

**PIONEER HILLS OWNERS ASSOCIATION, INC.
AMENDMENT TO THE RESOLUTION REGARDING
ANTENNAS AND SATELLITE DISHES**

The following Amendment of the Rules and Regulations supersedes all previously adopted Rules and Regulations related to antennas and satellite dishes pursuant to C.R.S. § 38-33.3-302 .

Purpose: To adopt a policy setting forth general rules and regulations controlling the location and placement of satellite dishes and antennas in order to maintain uniformity and consistency and maintaining aesthetic continuity and property value of the community while complying with Federal laws.

WHEREAS, the Colorado Common Interest Ownership Act, in C.R.S. 38-22.3-209.5 and 38-22.3-302, encourages common interest communities to adopt protocols governing amending policies and rules; and

WHEREAS, the “Declaration For Pioneer Hills”, Section 4.1 states the Association Board is to further the common interests of the Members...shall have the duties and powers...to do anything that may be necessary or desirable to further the common interests of the Members, to Maintain and Repair the Common Elements...and to improve and enhance the attractiveness, desirability and safety of the Community; and

WHEREAS, the United States Federal Communications Commission “Communications Act” of 1934 and as then amended in 1996 provides for the regulation of interstate and foreign communication by wire or radio, and for other purposes; and

WHEREAS, the United States Federal Communications Commission has issued the “Over the Air Reception Devices” (OTARD) ruling outlining restrictions related to satellite dishes;

NOW, THEREFORE, IT IS RESOLVED that the Association does hereby on this date and based upon Federal Regulations and Rulings currently knowledgeable hereby adopts the following Satellite Dish and Antenna Rules and Regulations;

ARTICLE I

DEFINITIONS

“*Amateur Radio*”, “*Amateur Radio Services*” are for qualified persons of any age who are interested in radio technique solely with a personal aim and without pecuniary interest. These services present an opportunity for self-training, intercommunication, and technical investigations.

"*Citizens Band Radio Services*", "*Citizens Band*", "*CB*" is one of the FCC personal radio services providing a private, two-way, short-distance voice communications service for personal or business activities of the general public.

"*Family Radio Service*", "*FRS*" is one of the FCC personal radio services providing is a private, two-way, short-distance voice and data communications service for facilitating family and group activities.

"*General Mobile Radio Service*", "*GMRS*" is one of the FCC personal radio services providing short-distance, two-way voice communications using hand-held radios, mobile radios and repeater systems.

"*Multi-Use Radio Service*", "*MURS*" is one of the FCC personal radio services providing short-distance, two-way communications using small, portable hand-held radios that function similar to walkie-talkies.

"*Personal Radio Services*", "*PRS*" are short-range, low-power radio communications using devices that operate much like walkie-talkies. Personal radio services include one- and two-way voice services, data services and remote-control transmissions that operate equipment.

ARTICLE II

PREFACE

The Pioneer Hills Owners Association, the Board of Directors, and any/all committees, groups or individuals assigned and/or accepting responsibility, ownership to the authoring and editing of these Association Rules herein acknowledges that United States Federal regulation and law is dynamic and changing frequently. Every effort has been made to insure this document is up to date and reflective of current legislation and mandate under United States federal regulation.

ARTICLE III

GENERAL

1. ALL satellite dishes, television and radio antennas placed outside the foundation of a home in any Neighborhood require a Design Request be submitted to and approved by the Architectural Review Committee.

ARTICLE IV

NEIGHBORHOOD I - Single Family

1. NEIGHBORHOOD I – Single family

1.1. Amateur Radio

- 1.1.1. All Amateur antennas placed outside the foundation of a homeowner' structure requires approval of the Architectural Review Committee;
- 1.1.2. The Design Review request must include:
 - 1.1.2.1. Diagrams and descriptions of the antenna, placement, mounting, secure guying for the antenna; and
 - 1.1.2.2. A copy of the currently active radio license;
- 1.1.3. Homeowner is responsible for appropriate liability insurance;
- 1.1.4. Homeowner is responsible for understanding and complying with Federal Communications Commission and Federal Aviation Administration antenna height regulations;
- 1.1.5. Homeowner is responsible for securing any permitting as may be required by city, county, state or federal government entities;
- 1.1.6. The number of antennas may be restricted by the Architectural Review Committee;
- 1.1.7. Masts, guys, caissons or other structures necessary for the safe installation, securing and maintenance of the antenna must be entirely enclosed within the fenced backyard;
- 1.1.8. Should homeowner enter into a rental/lease arrangement and no longer be the primary resident, or should the property be sold to another party, the homeowner/renter/lessor must fully remove the antenna and all structures and

facilities necessary for supporting and guying the antenna prior to closing the rental/leasing agreement or final closing on purchase;

1.2. Personal Radio Services

1.2.1. All Personal Radio Services antennas placed outside the foundation of a homeowner's structure requires approval of the Architectural Review Committee;

1.2.2. General Mobile Radio Services and Multi-Use Radio Service

1.2.2.1. The Design Review request must include:

1.2.2.1.1. Diagrams and descriptions of the antenna, placement, mounting, secure guying for the antenna; and

1.2.2.1.2. A copy of the currently active radio license;

1.2.2.2. Homeowner is responsible for appropriate liability insurance;

1.2.2.3. Homeowner is responsible for understanding and complying with Federal Communications Commission and Federal Aviation Administration antenna height regulations;

