



## Ashton Woods Homeowner's Association

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January 11, 2017

Dear Ashton Woods residents,

We hope everyone is having a great start to 2017! The annual meeting is just around the corner and once again we are attempting to update our indentures to better suit who we are as a subdivision today, not just continue using the boiler plate language instituted by the original builder back in 2006 before any houses were built.

As we have discussed many times over the last few years, we need to keep finding ways to reduce costs. You will see on this year's ballot that we are asking homeowners to formally approve the HOA selling Common Ground to the residents. After speaking with our elected officials that represent the City, the City's requirement back in 2006 to have Common Ground adjacent to every home in the City is no longer being levied in today's building plans as it didn't quite meet the goals they were originally seeking to achieve. Instead, they have worked towards using zoning requirements of lot size and maximum allowed density to meet the goals of ensuring Eureka stays beautiful.

The City or the HOA would still be responsible for maintaining the subdivision infrastructure that may be located behind your home. For example, a storm drain would still be owned by the City and it would be their responsibility to fix it if things went wrong. Other HOA maintained items would still be our responsibility because would be treated as a common resource but trees on that property would become the homeowner's trees. It's the same as the Ameren boxes in our yards...it's on your property but it's not your responsibility. Many of us already maintain and improve the common ground by mowing it, fertilizing it, watering it, putting down sod, planting trees, clearing deadfall, etc. It's a source of pride for a lot of us and makes our property look better as a result. Now it can result in your property value increasing for a minor cost.

The key to executing a plan like this is getting everyone on board. If there is a stretch of 5 houses and the homeowner in the middle does not want to own or lease the land behind the house, it will be impossible for us to continue to mow just that one parcel. Everyone in a row needs to be on the same page. Does this present issues and problems such as nobody wants to be responsible for mowing "the hill" or the plateau between us and The Legends? ...sure it does but we can work on a solution as long as there is continuity for maintenance. We don't want to force anyone to buy unmaintainable land.

How much would this cost to execute? It's unknown at this point. In many areas the Common Ground is one giant lot and would have to be surveyed, subdivided and recorded as a parcel before ownership can be transferred. How much would it cost the homeowner? The conventional wisdom is that the sale cost would be \$.50 per square foot. Seeing as we all already jointly own this land, the price should be low and the subdivision as a whole should benefit such as using the funds to improve and expand walking trails, a basketball court, clubhouse, etc...and most importantly, reach the goal of reducing our annual HOA fees to only \$150 per year after meeting our goal for the reserves. We will establish a committee to finalize how this would operate should it be the will of the homeowners.

When reading the ballot, you will notice 3 items that would modify our indentures to follow the City of Eureka Municipal Code and Amendments instead of maintaining our own rules that are difficult to enforce by anyone other than the City. If you would like to read the Municipal Code prior to voting on your ballot, you can find the City of Eureka Municipal Code and Amendments at [www.eureka.mo.us](http://www.eureka.mo.us), clicking on Government -> Municipal Code & Amendments and then selecting the Chapter file linked on the right hand side. The file on their website requires a PDF reader (like Adobe Acrobat).

It's important that we get 140 of the homeowners to participate in the balloting process as making changes requires 2/3 of the residents to agree when updating the indentures. For those that are unable to make it to the meeting on the 23<sup>rd</sup>, you can fill out your proxy form, send in your ballot via the instructions at the end of the ballot, give it to a neighbor to bring to the meeting or even hand it to an HOA Board Member. If we don't hear from enough residents, we will contact those that haven't turned in a ballot to get their votes.

Thank you for helping make our subdivision a great place to live!

Brett Cox, Dennis Allen & Katherine Miller

Changes to the Ashton Woods Recorded Indentures, Election of Director and sale of Common Ground to residents. As you have read, the Board has been asking for homeowner input to update our indentures and exploring cost reductions through the sale of common ground. Please indicate your choice by placing an **X** in the associated box.

## **BALLOT**

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### *Candidates for Director, Ashton Woods Homeowner's Association*

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**Please choose ONE** (1) candidate to serve a three (3) year term as a Director of the Ashton Woods Homeowner's Association. Multiple selections will result in your vote being uncountable.

We have not received any formal nominations at this point. The floor will open for nominations during the meeting if a declared candidate is not identified.

Write in candidate: \_\_\_\_\_

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### *Common Ground*

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**Comment:** We currently pay about \$30,000 per year for subdivision mowing and care which is about ½ of the assessment dues you pay each year. Most of this is very "uncommon" Common Ground that is located directly behind or to the side of a home. If we can reduce the amount of Common Ground maintained by the Homeowner's Association (HOA), we can significantly reduce costs and potentially reduce the amount of the annual assessments after building a reserve. Selling this land would allow people to expand their fence lines or use the "uncommon ground" for pools and other improvements. This would not include actual common use areas such as the two "park" areas that are landscaped, any land north of Main Street or the tract located on the east side of Legends Parkway while ensuring that proper subdivision right-of-way would still be maintained such as the strip of land that runs the southern border of Main Street.

