

1005.095 Trust Indentures; Conveyance of Common Ground

1. The developer of any subdivision that includes common land (including pedestrian walkways and cul-de sac islands), private streets, street lighting, stream buffers or other water quality control measures, drainage facilities such as detention basins and drainage pipe and ditches or any other improvement that requires continuous maintenance, shall record a trust indenture or other approved agreement (hereafter "indenture") simultaneously with the record plat. For single lot developments and developments with no common land, the Department may accept script certifying the means of maintenance on the record plat. The developer shall convey such common land in fee simple absolute title by general warranty deed to trustees or an incorporated nonprofit homeowners association designated in the indenture.
2. Any indenture required to be recorded, or recorded for the purpose of compliance with provisions of this Chapter or the Zoning Ordinance, shall provide for not less than the following representation of owners of dwellings in the subdivision ("owners") among the trustees or directors of the association; one-third of the trustees or directors shall be chosen by the owners after fifty (50) percent of the dwellings authorized to be constructed in the Subdivision ("authorized dwellings") have been sold and conveyed; two-thirds of the trustees or directors shall be chosen by the owners after ninety-five (95) percent of the authorized dwellings have been sold and conveyed; all of the trustees or directors shall be chosen by the owners after all of the authorized dwellings have been sold and conveyed.
3. Any indenture required to be recorded, or recorded for the purpose of compliance with provisions of this Chapter or the Zoning Ordinance, shall also provide:
 - a. for an annual meeting open to all owners at an appropriate date, time and place;
 - b. for special meetings if 5% of the owners request such a meeting;
 - c. for notice of such annual or special meetings to be not less than 10 days (except in emergency) nor more than 60 days prior to the meeting, such notice to be by any method reasonably calculated to provide notice to all owners;
 - d. that all meetings and all records pertaining to subdivision matters, including budgets and financial records, shall be open to owners unless they relate to personnel matters, legal actions, causes of action, litigation, or are otherwise protected by attorney-client privilege or work product; and that such records be retained for three years unless a majority of owners authorizes their destruction;
 - e. that the trustees or association shall provide for the maintenance of the common land;
 - f. that the common land be used for the benefit, use and enjoyment of the owners present and future, and that no homeowner shall have the right to convey the owner's interest in the common land except as an incident of ownership of a lot; and
 - g. for any other matter the developer deems appropriate that is not inconsistent with the provisions of this section.
4. Where the provisions of such indenture cannot be fulfilled by reason of unfilled vacancies among the trustees or directors, the County Council may upon the petition of any concerned resident or owner of a dwelling in the subdivision, appoint one or more trustees or directors to fill vacancies until such time as trustees or directors are selected in accordance with the indenture. Any person so appointed who is not a resident or owner of a dwelling within the subdivision

shall be allowed a reasonable fee for his or her services by the order of appointment, which fee shall be levied as a special assessment against the lots in the subdivision, and which shall not be subject to any limitation on special assessments contained in the indenture or elsewhere.

5. An indenture shall be required for a large lot subdivision only in the event that common land is contained within the subdivision.
6. Each indenture and warranty deed shall be accompanied by a written legal opinion from an attorney licensed to practice in the State of Missouri, setting forth the attorney's legal opinion as to the legal form and effect of the deeds and indenture and the organization, good standing and the authority of the association, if any, to perform its duties under the indenture. The deeds and indenture shall be approved by the Department and the County Counselor prior to being filed with the Recorder of Deeds of St. Louis County simultaneously with the recording of the record plat.
7. Term of indentures for all types of subdivisions, including planned districts and special procedures, shall be for the duration of the subdivision. In the event the subdivision is vacated, fee simple title shall vest in the then lot owners as tenants in common. The rights of the owners shall only be exercisable appurtenant to and in conjunction with their lot ownership. Any conveyance or change of ownership of any lot shall convey with it ownership in the common land, and no interest in the common land shall be conveyed by a lot owner except in conjunction with the sale of a lot. The sale of any lot shall carry with it all the incidents of ownership of the common land although such is not expressly mentioned in the deed; provided, however, that no right or power conferred upon the trustees or association shall be abrogated. (O. No. 24965 - Adopted 12/20/11)