owner to a fine of \$100.00 or more and potential legal action by the Association.

(5) Fourth Violation -- \$100 or more and Legal Action. An owner is charged with a Fourth Violation when the owner has already been charged with (i.e., held responsible for) a Third Violation that is the same or a similar violation. In the event of a Fourth Violation, a fine of \$100.00 or more will be levied and the issue will be turned over to an attorney for appropriate legal action, with all reasonable attorney's fees being charged to the owner.

### Other Provisions

(6) State law applies. All fine notices and procedures will be in compliance with state law, including Section 209 of the Texas Property Code. To the extent that this Fine Policy may conflict with state law, state law shall control.

(7) Opportunity to cure and avoid fine. As provided in Section 209 of the Texas Property Code, if a fine is levied against an owner, the owner must be given a reasonable period of time to cure the violation, and thereby to avoid having to pay the fine, unless the owner was given notice and opportunity to cure a similar violation within the preceding six months. Given that the General Fine Schedule calls for initial warning letters (with no fines) that provide notice of the violation and a 30-day opportunity to cure, a subsequent violation (i.e., a Second Violation) occurring within six months will not trigger any legal right to cure the violation and avoid the fine. The Board may, however, as it deems appropriate, provide an opportunity to cure and avoid any fines, in spite of no legal obligation to do so. (Note: If a violation carrying a legal right to cure and avoid a fine is a one-time event -- i.e., by its nature, not on-going or repeating, and thereby not technically "curable" -- then the notice should provide that the fine is suspended unless and until the same or a similar violation is committed by the owner or someone for whom the owner is responsible.)

(8) Hearings. Owners shall be notified of their right, if any, to request a hearing before the Board to discuss and verify facts concerning a violation and fine, as further provided in Section 209 of the Texas Property Code. Such a request must be submitted in writing to the Board care of the property manager within the timeframe provided by state law (i.e., within 30 days of receipt of the notice of violation).

(9) Due dates. Fines and/or property damage charges are due and payable on the date provided in the notice, on the date by which a hearing must be requested, or upon the vote of the Board to uphold any levied fine or charges, whichever is later.

(10) Ongoing violations. For ongoing violations, each day, week, or other stated period of time that the violation continues, may be treated as a repeat violation subject to an additional fine.

- d. Authority of agents. The management company, Association attorney, or other authorized agent of the Association is granted authority to carry out this standard enforcement and fining procedure absent express direction otherwise from the Board, without further vote or action of the Board. This authority notwithstanding, the management company or Association attorney shall communicate with the Board and/or certain designated officers or agents on a routine basis with regard to enforcement actions, and the Board reserves the right to establish further policies with regard to enforcement efforts generally and to make decisions about particular enforcement actions on a case-by-case basis if and when it deems appropriate.
- e. Self Help. If a violation of the deed restrictions that can be cured or partially cured by self-help is noted, any management company retained by the Association shall have the authority without further Board action, unless otherwise directed on a case by case basis by the Board, to pursue the self-help remedy (such as force mows, trash removal, etc.) as provided in the governing documents of the Association (See Declaration Section 3.06, requiring 15 day notice of intent to undertake lot cleaning (force mow, etc.) on behalf of owners). All such amounts incurred, per the declaration, represent a lien on the owner's lot.

### **SECTION XIII. INDEMNIFICATION**

The Association shall indemnify its directors and officers and former directors and officers to the maximum extent allowed by law.

APPROVED and ADOPTED this 24 day of May, 2013.

**GABRIELS OVERLOOK P.O.A., INC.,  
D/B/A GABRIELS OVERLOOK PROPERTY OWNERS ASSOCIATION, INC.**  
Acting by and through its Board of Directors

By: Niemann & Heyer LLP, attorneys and authorized agents

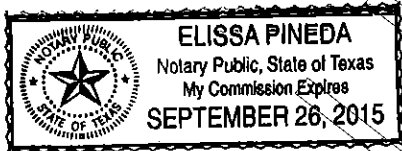
Connie N. Heyer  
NAME: Connie N. Heyer, 5-24-13

**Acknowledgement**

STATE OF TEXAS §

COUNTY OF Travis §

This instrument was acknowledged before me on the 24<sup>th</sup> day of May, 2013, by Connie N. Heyer in the capacity stated above.



Elissa Pineda  
Notary Public, State of Texas

**After recording, please return to:**  
Niemann & Heyer, L.L.P.  
Attorneys At Law  
Westgate Building, Suite 313  
1122 Colorado Street  
Austin, Texas 78701

Fileserver: CLIENTS: Gabriels Overlook POA: Rules Consolidated 2013.doc