



Unit, Limited, and Common Elements Responsibility Policy

v2024.04.16

- Date:** April 16, 2024
- Subject:** Unit Elements, Limited Common Elements, and Common Elements definitions and responsibility assignment.
- Purpose:** To define the Abbey Glen Condominiums Homeowners Association Inc position on Unit Elements, Limited Common Elements, and Common Elements definitions and assignment of responsibility between Unit Owner(s) and the Association.
- Supersedes** ABBEY GLEN COMMON ELEMENTS POLICY – Issued 06/29/2016

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Introduction and Summary

Abbey Glen Condominiums were developed under *North Carolina General Statute 47C - Condominium Act (NCGS 47C)*, and the *Declaration of Condominium for Abbey Glen Condominiums as amended (DOC)*. These documents contain specific, legal definitions as to what portions of the development are:

- **Unit Elements (UE)** - the portions individually owned by Unit Owners.
- **Common Elements (CE)** - jointly owned, in common, by all members of the Association.
- **Limited Common Elements (LCE)** - jointly owned but exist to serve only one or a limited number of units.

Regardless of whether a building contains one, two, or four units (single, double, and quad respectively), all are condominiums (not townhouses and not houses). Bear in mind that while *NCGS 47C* applies to Abbey Glen, it is also written to cover multilevel, multiunit structures i.e. high-rise condos. Residents need to understand these definitions and what they mean regarding Unit Owner's vs HomeOwners Association's (HOA) responsibility for costs of repair, maintenance, improvement, and replacement and the limits on Unit Owner modifications to a unit and its Limited Common Elements.

This Policy was developed to guide decisions on assignment of HOA and owner responsibility for costs associated with the Common Elements and Limited Common Elements (Unit Elements are always the responsibility of the Unit Owner). This Policy is grounded in the provisions of *NCGS 47C* and the *DOC*.

The HOA has the responsibility for both regulating and ensuring that repair, maintenance, replacement, and improvement of the Common Elements and Limited Common Elements meet acceptable standards. This Policy requires the HOA to take the lead on repair and replacement of Common Elements.

Unit Owners are financially responsible for repair, maintenance, replacement, and improvement of their unit's Limited Common Elements. Unit Owners (with prior, written authorization of the HOA) are allowed to make their own arrangements for maintenance and repair of their Unit's Limited Common Elements. Both the HOA and Unit Owners should use licensed and bonded contractors for most projects. For minor repair and maintenance projects, the HOA may use residents who have the skill to accomplish the repair, or the Unit Owner may choose to accomplish the task themselves. Where this occurs, the HOA still retains the overall responsibility for ensuring the repair meets acceptable standards. The Unit Owner (and subsequent owners) is responsible for all future maintenance and costs associated with any modification to their unit's Limited Common Elements whether approved or not.

Finally, the HOA is not responsible for any construction defects, omissions, or incorrect construction, whether due to a code violation, an oversight during construction, or an incorrect installation. These deficiencies represent problems that, if identified at the time of construction, should have been corrected by the builder or addressed after completion of the unit by using the Builder's Warranty (which has since expired). See Board Meeting Minutes 2019-02-19, 2020-08-19 and Abbey Glen Construction Defect Statement on the web site.

Please read and become familiar with this Policy. It and other policies available on the Abbey Glen website define your responsibilities as an Abbey Glen Condominiums owner.

Definitions

NCGS 47C and the *DOC* define the different portions of Abbey Glen Condominiums. While some portions are explicitly listed, others are defined by inference, location, or usage.

UNIT BOUNDARIES A building consists of one or more **UNIT**s. The boundaries of a **UNIT** are defined as the “walls, floors, and ceilings” - not including any structural components (slab, framing, rafters, joists, trusses, etc.).

UNIT That part of Abbey Glen Condominiums that each **Unit Owner** legally owns and controls. It lies within and is defined by the **Unit Boundaries**. Practically, it is the inside of a unit – the floor and sheetrock/paneling including the ceiling and interior partitions.