The HOA already has the power to acquire, receive, hold, convey and dispose of the Common Ground per Article VI of the indentures but we want to ensure that a super-majority (2/3 or 140 homes) of homeowners are also in agreement. We would establish a group of homeowners (minimum of 7 members) overseeing the process to determine which areas are common use and ensure that lands are divided fairly and equitably.

**Question:** Are you in favor of the HOA selling lands currently held as Common Ground to individual homeowners?

Yes

No

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## *Changes to Article V, Designation and Selection of Directors*

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**Comment:** It is 2016 and we need to expand the indentures and by-laws to allow for multiple methods of voting and submitting proxies to make it easier for homeowners to register their vote and/or proxy while ensuring a minimum amount of validation.

**Question:** Should section 3(c), *Manner of Conducting Elections*, be added to the indentures to read: "Completed ballots and proxies will be accepted in person or by U.S. Mail, fax, image sent via text message or email from a phone number or email address that is recorded on the Association website and/or published in the subdivision directory or via digitally signed email and will be counted towards establishing a quorum."

- Yes – Allowing homeowners more flexibility in how votes are cast will be beneficial to the neighborhood and increase participation in elections and voting.
- No – The indentures should remain as-is

**Question:** Should section 4(c), *Qualifications of Directors*, be added to the indentures to read: "Directors who are nominated for election must be current on monies due to the Association including annual assessments and/or outstanding fines."

- Yes – Currently the indentures allow for a Director to be elected and then have to be removed after they do not make payment after 30 days.
- No – A director should be able to stand for election and given the opportunity to catch up on money due to the Association within 30 days. The indentures should remain as-is.

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## *Changes to Article VI, Association's Duties and Powers*

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**Comment:** Currently, the indentures allow for the Association to place a lien on a home for unpaid dues and fines at the discretion of the Board. The Board does not desire to place liens and would much prefer to work with a homeowner to establish a payment plan for money due. Our question to the residents is how long a homeowner should be allowed to be overdue on annual fees and/or fines before the Association is forced to act as it is unfair to those homeowners who pay balances in a timely manner. Currently, those that move out of the subdivision owing money could end up with a clean slate unless it is specified by the lien that the HOA receive the overdue amount as part of the sale. We would like the indentures to specify the time period for these actions to be taken and remove the subjectivity.

**Question:** Should Section 9, *Enforcement*, be amended to read: "The Association shall establish a lien to collect overdue assessments and/or monetary fines due to the Association to be paid at the time of sale after being..." (the highest common denominator in voting will be used)

- Ninety (90) days past due
- Six (6) months past due
- One (1) year past due
- Eighteen (18) months past due
- Two (2) years past due
- No – The indentures should remain as-is and liens be placed at the discretion of the Directors

**Question:** Should Section 9, *Enforcement*, be amended to read: “The Association shall levy a fine upon an Owner who has not remedied a violation after...” (the highest common denominator in voting will be used)

- One (1) written Notice of Violation has been given
- Two (2) written Notices of Violation have been given
- Three (3) written Notices of Violation have been given
- No, the indentures should remain as-is and fines left to the discretion of the Directors

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### *Changes to Article VII, Architectural and Environment Controls*

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**Comment:** This is an issue which we currently face in the subdivision as there has been an out-building constructed on a homeowner’s property which is not allowed by the indentures. Should 2/3 of the homeowners wish to allow out-buildings in the subdivision, the indentures will be modified or if the vote will not allow out-buildings (or there aren’t enough votes) the indentures remain the same and should enforced.

*Section 2(d) of the indentures states: “No separate detached buildings, storage sheds, barns or other structures are to be placed on any Lot within the Subdivision.”*

**Question:** Should *Section 2(d) of the indentures* be modified to read: “Separate detached buildings, including constructed sheds, play houses and gazebos, can be placed on lots within the subdivision with the approval of the Architectural Committee if they back to woods or a tree line, must be piered to establish permanency, the siding and roofing must match the home and the detached structure must have a window. No metal, formed plastic or pre-built structures will be authorized to place on any lot.

- Yes
- No, the indentures should remain as-is

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### *Changes to Article X, Restrictions*

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**Comment:** A homeowner has requested that we vote on changing the provision in the indentures that does not allow for laundry lines, laundry drying apparatuses or clothes to be hung outside.

*Section 7 of the indentures states: “...No clothes, laundry or other articles or equipment shall be placed, hung, exposed or stored in any portion of the Common Ground or in any portion of the exterior or yard area of any Lot or on or about the exterior of any building.”*

**Question:** Should *Section 7* of the indentures be modified to read: “Clothes, laundry or clothes drying apparatuses and equipment are allowed if they do not exceed 20 ft in length, clothes are allowed to be dried outside for a maximum of 6 hours at a time and the clothes line or drying apparatus is behind the sight lines of the home, not visible from the street and is taken down after each use.”?