1.2.2.4. Homeowner is responsible for securing any permitting as may be required by city, county, state or federal government entities;

1.2.2.5. The number of antennas may be restricted by the Architectural Review Committee;

1.2.2.6. Masts, guys, caissons or other structures necessary for the safe installation, securing and maintenance of the antenna must be entirely enclosed within the fenced backyard;

1.2.2.7. Should homeowner enter into a rental/lease arrangement and no longer be the primary resident, or should the property be sold to another party, the homeowner/renter/lessor must fully remove the antenna and all structures and facilities necessary for supporting and guying the antenna prior to closing the rental/leasing agreement or final closing on purchase;

1.2.3. Citizens Band Radio Service and Family Radio Service

1.2.3.1. All Amateur antennas placed outside the foundation of a homeowner's structure requires approval of the Architectural Review Committee;

1.2.3.2. The Design Review request must include:

- 1.2.3.2.1. Diagrams and descriptions of the antenna, placement, mounting, secure guying for the antenna; and
- 1.2.3.3. Homeowner is responsible for appropriate liability insurance;
- 1.2.3.4. Homeowner is responsible for understanding and complying with Federal Communications Commission and Federal Aviation Administration antenna height regulations;
- 1.2.3.5. Homeowner is responsible for securing any permitting as may be required by city, county, state or federal government entities;
- 1.2.3.6. The number of antennas may be restricted by the Architectural Review Committee;
- 1.2.3.7. Masts, guys, caissons or other structures necessary for the safe installation, securing and maintenance of the antenna must be entirely enclosed within the fenced backyard;
- 1.2.3.8. Should homeowner enter into a rental/lease arrangement and no longer be the primary resident, or should the property be sold to another party, the homeowner/renter/lessor must fully remove the antenna and all structures and facilities necessary for supporting and guying the antenna prior to closing the rental/leasing agreement or final closing on purchase;

2. NEIGHBORHOOD II and III – Townhomes

2.1. Amateur Radio

- 2.1.1. All Amateur antennas placed outside the foundation of a homeowner' structure requires approval of the Architectural Review Committee;
- 2.1.2. The Design Review request must include:
 - 2.1.2.1. Diagrams and descriptions of the antenna, placement, mounting, secure guying for the antenna; and
 - 2.1.2.2. A copy of the currently active radio license;
- 2.1.3. Homeowner is responsible for appropriate liability insurance;
- 2.1.4. Homeowner is responsible for understanding and complying with Federal Communications Commission and Federal Aviation Administration antenna height regulations;

- 2.1.5. Homeowner is responsible for securing any permitting as may be required by city, county, state or federal government entities;
- 2.1.6. The number of antennas may be restricted by the Architectural Review Committee;
- 2.1.7. Masts, guys, and all other mechanisms necessary for the safe installation, securing and maintenance of the antenna must be entirely enclosed within the patio deck;
- 2.1.8. Should homeowner enter into a rental/lease arrangement and no longer be the primary resident, or should the property be sold to another party, the homeowner/renter/lessor must fully remove the antenna and all structures and facilities necessary for supporting and guying the antenna prior to closing the rental/leasing agreement or final closing on purchase;

2.2. Personal Radio Services

- 2.2.1. All Personal Radio Services antennas placed outside the foundation of a homeowner's structure requires approval of the Architectural Review Committee;

2.2.2. General Mobile Radio Services and Multi-Use Radio Service

- 2.2.2.1. The Design Review request must include:
 - 2.2.2.1.1. Diagrams and descriptions of the antenna, placement, mounting, secure guying for the antenna; and
 - 2.2.2.1.2. A copy of the currently active radio license;
- 2.2.2.2. Homeowner is responsible for appropriate liability insurance;
- 2.2.2.3. Homeowner is responsible for understanding and complying with Federal Communications Commission and Federal Aviation Administration antenna height regulations;
- 2.2.2.4. Homeowner is responsible for securing any permitting as may be required by city, county, state or federal government entities;
- 2.2.2.5. The number of antennas may be restricted by the Architectural Review Committee;
- 2.2.2.6. Masts, guys, and all other mechanisms necessary for the safe installation, securing and maintenance of the antenna must be entirely enclosed within the patio deck;
- 2.2.2.7. Should homeowner enter into a rental/lease arrangement and no longer be the primary resident, or should the property be sold to another party, the

homeowner/renter/lessor must fully remove the antenna and all structures and facilities necessary for supporting and guying the antenna prior to closing the rental/leasing agreement or final closing on purchase;

2.2.3. Citizens Band Radio Service and Family Radio Service

2.2.3.1. All Amateur antennas placed outside the foundation of a homeowner' structure requires approval of the Architectural Review Committee;

2.2.3.2. The Design Review request must include:

2.2.3.2.1. Diagrams and descriptions of the antenna, placement, mounting, secure guying for the antenna; and

2.2.3.3. Homeowner is responsible for appropriate liability insurance;

2.2.3.4. Homeowner is responsible for understanding and complying with Federal Communications Commission and Federal Aviation Administration antenna height regulations;

