

ATLANTIC CENTER HOMEOWNERS ASSOCIATION (ACHA) PACKET SUMMARY

(for informational purposes only, refer to legal document referenced in the section column)

- I. DECLARATION OF COVENANTS AND RESTRICTIONS (begins on p23 of the packet) that transfers property from the builder to homeowners subject to conditions in the Declaration. This document states that the HOA was created in order to repair, maintain and replace common improvements and to enforce the covenants and restrictions as well as collect and spend the charges that are laid out in the Declaration.

Section	Subject	Description
Article 1, S1 (p 25)	ACHA	Definitions, including common easement and common improvements
Article II, S1, 2 (p26)	ACHA	Defines membership and voting rights in the Association
Article III, S1, 2 (p 27)	Common Easements Common Improvements	Subject to S3 (below) every member has rights to common improvements and easement which passes with the title to each home.
Article III, S3	Common Easements Common Improvements	Limits member rights so that the Association, contractors, or agents may have access for maintenance, replacement or repair. Easements and rights of way are granted for maintenance of utilities including common sewage lines. Developer may grant or reserve access to finish work and to operate or maintain common improvements. HOA may take reasonable steps to protect interests of the Association's common easements.
Article III, S3	Common Easements Common Improvements Charges	Homeowners agree to pay annual dues and any special assessments necessary for capital improvements. Establishes liens.
Article IV, S1 (b)	Common Easements Common Improvements Charges	Charges are for uses to promote health, safety and welfare of residents including insurance, maintenance, repair, additions and other costs related to common improvements and easements.
Article IV, S1 (c)	ACHA Responsibilities Common Improvements	ACHA is responsible for common improvements, must repair or replace homeowner property damaged as a result of repair to common improvements. Other than common improvements, ACHA has no other responsibility for maintenance, repair or improvement.
Article IV, S2	Charges	ACHA shall set dues at amount sufficient to pay for maintenance and operation of improvements and easements.
Art IV, S3	Charges	ACHA may levy special assessment for capital improvements not budgeted for, upon majority vote by the members (under usual process described in By-Laws).

Section	Subject	Description
Article IV, S4	Charges Board Responsibilities	Board must notify homeowners of changes in assessments and amounts and must keep a list of homes and the assessments on each, which is open to inspection by owners. ACHA must provide written notice of whether assessment has been paid, upon request of owner. The Board shall have powers and duties necessary for administration of the Association and for maintenance, repair, replacement and improvement of common improvements.
Article IV, S5	Charges Board Responsibilities	Dues not paid by 30-days after due date are subject to interest from due date at highest rate allowable under NYS law. The Association may bring legal action or enforce the lien on homes of delinquent homeowners.
Article IV, S6	Charges Liens	Describes specifics of liens for delinquent/unpaid charges and assessments.
Article V, S1 (p.34)	Board Responsibilities Prohibitions	Prohibits buildings or obstructions including by not limited to erected or placed (including welded) on common easement (including common gates, fences and party-walls) without prior permission of Board.
Article V, S2	Easements	Grants permanent easement for utilities and for parking areas and driveways for adjoining owners and other parties.
Article V, S3	Board Responsibilities Rules	Prohibits use of home for other than residential purposes. Prohibits alterations to homes (except non-structural interior) unless alteration does not violate other conditions of the Declaration, is approved by the Board and receives relevant permits. Prohibits any building other than the original home on homeowner's lot. Prohibits offensive, annoying or nuisance activity in any home, lot or common easement.
Article V, S4	Board Responsibilities Rules	Prohibits commercial signs on homes.
Article V, S5	Board Responsibilities Rules	Prohibits animals other than domestic pets. No commercial business involving pets permitted.
Article V, S6	Board Responsibilities Rules	Prescribes rules for garbage and refuse.
Article V, S7	Board Responsibilities Rules	Prohibits obstructions (except loading and unloading) of common easements. Prohibits storage of anything in common improvements without prior consent of the Board.

Section	Subject	Description
Article VI, S1 (p. 37)	Board Responsibilities Rules Common Easements Common Improvements	Gives Board of Directors power to establish rules and regulations for operation and use of common easements and common improvements. Homeowners must comply promptly with By-Laws and rules.
Article VIII, S1,2 (p. 37)	Procedures	Covenants and Restrictions enforceable by Association and Homeowners. May be amended by an instrument with at least 66 2/3% of the votes of the members. Sets procedures regarding mailing of notices; homeowners who sell their homes must notify the Board and provide the name and address of new owner.
Article VIII, S3	Procedures Charges Rules ACHA Responsibilities	The Association, NYC or any homeowner has rights to legal action related to violations of Covenants and Restrictions, to enforce liens referred to therein. Failure to enforce Conditions does not waive the right to do so in the future. Costs of enforcement by the Association or NYC shall be paid by the homeowner. Actions by NYC against ACHA shall be chargeable to ACHA.
Article VIII, S4	Procedures	If any of the Covenants are invalidated through legal proceedings, all others remain effective.