- Yes
- No, the indentures should remain as-is

**Comment:** The subdivision has different rules than the City of Eureka for several items in Article X (and some are very specific to when we had lots for sale). It would be more efficient to follow the City ordinances rather than try to maintain and enforce our own. For example, the City ordinance allows for 3 dogs to be kept in on a Lot but the indentures specify that no more than two dog and/or cats may be kept or maintained on any Lot. **\*\*Note\*\*:** This type of change would not overrule other provisions of the indentures such as restrictions on structures on the Lot including a rabbit hutch in this pet example.

**Question:** Should Section 9, *Animals*, be modified to read: “No animals, reptiles, birds, horses, rabbits, fowl, poultry, cattle or livestock of any kind shall be brought onto the Subdivision for outdoor activity/event except as allowed by permission of the Association and applicable permits. Allowable pets, restrictions on pets and animals to be kept are pursuant to Chapter 4, *Animals and Fowl*, City of Eureka Municipal Code & Amendments including leashing requirements and restrictions on running free.

Yes

No, the indentures should remain as-is

**Question:** Should Section 13, *Signs*, be modified to read: “The Subdivision’s restrictions on signs and signage is pursuant to Chapter 19A, *Signs*, City of Eureka Municipal Code and Amendments. Signs placed on Subdivision Common Ground for (but not limited to) commercial entities, sale/purchase of items and services, or business opportunities will be removed and disposed of.”

Yes

No, the indentures should remain as-is

**Question:** Should Section 14, *Garbage*, be modified to read: “The Subdivision’s restrictions on garbage is pursuant to Chapter 18, *Refuse Garbage and Weeds*, City of Eureka Municipal Code and Amendments.

Yes

No, the indentures should remain as-is

**Comment:** Section 9 of the indentures relates to trucks, boats, Etc. Currently the indentures do not allow for commercial vehicles, RVs, boats, motorcycles, etc... to be parked where the vehicle is not enclosed in a garage or other enclosure which would include work trucks with a company logo on the vehicle being parked in the driveway. This has not been enforced but we think it would be appropriate to set down the rules for what is and is not allowed for a period of time as we believe it’s not unreasonable to park an RV or a travel trailer in a driveway for a day or two to load/unload around a vacation and it’s not unthinkable to need to park a work truck on the driveway if the vehicle is not unsightly and is in good repair or even if you had to bring a 1 ton work truck home with you one night. Trailers are often used for construction projects and will need to come and go.

**\*\*Note\*\*** This would not modify the restrictions on repairing or servicing vehicles nor do anything to negate the ability to keep commercial or recreational vehicles in your enclosed garage at any time.

**Question:** Should Section 9, *Trucks, Boats, Etc.*, be modified to allow the following to be parked on a driveway; Commercial vehicles not exceeding ¾ ton that are not unsightly and in good repair. Vehicle must be of use and cannot be stored on a Lot driveway for more than two (2) weeks at any given time, Commercial vehicles not exceeding ¾ ton

may be parked on the street fronting or bordering the Lot overnight for one night only and cannot exceed a period of twelve (12) hours, Recreational vehicles, campers, house trailers, boat trailers (with or without boat) or trailers of any kind can be parked on the driveway of a Lot for three (3) days prior and three (3) days after an event, activity or project, Commercial vehicles exceeding ¾ ton may be parked in the driveway of a Lot or on the street bordering the Lot overnight for one night only and cannot exceed a period of twelve (12) hours in the Subdivision.

Yes

No, the indentures should remain as-is

**Comment:** Quite a few homeowners have inquired about installing a 6ft fence for privacy or to meet the requirements of their insurance company for liability mitigation if they have what is called an “attractive nuisance” such as a pool or trampoline which can attract unauthorized users. Currently, the indentures allow for 4ft fences and only allow 6ft fences (with permit) along property that faces busy roads, to screen property not within the Subdivision and those that are placed around attached patios and decks on the Lots. **\*\*Note\*\*** This height change would cascade to Section 18(8) which states that swimming pool fencing must not exceed forty-eight inches (48”).

**Question:** Should Section 18(1), *Fences*, be amended to read: “Other than as expressly permitted by the provisions of this Section 18, the maximum height for full perimeter fencing shall be seventy-two inches (72”). (Choose ONE)

Yes

No, the indentures should remain as-is

Original indentures and the amendment of 2012 are available under “Files” on [www.ashtonwoodseureka.org](http://www.ashtonwoodseureka.org) even if you don’t have an account. This is a ballot, it will be recorded as a vote and count towards establishing a quorum at the annual meeting. Once the ballot has been completed, please return it via U.S. Mail, fax to Omni Management or bring your completed ballot to the meeting on January 23, 2016 - 6:00 PM at the Timbers.

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[ashtonwoodseureka@gmail.com](mailto:ashtonwoodseureka@gmail.com)  
[www.ashtonwoodseureka.org](http://www.ashtonwoodseureka.org)

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Signature

Date Signed

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Address of homeowner:

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Please name a proxy above if you are not able to attend in person for additional votes or filled out a separate proxy form. If you would like to assign the HOA Board as your proxy, leave the line blank.