2.2.3.5. Homeowner is responsible for securing any permitting as may be required by city, county, state or federal government entities;

2.2.3.6. The number of antennas may be restricted by the Architectural Review Committee;

2.2.3.7. Masts, guys, and all other mechanisms necessary for the safe installation, securing and maintenance of the antenna must be entirely enclosed within the patio deck;

2.2.3.8. Should homeowner enter into a rental/lease arrangement and no longer be the primary resident, or should the property be sold to another party, the homeowner/renter/lessor must fully remove the antenna and all structures and facilities necessary for supporting and guying the antenna prior to closing the rental/leasing agreement or final closing on purchase;

3. NEIGHBORHOOD IV – Paired Homes

3.1. Amateur Radio

3.1.1. All Amateur antennas placed outside the foundation of a homeowner' structure requires approval of the Architectural Review Committee;

3.1.2. The Design Review request must include:

- 3.1.2.1. Diagrams and descriptions of the antenna, placement, mounting, secure guying for the antenna; and
- 3.1.2.2. A copy of the currently active radio license;
- 3.1.3. Homeowner is responsible for appropriate liability insurance;
- 3.1.4. Homeowner is responsible for understanding and complying with Federal Communications Commission and Federal Aviation Administration antenna height regulations;
- 3.1.5. Homeowner is responsible for securing any permitting as may be required by city, county, state or federal government entities;
- 3.1.6. The number of antennas may be restricted by the Architectural Review Committee;
- 3.1.7. Masts, guys, caissons or other structures necessary for the safe installation, securing and maintenance of the antenna must be entirely enclosed within the fenced backyard;
- 3.1.8. Should homeowner enter into a rental/lease arrangement and no longer be the primary resident, or should the property be sold to another party, the homeowner/renter/lessor must fully remove the antenna and all structures and facilities necessary for supporting and guying the antenna prior to closing the rental/leasing agreement or final closing on purchase;

3.2. Personal Radio Services

- 3.2.1. All Personal Radio Services antennas placed outside the foundation of a homeowner's structure requires approval of the Architectural Review Committee;

3.2.2. General Mobile Radio Services and Multi-Use Radio Service

- 3.2.2.1. The Design Review request must include:
 - 3.2.2.1.1. Diagrams and descriptions of the antenna, placement, mounting, secure guying for the antenna; and
 - 3.2.2.1.2. A copy of the currently active radio license;
- 3.2.2.2. Homeowner is responsible for appropriate liability insurance;
- 3.2.2.3. Homeowner is responsible for understanding and complying with Federal Communications Commission and Federal Aviation Administration antenna height regulations;

- 3.2.2.4. Homeowner is responsible for securing any permitting as may be required by city, county, state or federal government entities;
- 3.2.2.5. The number of antennas may be restricted by the Architectural Review Committee;
- 3.2.2.6. Masts, guys, caissons or other structures necessary for the safe installation, securing and maintenance of the antenna must be entirely enclosed within the fenced backyard;
- 3.2.2.7. Should homeowner enter into a rental/lease arrangement and no longer be the primary resident, or should the property be sold to another party, the homeowner/renter/lessor must fully remove the antenna and all structures and facilities necessary for supporting and guying the antenna prior to closing the rental/leasing agreement or final closing on purchase;

3.2.3. Citizens Band Radio Service and Family Radio Service

- 3.2.3.1. All Amateur antennas placed outside the foundation of a homeowner's structure requires approval of the Architectural Review Committee;
- 3.2.3.2. The Design Review request must include:
 - 3.2.3.2.1. Diagrams and descriptions of the antenna, placement, mounting, secure guying for the antenna; and
- 3.2.3.3. Homeowner is responsible for appropriate liability insurance;
- 3.2.3.4. Homeowner is responsible for understanding and complying with Federal Communications Commission and Federal Aviation Administration antenna height regulations;
- 3.2.3.5. Homeowner is responsible for securing any permitting as may be required by city, county, state or federal government entities;
- 3.2.3.6. The number of antennas may be restricted by the Architectural Review Committee;
- 3.2.3.7. Masts, guys, caissons or other structures necessary for the safe installation, securing and maintenance of the antenna must be entirely enclosed within the fenced backyard;
- 3.2.3.8. Should homeowner enter into a rental/lease arrangement and no longer be the primary resident, or should the property be sold to another party, the

homeowner/renter/lessor must fully remove the antenna and all structures and facilities necessary for supporting and guying the antenna prior to closing the rental/leasing agreement or final closing on purchase;

ARTICLE IV

SATELLITE DISHES

1. General

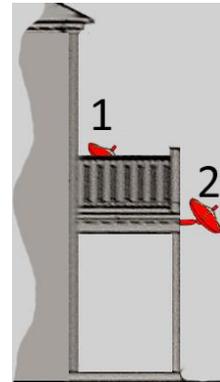
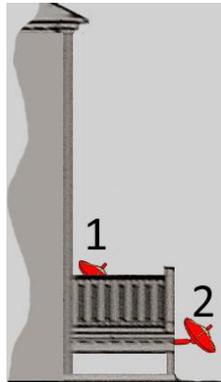
- 1.1. The FCC OTARD Rules are superior and specific;
- 1.2. The FCC Satellite Dish Information Sheet attached as Exhibit A;

