

## **Over-the-Air Reception Devices Rule**

The [Federal Communications Commission](#) and its Over-the-Air Reception Devices Rule, a set of regulations that concern the use of DTH dishes, wireless cable/MMDS equipment and off-air antennas, prohibit restrictions that impair the installation, maintenance or use of antennas used to receive video programming. The rule applies to dishes that are less than one meter (39.37 inches) in diameter or of any size in Alaska.

The rule applies to viewers who place video antennas on property that they own and that is within their exclusive use or control, including condominium owners and cooperative owners who have an area where they have exclusive use, such as a balcony or patio.

The rule allows local governments, community associations and landlords to enforce restrictions only 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 to restrict the installation of individual antennas.

On Nov. 20, 1998, the FCC amended the rule so that it will also apply to rental property where the renter has exclusive use, such as a balcony or patio.

The following Q&A is provided by the FCC:

### **Q: What types of restrictions are prohibited?**

A: The rule prohibits restrictions that impair a viewer's ability to install, maintain or use a video antenna. 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.

A restriction impairs if it: 1) unreasonably delays or prevents use of, 2) unreasonably increases the cost of, or 3) precludes a viewer from receiving an acceptable signal.

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?**

A: A local restriction that prohibits all antennas would prevent viewers from receiving signals. Procedural requirements can also unreasonably delay installation, maintenance or use of an antenna covered by the rule. For example, local regulations that require a person to obtain a permit or approval prior to installation create unreasonable delay and are generally prohibited.

### **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.

### **Q: What restrictions prevent a viewer from receiving an acceptable quality signal?**

A: For antennas designed to receive analog signals, 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 where they are not visible from the street would be permissible if this placement does not prevent reception of an acceptable

quality signal or impose unreasonable expense or delay.

**Q: Are all restrictions prohibited?**

A: No, many restrictions are permitted. Clearly-defined, legitimate safety restrictions are permitted even if they impair installation, maintenance or use because they are necessary to protect public safety.

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; electrical code requirements to properly ground the antenna; and installation requirements that describe the proper method to secure an antenna.

Restrictions necessary for historic preservation may also be permitted even if they impair installation, maintenance or use of the antenna.

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

A: The rule applies to viewers who live in a multiple-dwelling unit building, such as a condominium or apartment building, if the viewer has an exclusive use area in which to install the antenna. "Exclusive use" means an area of the property that only you 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.

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

A: Yes. Renters may install video antennas within their leasehold, which means inside the dwelling or on outdoor areas that are part of the tenant's rented 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 video antenna inside the rental unit.

Renters are not required to obtain the consent of the landlord prior to installing a video antenna in these areas. The rule does not apply to common areas, such as the roof or the exterior walls of an apartment building.

**Q: Are there restrictions that may 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 (marks, scratches, and minor damage to carpets, walls and draperies) would likely not be reasonable.

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.

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

A: If the mast is more than 12 feet above the roof line, the local government, community association or landlord may require you to apply for a permit for safety reasons. If you meet the safety requirements, the permit should be granted.

**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 is the procedure for filing a petition or requesting a waiver at the Commission?**

A: 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 viewer, service must be made on that specific viewer. 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 may foreseeably 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.

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. An original and two copies of all petitions and pleadings should be addressed to the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, Attention: Cable Services Bureau.

- For information on your satellite installation rights and regulations, please see the FCC guidelines at: <http://www.fcc.gov/mb/facts/otard.html>

---

SADOUN SATELLITE SALES \* <http://www.sadoun.com> \* 888-519-9595