COMMON ELEMENTS **Common Elements (CE)** is anything that is not a **UNIT** - all the real estate, buildings, and “things” that exist in Abbey Glen that *lie outside the Units’ Boundaries*. This is the portion of Abbey Glen that is owned by the Homeowners Association for the use of its members.

LIMITED COMMON ELEMENTS **Limited Common Elements (LCE)** are **Common Elements** but are unique in that they are designed to be used *exclusively* by the residents of a specific **UNIT(s)**. Included are “things” that support a specific unit such as doors, windows, shutters, porches, patios, fences, power, water and, sewer lines, HVAC equipment, plumbing, electrical, ductwork, insulation, and parking spaces assigned to a Unit. Sometimes a “thing” will be for the use of more than one Unit but not all Units in Abbey Glen e.g., a common wall between units.

Association, HOA, or Board The Abbey Glen Condominiums Homeowners Association (HOA), the HOA Executive Board, or its agents or assigns.

Multipurpose Request Form (MRF) A multipurpose form required by the Association *prior* to a **Unit Owner** making any change to **Limited Common Elements**. It is also used to request architectural changes, report any concerns with **Common Elements** (clubhouse, pool, irrigation, etc.), request Sellers Inspections, ask questions, and other purposes.

Repair, Maintenance, Modification, and Improvement

Unit Elements (UE)

The Unit Elements (as defined by *NCGS 47C-2-102.1,3* and *DOC*) constitute the living space of the unit.

The unit owner is solely responsible for all the unit elements and may make any modifications desired to such. In no instance shall any modification of a Unit Element affect LCE or CE without first receiving authorization from the HOA.

Common Elements (CE)

Everything not a Unit is Common Elements (*NCGS 47C-2-103.4* and *DOC*). This encompasses the Abbey Glen wooded areas and greenspaces, clubhouse and pool, and the exterior and structural components (slab, framing, rafters, joists, trusses, roof, etc.) of all units.

The HOA has the responsibility for the “management, replacement, maintenance, repair, alteration and improvement of the Common Elements.” This is to ensure that the systems, structures, and components that make up the Common Elements are properly maintained. Unit Owners are prohibited from making any unapproved repairs, maintenance, modifications, or improvements to any of the Common Elements.

Maintenance and repair of the Common Elements will be funded by the HOA via dues and assessments.

Limited Common Elements (LCE)

Limited Common Elements (LCE) are those Common Elements that are defined by **NCGS 47C** and the **DOC**. Some are explicitly identified in **NCGS 47C-2-102.4** and **DOC** - “shutters, awnings, window boxes, doorsteps, stoops, decks, porches, balconies, patios, and all exterior doors and windows or other fixtures”. Others are implicitly defined in **NCGS 47C-2-102.2,4** and **DOC** as being “for the exclusive use of one or more but fewer than all of the units”.

Maintenance and repair of Limited Common Elements, like all Common Elements, is the responsibility of the HOA. This responsibility includes regulating the repairs, maintenance, modifications, or improvements performed to LCE.

However, the Unit Owner(s) of the Unit(s) that benefits from or is serviced by a given LCE is financially responsible for the repair and maintenance of those LCE. When repairs are made to LCE by the HOA, the Unit Owner(s) will be billed for the cost of the repair or maintenance item.

In addition, Unit Owners have a responsibility to notify the Association when repairs or maintenance to LCE is required. Failure to report LCE in need of repair constitutes negligence. Any LCE found to need repair may be repaired by the HOA and the cost of the repair billed to the appropriate Unit Owner(s).

The HOA will usually arrange for the repair and maintenance of LCE. In some situations, and for certain maintenance and repair items, the Unit Owner may wish to perform the maintenance and repair task without the HOA making the arrangements. This does not supersede the HOA’s responsibility to ensure proper maintenance and repair of LCE. Therefore, any such deviation must be approved by the HOA in advance and in writing using a **Multipurpose Request Form (MRF)** which is available on the Abbey Glen web site. For such deviations, the Unit Owner pays for the cost of materials and labor (if any) to maintain/repair this LCE. The LCE will be inspected by the HOA after the repair/maintenance item has been completed. Any repair or modification to LCE made by a Unit Owner that is deemed not in compliance with Abbey Glen standards by the HOA must be made acceptable at the Unit Owner’s expense.