2. Neighborhood I – Single Family

- 2.1. FCC Regulations, specifically OTARD, allows single family homes to install as they please;
- 2.2. The Association appreciates every effort to minimize visibility from the street;

3. Neighborhoods II & III - Townhomes

- 3.1. OTARD expresses an antenna cannot be installed on a common area, such as a walkway, hallway, community garden, exterior wall or the roof;
- 3.2. OTARD limits satellite dish installations to ONLY “Exclusive Use” areas;
- 3.3. The “Exclusive Use” areas in the townhomes are the patio decks;
- 3.4. If a homeowner patio deck faces north, there are no alternative installation options and installation will be denied;
- 3.5. The approved locations for townhome installations are:



4. Paired Homes

- 4.1. OTARD expresses an antenna cannot be installed on a common area, such as a walkway, community garden, exterior wall or the roof;
- 4.2. OTARD limits satellite dish installations to ONLY “Exclusive Use” areas;
- 4.3. The “Exclusive Use” areas in the paired homes are the backyards;
- 4.4. The approved locations for paired home installations are:



PIONEER HILLS OWNERS ASSOCIATION, INC.

By: 
President

This Resolution regarding Antennas and Satellite Dishes was adopted by the Board of Directors on the 13th day of February, 2019, effective on the 13th day of February, 2019 and is attested to by the Secretary of PIONEER HILLS OWNERS ASSOCIATION, INC.

By: 
Secretary

EXHIBIT A

FEDERAL COMMUNICATIONS COMMISSION SATELLITE DISH INFORMATION SHEET

As directed by Congress in Section 207 of the Telecommunications Act of 1996, the Federal Communications Commission adopted the Over-the-Air Reception Devices ("OTARD") rule concerning governmental and nongovernmental restrictions on viewers' ability to receive video programming signals from direct broadcast satellites ("DBS"), broadband radio service providers (formerly multichannel multipoint distribution service or MMDS), and television broadcast stations ("TVBS").

The rule (47 C.F.R. Section 1.4000) has been in effect since October 1996, and it prohibits restrictions that impair the installation, maintenance or use of antennas used to receive video programming. The rule applies 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 rule prohibits 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 Commission amended the rule so that it also applies to rental property where the renter has an exclusive use area, such as a balcony or patio.

On October 25, 2000, the Commission further amended the rule so that it applies to customer-end antennas that receive and transmit fixed wireless signals. This amendment became effective on May 25, 2001.

The rule applies to individuals who place antennas that meet size limitations on property that they own or rent and that is within their exclusive use or control, including condominium owners and cooperative owners, and tenants who have an area where they have exclusive use, such as a balcony or patio, in which to install the antenna. The rule applies to townhomes and manufactured homes, as well as to single family homes.

The rule allows local governments, community associations and landlords to enforce restrictions that do not impair the installation, maintenance or use of the types of antennas described above, as well as restrictions needed for safety or historic preservation. Under some circumstances where a central or common antenna is available, a community association or landlord may restrict the installation of individual antennas. The rule does not apply to common areas that are owned by a landlord, a community association, or jointly by condominium or cooperative owners where the antenna user does not have an exclusive use area. Such common areas may include the roof or exterior wall of a multiple dwelling unit. Therefore, restrictions on antennas installed in or on such common areas are enforceable.

This Information Sheet provides general answers to questions concerning implementation of the rule, but is not a substitute for the actual rule. This document is for consumer education purposes only and is not intended to affect any proceedings or cases involving this subject matter or related issues. For further information or a copy of the rule, contact the Federal Communications Commission at 1-888-CALL FCC (1-888-225-5322), which is a toll-free number, or 202-418-2120. The rule and Commission decisions interpreting the rule are available via the Internet by going to links to relevant Orders and the rule at the end of this Information Sheet.

Q: What types of antennas are covered by the rule?

A: The rule applies to the following types of antennas:

(1) A "dish" antenna that is one meter (39.37") or less in diameter (or any size dish if located in Alaska) and is designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite.

(2) An antenna that is one meter or less in diameter or diagonal measurement and is designed to receive video programming services via broadband radio service (wireless cable) or to receive or transmit fixed wireless signals other than via satellite.

(3) An antenna that is designed to receive local television broadcast signals.

In addition, antennas covered by the rule may be mounted on "masts" to reach the height needed to receive or transmit an acceptable quality signal (e.g. maintain line-of-sight contact with the transmitter or view the satellite). Masts higher than 12 feet above the roofline may be subject to local permitting requirements for safety purposes. Further, masts that extend beyond an exclusive use area may not be covered by this rule.

Q: What are "fixed wireless signals"?

A: "Fixed wireless signals" are any commercial non-broadcast communications signals transmitted via wireless technology to and/or from a fixed customer location. Examples include wireless signals used to provide telephone service or high-speed Internet access to a fixed location. This definition does **not** include, among other things, AM/FM radio, amateur ("HAM") radio (but see 47 C.F.R. §97.15), Citizens Band ("CB") radio, and Digital Audio Radio Services ("DARS") signals.

