

Satellite Dishes and Antennas

FCC Rules Revisited

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Since October 1996, rules and regulations adopted by the Federal Communications Commission have pre-empted local and private restrictions against antennas and certain satellite dishes. The rules directly prohibit enforcement by homeowner associations of the restrictions on satellite dishes and antennas that are contained in the recorded restrictions for the community (e.g. CC&Rs or rules and regulations adopted by the Board). Associations attempting to enforce their restrictions against antennas or satellite dishes that violate the FCC rules are subject to complaints and litigation by the affected owner or tenant.

The rules are found in the Code of Federal Regulations, beginning at 47 C.F.R. Section 1.4000, and prohibit restrictions that impair the installation, maintenance or use of antennas or satellite dishes used to receive video programming. The rules apply to video antennas, including direct-to-

home satellite dishes, that are less than one meter (39.37") in diameter (or of any size in Alaska), TV antennas, and wireless cable antennas. The rules prohibit most restrictions that: (1) unreasonably delay or prevent installation, maintenance or use; (2) unreasonably increase the cost of installation, maintenance or use; or (3) preclude reception of an acceptable quality signal.

Effective January 22, 1999, the FCC amended the rules so they also apply to rental property where the renter has an exclusive use area, such as a balcony or patio.

On October 25, 2000, the FCC further amended the rules so that they apply to customer-end antennas that receive and transmit fixed wireless signals. This amendment became effective on May 25, 2001.

The FCC rules apply to homeowners and tenants who place antennas and dishes that meet size limitations on property that they own or rent, and that is within their exclusive use or control. This includes condominium homeowners, and their tenants, who have an area where they have exclusive use, such as a balcony or patio, in which to install the antenna or dish. The rules also apply to townhomes and manufactured homes, as well as to single family

homes (e.g. planned developments).

The FCC rules allow local governments, community associations and landlords to enforce restrictions that do not impair the installation, maintenance or use of the types of antennas or dishes covered by the rules, as well as restrictions needed for safety or historic preservation. In addition, under some circumstances, the availability of a central or common antenna can be used by a community association or landlord as a reason to restrict the installation of individual antennas or dishes. In addition, the FCC rules do not apply to common areas that are owned by a landlord, a community association, or jointly by condominium or cooperative owners. Such common areas may include the roof or exterior wall of a multiple dwelling unit. Therefore, restrictions on antennas or dishes installed in or on such common areas are enforceable (for example, a restriction on piercing the common area wall of a balcony to secure a satellite dish is enforceable).

For further information or a copy of the rules, you can call the Federal Communications Commission at 888-CALLFCC (toll free) or (202) 418-7096. The rules are also available via the Internet by going to www.fcc.gov. ■