Unit Owners may not make unapproved changes to Limited Common Elements or Common Elements. The HOA may require that unapproved changes be restored to the original condition at the Unit Owner’s expense. The Unit Owner (and subsequent owners) is responsible for all future maintenance and costs associated with any modification whether approved or not.

The HOA grants owners great latitude for changes made inside the fenced area and mulched areas around their units (LCE) but be advised that there are other Policies, Rules, and Regulations that may guide or restrict changes in this areas.

As of the date of this policy, the HOA provides limited maintenance of some LCE as a courtesy to owners:

- Painting – when the unit is painted, the HOA will also paint the doors, shutters, all external trim, and fences as a courtesy and to maintain a common aesthetic.
- Mulch – The HOA provides mulch for the area around units every other year at the same time as the common areas are mulched.
- Shrub/Tree Pruning – the HOA has all trees (less than 8 feet in height) and shrubs trimmed each year when they are dormant (Nov/Dec). The owner is responsible for maintenance at other times.

List of Limited Common Elements v2024-04-16

- 1) Doors, Windows, Skylights in the Unit/Common Elements Boundary (Exterior) ¹
 - a) Hinged Doors
 - b) Storm and Screen Doors
 - c) Garage Doors
 - d) Sliding Glass Doors and Glass Panels
 - e) Doors to Attic and Pull-Down Stairs
 - f) All Frames, External Trim, Shutters, or Screens (if any)
 - g) All components – sash, glass capsule, tracks, balances, locks, hinges, and other hardware
- 2) HVAC, Water Heater, Generator, and Electricity Storage
 - a) All Equipment (outside or in Attic or Garage)
 - b) All ductwork
 - c) All Connections - Electrical, gas, water, drain, refrigerant, and data lines
 - d) All control devices – thermostats, transfer switch, etc
 - e) Any Solar Panels and/or Battery/UPS
- 3) Utilities - Plumbing, Electrical, Gas, Cable, Sewer, Phone, and Data/Media lines
 - a) All pipe, conduit, wiring, cable, and other connections from any metering device or junction to and through the unit whether above or below the ground.
 - b) Any meter mounting panel or distribution box/panel (unless owned by the utility)
 - c) Sewer lines to the main line
- 4) Vents, Ducts, Flues, Intakes, and Exhausts ¹
 - a) Plumbing vents
 - b) Dryer exhausts
 - c) Bathroom exhausts
 - d) Range exhausts
 - e) Fireplace flue/exhaust
 - f) Gas/Hybrid water heater exhausts/vents
 - g) Heat exchange intake/exhausts
- 5) External Fixtures
 - a) Exterior lighting attached to the Unit
 - b) Electrical Outlets and Security Devices
 - c) Spigots, Faucets, and Hose Bibs
 - d) Gas Line Accessory Connections (grill, fireplace, etc)
 - e) EV Charging Stations
- 6) Patios, Porches, Verandas, and Stoops (Declaration - Exhibit B or Plat) ²
 - a) Patios or Verandas
 - b) Screened or Unscreened porches
 - c) Front Porches, Stoops, or Porticos
- 7) Steps, Walks, and Walkways
 - a) Steps (Doorsteps, Patio Steps, etc)
 - b) Walks and walkways ³ (from Entryway/Patio/Porch/Stoop to Driveway and/or Street)
- 8) Parking Spaces (Concrete or Asphalt) - Two parking spaces in front of garage (26 feet max)
- 9) Fences and Walls (Wood, Vinyl, Aluminum, Block, Stone, or Concrete)
 - a) Fences around patio (Duplex and Quads)
 - b) Fences around the lawn designated for use of Single-Family Units
 - c) Retaining walls attached to the unit.
- 10) Miscellaneous
 - a) Insulation (attic, duct, pipe, vent, or other)
 - b) Downspout extensions (above ground)
 - c) Gutter guards
 - d) Mulched area around unit
 - e) Area inside a unit's fence
 - f) Any modification made by the owner
 - g) Other portions of the Common Elements allocated for the exclusive use of one or more but fewer than all Units (Declaration – Exhibit B – Limited Common Elements).