Q: Does the rule apply to hub or relay antennas?

A: The rule applies to "customer-end antennas" which are antennas placed at a customer location for the purpose of providing service to customers at that location. The rule does not cover antennas used to transmit signals to and/or receive signals from multiple customer locations.

Q: What types of restrictions are prohibited?

A: The rule prohibits restrictions that impair a person's ability to install, maintain, or use an antenna covered by the rule. The rule applies to state or local laws or regulations, including zoning, land-use or building regulations, private covenants, homeowners' association rules, condominium or cooperative association restrictions, lease restrictions, or similar restrictions on property within the exclusive use or control of the antenna user where the user has an ownership or leasehold interest in the property. A restriction impairs if it: (1) unreasonably delays or prevents use of; (2) unreasonably increases the cost of; or (3) precludes a person from receiving or transmitting an acceptable quality signal from an antenna covered under the rule. The rule does not prohibit legitimate safety restrictions or restrictions designed to preserve designated or eligible historic or prehistoric properties, provided the restriction is no more burdensome than necessary to accomplish the safety or preservation purpose.

Q: What types of restrictions unreasonably delay or prevent viewers from using an antenna? Can an antenna user be required to obtain prior approval before installing his antenna?

A: A local restriction that prohibits all antennas would prevent viewers from receiving signals, and is prohibited by the Commission's rule. Procedural requirements can also unreasonably delay installation, maintenance or use of an antenna covered by this rule. For example, local rules or regulations that require a person to obtain a permit or approval prior to installation create unreasonable delay and are generally prohibited. Permits or prior approval necessary to serve a legitimate written safety or historic preservation purpose may be permissible. Although a simple notification process (e.g. post installation) might be permissible, such a process cannot be used as a prior approval requirement and may not delay or increase the cost of installation. The burden is on the association to show that a notification process does not violate our rule.

Q: What is an unreasonable expense?

A: Any requirement to pay a fee to the local authority for a permit to be allowed to install an antenna would be unreasonable because such permits are generally prohibited. It may also be unreasonable for a local government, community association or landlord to require a viewer to incur additional costs associated with installation. Things to consider in determining the reasonableness of any costs imposed include: (1) the cost of the equipment and services, and (2) whether there are similar requirements for comparable objects, such as air conditioning units or trash receptacles. For example, restrictions cannot require that expensive landscaping screen relatively unobtrusive DBS antennas. A requirement to paint an antenna so that it blends into the background against which it is mounted might be acceptable, provided it will not interfere with reception or impose unreasonable costs.

Q: What restrictions prevent a viewer from receiving an acceptable quality signal? Can a homeowners association or other restricting entity establish enforceable preferences for antenna locations?

A: Enforceable placement preferences must be clearly articulated in writing and made available to all residents of the community in question. A requirement that an antenna be located where reception would be impossible or substantially degraded is prohibited by the rule. However, a regulation requiring that antennas be placed in a particular location on a house such as the side or the rear, might be permissible if this placement does not prevent reception of an acceptable quality signal or impose unreasonable expense or delay. For example, if installing an antenna in the rear of the house costs significantly more than installation on the side of the house, then such a requirement would be prohibited. If, however, installation in the rear of the house does not impose unreasonable expense or delay or preclude reception of an acceptable quality signal, then the restriction is permissible and the viewer must comply.

For DBS antennas, and digital fixed wireless antennas or other digital antennas to receive or transmit an acceptable quality signal, the antenna must be installed where it has an unobstructed, direct view of the satellite or other device from which signals are received or to which signals are to be transmitted. Unlike analog antennas, digital antennas, even in the presence of sufficient over-the-air signal strength, will at times provide no picture or sound unless they are placed and oriented properly.

Q: Can a restriction limit the number of antennas that may be installed at a particular location?

The Commission's rule covers the antennas necessary to receive service. Therefore, a local rule may not, for example, allow only one antenna if more than one antenna is necessary to receive the desired service.

Q: Are all restrictions prohibited?

A: No. Clearly-defined, legitimate safety restrictions are permitted even if they impair installation, maintenance or use provided they are necessary to protect public safety and are no more burdensome than necessary to ensure safety. The safety reason for the restriction must be written in the text, preamble or legislative history of the restriction, or in a document that is readily available to antenna users, so that a person who wishes to install an antenna knows what restrictions apply. Safety restrictions cannot discriminate between objects that are comparable in size and weight and pose the same or a similar safety risk as the antenna that is being restricted. Examples of valid safety restrictions include fire codes preventing people from installing antennas on fire escapes; restrictions requiring that a person not place an antenna within a certain distance from a power line; and installation requirements that describe the proper method to secure an antenna.

Restrictions necessary for historic preservation also may be permitted even if they impair installation, maintenance or use of the antenna. To qualify for this exemption, the property may be any prehistoric or historic district, site, building, structure or object included in, or eligible for

inclusion on, the National Register of Historic Places. In addition, restrictions necessary for historic preservation must be no more burdensome than necessary to accomplish the historic preservation goal. They also must be imposed and enforced in a non-discriminatory manner, as compared to other modern structures that are comparable in size and weight and to which local regulation would normally apply.