- II. By-Laws (p43) – Describes the rules under which the Association and its Board operate, as well as the responsibilities of the Association.

Section	Subject	Description
Article I, S1 (p. 43)	ACHA Responsibilities	Defines applicability of By-Laws.
Article I, S2	Procedures	Each member household is entitled to one vote.
Article I, S3	Procedures Rules	Membership rights are subject to payment of assessments; voting rights and right to use Association facilities may be suspended by Board for nonpayment for up to 30-days for violation of rules established by the Board regarding the common improvements.
Article I, S4	Procedures	Member's rights terminate upon default of mortgage.
Article I, S5	Procedures	Transfers membership upon transfer of title.
Article II, S1 (p. 45)	Procedures	Stipulates that Directors set place for meetings.

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Article II, S2	Procedures Board Responsibilities Budget	Annual meeting held every 12 months on a date set by the Board. Directors elected by a majority of members entitled to vote (see Article IV) at each annual meeting (<i>since amended so that Directors serve for 24-months</i>). Annual Budget, including estimated expenditures and assessments, shall be adopted at the annual meeting.
Article II, S3	Procedures Board Responsibilities	Secretary or Agent shall mail or deliver to homes notices of meetings of the Association between 10-40 days prior to the meeting.
Article II, S4	Procedures Board Responsibilities	The President shall call a special meeting when a resolution is passed by the Board or if the Secretary presents a petition requesting a meeting signed by 10% of members who are entitled to vote.
Article II, S5	Procedures Board Responsibilities	No business except what is on the notice sent by Secretary or Agent to Homeowners may be transacted at a special meeting.
Article II, S6	Procedures Board Responsibilities	The Secretary keeps a list of all members and addresses; this list and all records may be inspected by members during reasonable business hours. The Secretary keeps minutes of all meetings and special meetings.
Article II, S7	Procedures Charges	Members are entitled to vote at any meeting only if all assessments are fully paid at least 3-days before the meeting and there are no outstanding violations against a member relating to the Declaration, the By-Laws or rules and regulations issued by the Board.
Article II, S8	Procedures	Attendance in person or by proxy of a majority of members of the Association shall be a quorum for an annual or special meeting. If there is no quorum, those present may adjourn the meeting to a time at least 48-hours later without giving any further notice to members.
Article II, S9	Procedures	Votes may be cast in person or by proxy (proxies to be filed with the Secretary or Agent).
Article II, S10	Procedures Budget	Except as specifically provided in the By-Laws, all decisions, including those regarding expenditures and assessments in excess of budgeted amounts require approval by a majority of members voting at a meeting (meeting must satisfy Article II, S8).
Article II, S11	Procedures	Describes the order of business at all meetings.
Article II, S12	Procedures Board Responsibilities Common Easements	In emergency, Board may expend funds and assess fees for capital improvements upon approval of a majority of homeowners polled by the Board.
Article III, S1	Board Responsibilities Common Easements Rules	Homeowners must reimburse the Association for costs for repair or replacement of the property due to negligence or wrongful acts.

Section	Subject	Description
Article III, S2,3	Board Responsibilities Rules Charges	All members must contribute equally to administration of the Association and for expenses related to common improvements in amounts determined by the Board of Directors. Payments are made to the Treasurer or Agent.
Article III, S4,5	Board Responsibilities Charges	Describes procedures regarding enforceability and recording of liens, foreclosure of liens, and responsibility of subsequent owners.
Article III, S6	Board Responsibilities Rules Charges	Members must comply with By-Laws, with the administrative rules and regulations adopted in relation to the By-Laws, and with the Covenants and Restrictions. Failure to comply is grounds for legal action by Association on behalf of the members.
Article IV, S1,2,3 (p.52)	Board Responsibilities	The affairs of the Association are governed by a 5 member Board of Directors, who must be Association members. Directors serve for 1-year terms (<i>since amended by vote of the Association to 2-year terms</i>). If a position becomes vacant, the remaining directors choose a replacement to serve out the remainder of the term.
Article IV, S4, 6 - 11	Board Responsibilities Procedures	Lays out the procedures for nomination to the Board. First Board meeting must be held no later than 20-days after the annual meeting at which they were elected. Lays out procedures for notification to Board of their meetings. Any action of the Board may be taken without a meeting if all Board members agree in writing. Written consent must be filed with minutes of preceding Board meeting. 3 Board members constitute a quorum for transaction of Board business (unless otherwise noted in the By-laws).
Article IV, S5	Board Responsibilities Procedures	Directors may be removed from office by a vote of 2/3 of the members at an annual meeting or special meeting called for that purpose.