¹ Any associated boot/flashing is considered a part of the roof or exterior wall and a common element (see Board Minutes 2023.03.22.16).

² Bead board covering trusses are a common element and HOA responsibility (see Board Minutes 2023.03.22.16)

³ Sidewalks along the Streets are city property and are not LCE.

Highlights of the NORTH CAROLINA CONDOMINIUM ACT – Chapter 47C and DOC

A. NORTH CAROLINA CONDOMINIUM ACT – Chapter 47C-1-103 (16). Definitions

https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_47C/GS_47C-1-103.html

§ 47C-1-103. Definitions.

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this chapter:

(25) "Unit" means a physical portion of the condominium designated for separate ownership or occupancy, the boundaries of which are described pursuant to (G.S. 47C-2-105(a)(5)

(4) "Common elements" means all portions of a condominium other than the units.

(16) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of G.S. 47C-2-102(2) or (4) for the exclusive use of one or more but fewer than all of the units.

B. NORTH CAROLINA CONDOMINIUM ACT – Chapter 47C-2-102. Unit boundaries

https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_47C/GS_47C-2-102.html

§ 47C-2-102. Unit boundaries.

Except as provided by the declaration:

(1) If walls, floors or ceilings are designated as boundaries of a unit, then all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the unit; and all other portions of such walls, floors, or ceilings are a part of the common elements.

(2) If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated exclusively to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.

(3) Subject to the provisions of paragraph (2), all spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit.

(4) Any shutters, awnings, window boxes, doorsteps, stoops, decks, porches, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single unit but located outside the unit's boundaries are limited common elements allocated exclusively to that unit. (1985 (Reg. Sess., 1986), c. 877, s. 1.)

C. Abbey Glen Condominiums Declaration of Condominiums – Exhibit “B” Limited Common Elements

"Limited Common Elements" means the portions of the Common Elements allocated for the exclusive use of one or more but fewer than all of the Units; the enjoyment, benefit or use of which is reserved to the lawful occupants of that Unit or Units either in this Declaration, or by the Board, and is that portion of the Condominium Property constituting "limited common elements and facilities" of the Condominium under the Condominium Act.

Those portions of the Common Elements that are labeled or designated "limited common areas" on the Drawings or herein are Limited Common Elements. In the case of each Unit, these Limited Common Elements consist of an exterior parking area immediately in front of the garage serving that Unit, and in the case of Units without a screened veranda, a contiguous fenced-in patio area with a concrete pad. Each such Limited Common Element is reserved for the exclusive use of the owners and occupants of the Unit it is designed or designated to serve.

Frequently asked questions

Q: My dryer vent needs cleaning. When will the HOA have that done?

A: Dryer vents are LCE (**NCGS 47C-2-102.2**) and the responsibility of the unit owner. You should contract with a provider to have your vent cleaned every 2-3 years or condensation may form in the vent, leak out, and damage your insulation or ceiling.

Q: The wind blew my shutter down and it needs to be painted.

A: Shutters (and doors and windows) are LCE (**NCGS 47C-2-102.4**). The HOA paints the doors and shutters when the entire unit is painted as a courtesy to the owner and to maintain a common aesthetic in the community, but the owner is responsible after that for any maintenance. Paint colors are available on the web site. The HOA may require you to repaint if you use an unapproved color.

Q: There is a crack in my patio/sidewalk/driveway that needs repair.

A: Patios, porches, driveways, and sidewalks are LCE (**NCGS 47C-2-102.4, DOC**) (sidewalks along the street belong to the City of Gibsonville) and are the responsibility of the owner.

Q: My outside faucet is leaking. Please fix it.

A: The plumbing in a unit starting from the water meter is LCE (**NCGS 47C-2-102.2**) and the owner's responsibility. This includes the outside portions.