Q: How does the rule apply to restrictions on radiofrequency (RF) exposure from antennas that have the capability to transmit signals? Can a local restriction require professional installation of receive-only antennas?

A: All transmitters regulated by the Commission, including the customer-end fixed wireless antennas (either satellite or terrestrial) covered under the amended rule, are required to meet the applicable Commission guidelines regarding RF exposure limits. The limits established in the guidelines are designed to protect the public health with a large margin of safety. These limits have been endorsed by federal health and safety agencies, such as the Environmental Protection Agency and the Food and Drug Administration. The Commission requires that providers of fixed wireless service exercise reasonable care to protect users and the public from RF exposure in excess of the Commission's limits. In addition, as a condition of invoking protection under the rule from government, landlord, and association restrictions, a provider of fixed wireless service must ensure that customer-end antennas are labeled to give notice of potential RF safety hazards posed by these antennas.

It is recommended that antennas that both receive and transmit signals be installed by professional installers to maximize effectiveness and minimize the possibility that the antenna will be placed in a location that is likely to expose subscribers, their families, or others in the area to radiation from the transmit signal at close proximity and for an extended period of time. In general, associations, landlords, local governments and other restricting entities may not require professional installation for receive-only antennas, such as one-way DBS satellite dishes. However, local governments, associations, and property owners may require professional installation for **transmitting** antennas based on the safety exception to the rule. Such safety requirements must be: (1) clearly defined; (2) based on a legitimate safety objective (such as bona fide concerns about RF radiation) which is articulated in the restriction or readily available to antenna users; (3) applied in a non-discriminatory manner; and (4) no more burdensome than necessary to achieve the articulated objectives.

For additional information about the Commission's RF exposure limits, please visit <https://www.fcc.gov/oet/rfsafety> or call the RF Safety Information Line at 1-888-225-5322.

Q: Whose antenna restrictions are prohibited?

A: The rule applies to restrictions imposed by local governments, including zoning, land-use or building regulations; by homeowner, townhome, condominium or cooperative association rules, including deed restrictions, covenants, by-laws and similar restrictions; and by manufactured housing (mobile home) park owners and landlords, including lease restrictions. The rule only applies to restrictions on property where the viewer has an ownership or leasehold interest and exclusive use or control.

Q: If I live in a condominium or an apartment building, does this rule apply to me?

A: The rule applies to antenna users who live in a multiple dwelling unit building, such as a condominium or apartment building, if the antenna user has an exclusive use area in which to install the antenna. "Exclusive use" means an area of the property that only you, and persons you permit, may enter and use to the exclusion of other residents. For example, your condominium or apartment may include a balcony, terrace, deck or patio that only you can use, and the rule applies to these areas. The rule does not apply to common areas, such as the roof, the hallways, the walkways or the exterior walls of a condominium or apartment building. Restrictions on antennas installed in these common areas are not covered by the Commission's rule. For example, the rule would **not** apply to restrictions that prevent drilling through the exterior wall of a condominium or rental unit and thus restrictions may prohibit installation that requires such drilling.

Q: Does the rule apply to condominiums or apartment buildings if the antenna is installed so that it hangs over or protrudes beyond the balcony railing or patio wall?

A: No. The rule does not prohibit restrictions on antennas installed beyond the balcony or patio of a condominium or apartment unit if such installation is in, on, or over a common area. An antenna that extends out beyond the balcony or patio is usually considered to be in a common area that is not within the scope of the rule. Therefore, the rule does not apply to a condominium or rental apartment unit unless the antenna is installed wholly within the exclusive use area, such as the balcony or patio.

Q: Does the fact that management or the association has the right to enter these areas mean that the resident does not have exclusive use?

A: No. The fact that the building management or the association may enter an area for the purpose of inspection and/or repair does not mean that the resident does not have exclusive use of that area. Likewise, if the landlord or association regulates other uses of the exclusive use area (e.g., banning grills on balconies), that does not affect the viewer's rights under the Commission's rule. This rule permits persons to install antennas on property over which the person has *either* exclusive use *or* exclusive control. Note, too, that nothing in this rule changes the landlord's or association's right to regulate use of exclusive use areas for other purposes. For example, if the lease prohibits antennas and flags on balconies, only the prohibition of antennas is eliminated by this rule; flags would still be prohibited.

Q: Does the rule apply to residents of rental property?

A: Yes. Effective January 22, 1999, renters may install antennas within their leasehold, which means inside the dwelling or on outdoor areas that are part of the tenant's leased space and which are under the exclusive use or control of the tenant. Typically, for apartments, these areas include balconies, balcony railings, and terraces. For rented single family homes or manufactured homes which sit on rented property, these areas include the home itself and patios, yards, gardens or other similar areas. If renters do not have access to these outside areas, the tenant may install the antenna inside the rental unit. Renters are not required to obtain the consent of the landlord prior to installing an antenna in these areas. The rule does not apply to common areas, such as the roof or the exterior walls of an apartment building. Generally, balconies or patios that are shared with other people or are accessible from other units are not considered to be exclusive use areas.