Section	Subject	Description
Article IV, S12 (p. 56)	Board Responsibilities Rules Common Improvements	<p>The Board has the power to conduct business necessary for administration of the Association, the ownership of its properties and maintenance, repair and replacement of common improvements. The Board has powers and duties including, but not limited to:</p> <ul style="list-style-type: none"> A. "Operation, maintenance, cleaning, sanitation, renewal, upkeep, surveillance, protection, repair, maintenance and replacement of the Common Improvements..." in accordance with the budgets, which may be amended by the Association; B. Proposing a budget including expenses and assessments to the members; C. Collecting assessments and using the amounts collected for activities related to common improvements in accordance with the budgets; D. Paying taxes and assessments for which the Association is liable; E. Purchasing services, materials and equipment needed for repair, maintenance and replacement of common improvements; F. Collecting delinquent assessments, including related legal fees; G. Hiring and determining compensation for counsel, engineers, and accountants needed for business of the Association, including but not limited to that mentioned in the By-Laws; H. Maintaining bank accounts; I. Producing an annual financial statement as well as audits of books and accounts, when necessary, by a CPA; J. Maintaining accounting records;

Section	Subject	Description
		<p>K. Making and enforcing compliance with “...reasonable rules and regulations relative to the operation and use of the Common Improvements...” which are binding on homeowners and occupants. Copies of rules and regulations and any amendments are delivered to each member promptly upon adoption.</p> <p>L. Maintaining liability and other insurance deemed necessary, as set forth in the budget;</p> <p>M. Issuing certificates to third parties confirming status of payment of assessments;</p> <p>N. Investing excess funds.</p>
Article V, S1 – 7 (p. 60)	Board Responsibilities Procedures	<p>Officers of the Association are President, Vice President, Secretary and Treasurer and are members of Directors.</p> <p>The President is chief executive officer and presides at all meetings, may appoint committees and execute contracts.</p> <p>The Vice-President takes the place of the President in his/her absence.</p> <p>The Secretary and/or Agent records all votes and minutes, keeps the minute book, and sends meeting notices.</p> <p>The Treasurer is responsible for the Association’s funds, receipts, expenditures and financial reports to the Board.</p>
Article VI, S1 (p.63)	Board Responsibilities Procedures	The Board is indemnified by the Association for any actions related to being a Director or officer except in cases of gross negligence or willful misconduct.
Article VII, S1 (p. 64)	Procedures	The Association’s fiscal year is the calendar year.
Article VIII, S1 (p. 65)	Procedures	The By-Laws may be amended by a majority of votes at a meeting constituting a quorum.
Article IX, S1,2 (p. 65)	Procedures	The Association may be dissolved under the procedures set forth in NYS law if deemed advisable for the members of the Association.

Section	Subject	Description
Article X, S1 (p. 65)	Board Responsibilities Procedures	The Board may authorize officers or agents to enter into contracts on behalf of the Association.
Article X, S2 - 5	Board Responsibilities Procedures	The Association must keep in its office the By-Laws, as amended, which are open to inspection by members. Membership register and minutes shall be open to inspection. Robert's Rules of Order governs all meetings, except when they conflict with the By-Laws, the Declaration or a provision of law.

- III. The package also contains an EXEMPTION APPLICATION (p.1) and amendments that were filed for Phase II – an application by the sponsors (the builder) to the NYS Department of Law for an exemption from filing and registration for usually required under State General Business Law. The application generally describes the Homeowner's Association and its responsibilities, including charges and responsibility for the common easements.

Page 17, contains the ACHA CERTIFICATE OF INCORPORATION which authorizes the Association and its duties, which includes to install, repair, maintain and replace the internal drainage system, common parking areas as well as driveway easements. HOA may acquire real or personal property or equipment, may enter into contracts, borrow money and incur liabilities for HOA business. HOA is provided with various financial rights in order to fulfill these obligations, including assessments of members.

The packet also contains documents including the Declaration of Drainage and Sewage, Easement, Parking, Driveway and Party Wall Easements and estimates of costs to maintain and repair the Common Improvements.