Q: Water is leaking into my unit from around my windows.

A: Windows are LCE (**NCGS 47C-2-102.4**) and the owner's responsibility. You may want to replace the caulking.

Q: The lower portion of my front porch columns have rotted and decayed. The wood needs to be replaced.

A: The outside cladding of a support post is LCE (**NCGS 47C-2-102.4**) and the owner's responsibility.

Q: I want to attach a sun sail to the fence and fascia on my unit to provide shade on my patio.

A: Sorry, but you cannot attach items to the external (CE) portions of your unit (see the **Rules and Regulations** for more details)

Q: I would like to plant something around the electrical box in my yard.

A: Besides being in a common element, the utility pedestal is the property of Duke Power. They require a 10-foot clearance around the pedestal for maintenance, making landscaping impractical.

Q: My doorbell does not work.

A: Sorry, but your doorbell is an extension of your electrical system and LCE (**NCGS 47C-2-102.2**) It is the owner's responsibility.

Q: The bushes beside my unit are overgrown and need trimming.

A: The mulched area is LCE and the owner's responsibility. The HOA has all shrubs and trees under 8 feet tall trimmed each year when they are dormant, usually in November or December.

Q: My unit has termites. When will the HOA treat and repair my unit?

A: Since termites are common in this area, every unit owner is expected to have termite insurance. Failure to have regular inspections and treatment (if necessary) constitutes negligence on your part and you are responsible for all damage to your unit and any other.

Q: The previous owner installed brick pavers on the patio. Now, water trapped by the pavers is rotting the bottom sill on my screen porch.

A: Sorry, but when the previous owner installed the pavers (approved or not), they assumed all responsibility for any damage to the unit. That responsibility passed to you when you purchased the unit.

Notes on the use of this form

1. All repairs and changes to Common Elements of Abbey Glen, including the Limited Common Elements associated with your unit, are required to be made under the authority of the HOA. See the *Unit, Limited, and Common Element Responsibility Policy* on our web site (<https://www.abbeyglen.org>).
2. Anything **outside** of the Unit Boundary (floors, walls, ceilings) is a Common Element or Limited Common Element.
3. Routine maintenance to any Common Element that is used by or services a Unit is a Limited Common Element and is the financial responsibility of the Unit Owner.
4. Any change or repair to a Limited Common Element requires advance, written HOA approval.
5. HOA will arrange for repairs to Limited Common Elements and the Unit Owner will be billed unless other arrangements are made with the HOA in advance.
6. Any changes to the outside of a building, anything mounted, or any breach of the Unit Boundary (floors, walls, ceilings) requires written HOA approval in advance.
7. Pressure Washing has the potential for damaging the outside of a building which is a Common Element and therefore must be approved in advance using an MRF.
8. If you are going to affect a Limited Common Element or Common Element you probably need to complete an MRF. If in doubt, submit an MRF.

HOA Responsible (Pays)

1. Common Elements (Nature)
 - a. Wooded areas
 - b. Green spaces
 - c. Pond
 - d. Landscaping and lawn care
2. Common Elements (Structures)
 - a. Clubhouse (and pool)
 - b. Irrigation Systems
 - c. Retaining walls
 - d. Screening walls
 - e. Exterior of Buildings
 - f. Roof repair and replacement
 - g. Gutters
 - h. Streetlights (Duke Power)

Unit Owner Responsible (Pays)

1. Limited Common Elements (MRF required)
 - a. Exterior windows, doors, shutters, skylights including frames.
 - b. Fences (including gates), porches, patios, and walkways to driveway
 - c. Utilities (electric, water, gas, sewer, cable, etc) throughout the unit from meter or main.
 - d. HVAC systems, generators, etc.
 - e. Vents, pipes, plumbing, flanges, wiring, and cabling
 - f. Parking spaces in front of garage
2. Inside the Unit
 - a. All interior maintenance and repair
 - b. Sheetrock, paint, and molding
 - c. Floor covering
 - d. HVAC, ductwork, insulation
 - e. All appliances

Not intended to be a complete list