Q: Are there restrictions that can be placed on residents of rental property?

A: Yes. A restriction necessary to prevent damage to leased property may be reasonable. For example, tenants could be prohibited from drilling holes through exterior walls or through the roof. However, a restriction designed to prevent ordinary wear and tear (*e.g.*, marks, scratches, and minor damage to carpets, walls and draperies) would likely not be reasonable provided the antenna is installed wholly within the antenna user's own exclusive use area. In addition, rental property is subject to the same protection and exceptions to the rule as owned property. Thus, a landlord may impose other types of restrictions that do not impair installation, maintenance or use under the rule. The landlord may also impose restrictions necessary for safety or historic preservation.

Q: If I live in a condominium, cooperative, or other type of residence where certain areas have been designated as "common," do these rules apply to me?

A: The rules apply to residents of these types of buildings, but the rules do not permit you to install an antenna on a common area, such as a walkway, hallway, community garden, exterior wall or the roof. However, you may install the antenna wholly within a balcony, deck, patio, or other area where you have exclusive use.

Drilling through an exterior wall, *e.g.* to run the cable from the patio into the unit, is generally not within the protection of the rule because the exterior wall is generally a common element. You may wish to check with your retailer or installer for advice on how to install the antenna without drilling a hole. Alternatively, your landlord or association may grant permission for you to drill such a hole. The Commission's rules generally do not cover installations if you drill through a common element.

Q: If my association, building management, landlord, or property owner provides a central antenna, may I install an individual antenna?

A: Generally, the availability of a central antenna may allow the association, landlord, property owner, or other management entity to restrict the installation by individuals of antennas otherwise protected by the rule. Restrictions based on the availability of a central antenna will generally be permissible provided that: (1) the person receives the particular video programming or fixed wireless service that the person desires and could receive with an individual antenna covered under the rule (*e.g.*, the person would be entitled to receive service from a specific provider, not simply a provider selected by the association); (2) the signal quality of transmission to and from the person's home using the central antenna is as good as, or better than, the quality the person could receive or transmit with an individual antenna covered by the rule; (3) the costs associated with the use of the central antenna are not greater than the costs of installation, maintenance and use of an individual antenna covered under the rule; and (4) the requirement to use the central antenna instead of an individual antenna does not unreasonably delay the viewer's ability to receive video programming or fixed wireless services.

Q: May the association, landlord, building management or property owner restrict the installation of an individual antenna because a central antenna will be available in the future?

A: It is not the intent of the Commission to deter or unreasonably delay the installation of individual antennas because a central antenna may become available. However, persons could be required to remove individual antennas once a central antenna is available if the cost of removal is paid by the landlord or association and the user is reimbursed for the value of the antenna. Further, an individual who wants video programming or fixed wireless services other than what is available through the central antenna should not be unreasonably delayed in obtaining the desired programming or services either through modifications to the central antenna, installation of an additional central antenna, or by using an individual antenna.

Q: I live in a townhome community. Am I covered by the FCC rule?

A: Yes. If you own the whole townhouse, including the walls and the roof and the land under the building, then the rule applies just as it does for a single family home, and you may be able to put the antenna on the roof, the exterior wall, the backyard or any other place that is part of what you own. If the townhouse is a condominium, then the rule applies as it does for any other type of condominium, which means it applies only where you have an exclusive use area. If it is a condominium townhouse, you probably cannot use the roof, the chimney, or the exterior walls unless the condominium association gives you permission. You may want to check your ownership documents to determine what areas are owned by you or are reserved for your exclusive use.

Q: I live in a condominium with a balcony, but I cannot receive a signal from the satellite because my balcony faces north. Can I use the roof?

A: No. The roof of a condominium is generally a common area, not an area reserved for an individual's exclusive use. If the roof is a common area, you may not use it unless the

condominium association gives you permission. The condominium is not obligated to provide a place for you to install an antenna if you do not have an exclusive use area.

Q: I live in a mobile home that I own but it is located in a park where I rent the lot. Am I covered by the FCC rule?

A: Yes. The rule applies if you install the antenna anywhere on the mobile or manufactured home that is owned by you. The rule also applies to antennas installed on the lot or pad that you rent, as well as to other areas that are under your exclusive use and control. However, the rule does not apply if you want to install the antenna in a common area or other area outside of what you rent.

Q: I want a conventional "stick" antenna to receive a distant over-the air television signal. Does the rule apply to me?

A: No. The rule does not apply to television antennas used to receive a distant signal.

Q: I want to install an antenna for broadcast radio or amateur radio. Does the rule apply to me?

A: No. The rule does not apply to antennas used for AM/FM radio, amateur ("ham") radio (see 47 C.F.R. §97.15), Citizen's Band ("CB") radio or Digital Audio Radio Services ("DARS").

Q: I want to install an antenna to access the Internet. Does the rule apply to me?

A: Yes. Antennas designed to receive and/or transmit data services, including Internet access, are included in the rule.

Q: Does this mean that I can install an antenna that will be used for voice and data services even though it does not provide video transmissions?

