

**REGULATIONS RELATING  
TO SMALL SATELLITE DISH ANTENNAS**

**DRAFT**

In 1996, the Federal Government adopted the Telecommunications Act of 1996 (ACT), which drastically affected the power of community associations to regulate the installation of small satellite dish antennas. However, that law, as interpreted by the Federal Communications Commission's rules (FCC), still permits some meaningful regulation of these antennas. These regulations will be permitted so long as they do not prevent, unreasonable delay or unreasonably increase the cost of installation, maintenance or use of such antennas, or preclude reception of an acceptable quality signal. Because the Board of Directors of the Casa Park Villas of Tuscowilla Homeowners Association, Inc. has the power to adopt such regulations, and because the Board feels that it is in the best interest of the Association to do so, it hereby adopts the following regulations relating to small satellite dish antennas:

1. Only DBS or MDS/Wireless satellite dish antennas (antennas) that are one meter (39") or less in diameter will be permitted. All antennas not covered by the ACT or FCC are prohibited.
2. Antennas shall be installed solely on individually-owned property and may not be installed on the Common Areas. Tenants may install permitted antennas with the prior written consent of the owner.
3. Antennas shall be located in a place shielded from view from the street/parking areas and from other lots/units to the maximum extent possible, provided, however, that nothing in this rule will require installation in a location from which an acceptable quality signal may not be received. If acceptable quality signals may be received by placing antennas inside a porch area, without unreasonable delay or unreasonable cost increase, then outdoor installation may be prohibited. For outdoor installation, to the extent possible, all antennas must be attached to the exterior wall of the unit to which the service is being supplied. If the antenna must be attached to a mast, the mast must not exceed twelve (12) feet above the roof line of the structure to which it is attached without obtaining prior approval for the same from the Association.
4. The Owners are responsible for all costs associated with the antenna and may not permit their antennas to fall into disrepair or to become safety hazards.
5. All antennas must be installed in strict compliance with all applicable codes and the installation and maintenance of the same must be found to be safe in all respects.
6. If the antenna is attached to a mast or to an exterior wall, then the antenna, and the mast (if any) and all visible wiring, must be painted to match the color of the structure to which it is installed or attached. Antennas situated on the ground and visible from street/parking areas or from other lots/units must be camouflaged by landscaping or other acceptable objects.

7. **Owners must not install antennas in a manner that will result in increased maintenance costs for the Association or for other residents. If damage occurs, owners are responsible for all such costs.**
  
8. **Any person who is entitled to erect a permitted antenna may request that the above stated restrictions be altered, lessened or waived if they can demonstrate to the Association that erecting the antenna in conformance with the above restrictions impairs reception of an acceptable quality signal as defined in the ACT and FCC. The Association may require reasonable proof of such claim.**

Casa01 satrule



## URGENT TELECOMMUNICATIONS UPDATE

### CAI WINS FIRST ROUND!

On September 25, 1998, the Federal Communications Commission (FCC) released an Order addressing various Petitions for Reconsideration filed in response to the August 6, 1996 Over-the-Air Reception Devices (OTARD) Rule. The OTARD Rule preempts certain community association rules and restrictions impairing the installation, maintenance, or use of direct broadcast satellite (DBS), television broadcast, and multipoint distribution service (MDS) antennas. In a major victory for CAI members, the FCC adopted most of CAI's central antenna proposal and supported many CAI arguments in rejecting numerous proposals by telecommunications providers seeking to further restrict the rights of community associations. Among other things, the FCC ruled that:

- Associations may still enforce reasonable antenna rules and restrictions per the OTARD Rule;
- Associations must show a "legitimate" but not a higher "compelling" safety interest to adopt and enforce safety restrictions;
- Antenna disputes can still be adjudicated in local courts as well as at the FCC;
- Certain painting restrictions may still be enforced;
- A provider desiring that the Section 207 rules apply to an antenna other than DBS, television broadcast, and MDS antennas must show why that antenna should be included;
- Homeowners losing cases before the FCC or local courts have a 21 day grace period in which to comply with association restrictions before any fines or penalties may be imposed;
- Associations may not impose attorneys fees on homeowners while a rule or restriction is under evaluation by the FCC or a local court;
- The standard for determining whether costs relating to installation requirements are reasonable will be determined by comparing the cost of the equipment or services and how the association's rules or restrictions treat similar devices, such as air conditioners, patio equipment, etc.
- An association filing a Petition for Declaratory Ruling against a particular owner must provide a copy of all filings to that owner. An association must also notify its members of any Petition or court action against an owner by placing notices in member mailboxes, on bulletin boards, in association newsletters, etc.

The Order clarifies that a tenant with an owner's permission to install an antenna on individually-owned or exclusive use areas may do so. It also states that individuals may install antennas on exclusive use property (including balconies and patios in condominiums and cooperatives) even if the association maintains that property. Moreover, the Order adopts a CAI proposal enabling an association to prohibit individual antennas provided that it makes programming available through a central antenna to any resident wishing to subscribe at no greater cost and with equivalent quality as would be available from an individual antenna installation. An owner must be able to receive the specific service desired and a requirement to use a central antenna must not unreasonably delay his or her ability to receive video programming.

Most aspects of the new rule issued through this Order will take effect 30 days after publication in the *Federal Register* (probably late October or early November). The portions of the rule dealing with service of petitions and pleadings will take effect 70 days after publication in the *Federal Register* following approval by the White House Office of Management and Budget. To prepare for these dates, CAI recommends that associations review the new rule immediately and amend their antenna restrictions accordingly.

Copies of the rule are available through CAI's FaxBack Service by calling 703-836-6904 and requesting document number 515. Questions about the rule may be directed to CAI's Government & Public Affairs Department (phone: 703-548-8600; fax: 703-684-1581; e-mail: g&pa@caionline.org).

*Stay tuned – another rule regarding individual antenna installations on common property is coming soon!*