A: Yes. The most recent amendment expands the rule and permits you to install an antenna that will be used to transmit and/or receive voice and data services, except as noted above. The rule will also continue to cover antennas used to receive video programming.

Q: I'm a board member of a homeowners' association and we want to revise our restrictions so that they will comply with the FCC rule. Do you have guidelines you can send me?

A: The Commission does not have sample guidelines because every community is different. We can provide you the rule and the relevant orders, which will give you general guidance. (See list of documents at the end of this Information Sheet. Some communities have written restrictions that provide a prioritized list of placement preferences so that residents can see where the association wants them to install the antenna. The residents should comply with the placement preferences provided the preferred placement does not impose unreasonable delay or expense or preclude reception of an acceptable quality signal.

Q: What restrictions are permitted if the antenna must be on a very tall mast to get a signal?

A: If you have an exclusive use area that is covered by the rule and need to put your antenna on a mast, the local government, community association or landlord may require you to apply for a permit for safety reasons if the mast extends more than 12 feet above the roofline. If you meet the safety requirements, the permit should be granted. Note that the Commission's rule only applies to antennas and masts installed wholly within the antenna user's exclusive use area. Masts that extend beyond the exclusive use area are outside the scope of the rule. For installations on single family homes, the "exclusive use area" generally would be anywhere on the home or lot and the mast height provision is usually most relevant in these situations. For example, if a homeowner needs to install an antenna on a mast that is more than 12 feet taller than the roof of the home, the homeowners' association or local zoning authority may require a permit to ensure the safety of such an installation, but may not prohibit the installation unless there is no way to install it safely. On the other hand, if the owner of a condominium in a building with multiple dwelling units needs to put the antenna on a mast that extends beyond the balcony boundaries, such installation would generally be outside the scope and protection of the rule, and the condominium association may impose any restrictions it wishes (including an outright prohibition) because the Commission rule does not apply in this situation.

Q: Does the rule apply to commercial property or only residential property?

A: Nothing in the rule excludes antennas installed on commercial property. The rule applies to property used for commercial purposes in the same way it applies to residential property.

Q: What can a local government, association, or consumer do if there is a dispute over whether a particular restriction is valid?

A: Restrictions that impair installation, maintenance or use of the antennas covered by the rule are preempted (unenforceable) unless they are needed for safety or historic preservation and are no more burdensome than necessary to accomplish the articulated legitimate safety purpose or for preservation of a designated or eligible historic site or district. If a person believes a restriction is preempted, but the local government, community association, or landlord disagrees, either the person or the restricting entity may file a Petition for Declaratory Ruling with the FCC or a court of competent jurisdiction. We encourage parties to attempt to resolve disputes prior to filing a petition. Often contacting the FCC for information about how the rule works and applies in a particular situation can help to resolve the dispute. If a local government, community association, or landlord acknowledges that its restriction impairs installation, maintenance, or use and is preempted under the rule but believes it can demonstrate "highly specialized or unusual" concerns, the restricting entity may apply to the Commission for a waiver of the rule.

Q: How do I file a petition or request a waiver at the Commission?

A: There is no special form for a petition. You may simply describe the facts, including the specific restriction(s) that you wish to challenge. If possible, include contact information such as

telephone numbers for all parties involved, if available, and attach a copy of the restriction(s) and any relevant correspondence. If this is not possible, be sure to include the exact language of the restriction in question with the petition. General or hypothetical questions about the application or interpretation of the rule cannot be accepted as petitions. To file a Petition for Waiver, follow the requirements in Section 1.4000(c) of the rule. The local government, community association or landlord requesting the waiver must demonstrate "local concerns of a highly specialized or unusual nature."

Petitions for declaratory rulings and waivers must be served on all interested parties. For example, if a homeowners' association files a petition seeking a declaratory ruling that its restriction is not preempted and is seeking to enforce the restriction against a specific resident, service must be made on that specific resident. The homeowners' association will not be required to serve all other members of the association, but must provide reasonable, constructive notice of the proceeding to other residents whose interests foreseeably may be affected. This may be accomplished, for example, by placing notices in residents' mailboxes, by placing a notice on a community bulletin board, or by placing the notice in an association newsletter. If a local government seeks a declaratory ruling or a waiver from the Commission, the local government must take steps to afford reasonable, constructive notice to residents in its jurisdiction (*e.g.*, by placing a notice in a local newspaper of general circulation). Proof of constructive notice must be provided with a petition. In this regard, the petitioner should provide a copy of the notice and an explanation of where the notice was placed and how many people the notice reasonably might have reached.

Finally, if a person files a petition or lawsuit challenging a local government's ordinance, an association's restriction, or a landlord's lease, the person must serve the local government, association or landlord, as appropriate. You must include a "proof of service" with your petition. Generally, the "proof of service" is a statement indicating that on the same day that your petition was sent to the Commission, you provided a copy of your petition (and any attachments) to the person or entity that is seeking to enforce the antenna restriction. The proof of service should give the name and address of the parties served, the date served, and the method of service used (*e.g.*, regular mail, personal service, certified mail).

All allegations of fact contained in petitions and related pleadings before the Commission must be supported by an affidavit signed by one or more persons who have actual knowledge of such facts.