

ASSOCIATION OF APARTMENT OWNERS OF PUNAHOU ROYALE

BOARD POLICIES REGARDING

RESTRICTIONS ON ANTENNA, SATELLITE DISH, AND SIMILAR STRUCTURES

1) Introduction

This Policy is adopted by the Board of Directors pursuant to Hawaii Revised Statutes §514B-140. The Board of Directors recognizes that the Federal Communications Commission has adopted Regulations that purport to preempt some of the Association's rules regarding the installation of antennas. It is intended that these rules comply with all lawful provisions of the Federal Communications Commission regulations.

2) Definitions

- a) "Reception Antenna" means an antenna, satellite dish, or other structure used to receive video programming services intended for reception in the viewing area and/or designed to receive or transmit fixed wireless signals. Examples of video programming services include direct broadcast satellite services, multipoint distribution services, and television broadcast signals. Fixed wireless signals means any commercial nonbroadcast 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. "Reception Antenna" does NOT include, among other things, Amateur ("HAM") radios, Citizens Band ("CB") radios and Digital Audio Radio Services ("DARS"), AM/FM radio signals. The mast supporting the Reception Antenna, cabling, supports, guy wires, conduits, wiring, fasteners, bolts or other accessories for the Reception Antenna is part of the Reception Antenna. A Reception Antenna that has limited transmission capability designed for the Viewer to select or use video programming is a Reception Antenna provided it meets Federal Communications Commission standards for radio frequency radiation.
- b) "Similar Structures" are any structure, item, device, or equipment that is comparable in size and weight to a Reception Antenna and pose a similar or greater safety risk to a Reception Antenna.
- c) "Transmission Antenna" means any antenna, satellite dish, or structure used to transmit radio, television, cellular, or other signals other than a Reception Antenna. An antenna that is used in conjunction with a Reception Antenna is not a Transmission Antenna if it:
 - i) Meets all requirements for Reception Antennas and Similar Structures;
 - ii) Is necessary to enable the viewer to select the video programming the viewer will receive on the Reception Antenna;
 - iii) Transmits no signals other than those necessary to allow the viewer to select the video programming the viewer will receive on the Reception Antenna; and
 - iv) Is no larger than necessary to transmit the video programming selections of the viewer.
- d) "Exclusive Use Area" means any portion of the resident's apartment or any portion of the limited common element as defined in the Declaration which is appurtenant solely to the resident's apartment.
- e) "General Common Element" means any common element not a limited common element appurtenant solely to the resident's apartment. Residents do not have the exclusive use or control of any of the general common elements.

3) Location, Size and Number Restrictions

- a) Transmission Antennas are prohibited unless approved in writing by the Board of Directors prior to installation. The Board has the sole discretion in granting or denying the installation of a Transmission Antenna. If a Transmission Antenna is permitted by the Board, it shall, at a minimum, comply with the requirements for Similar Structures. The Board may place additional conditions and requirements on the installation of Transmission Antennas.
- b) No resident shall install or maintain Reception Antennas or Similar Structures on the Project except for Reception Antennas located on the resident's Exclusive Use Areas.
- c) A Reception Antenna or Similar Structure which encroaches on the air space of another Owner's apartment or limited common element or onto the General Common Elements does not comply with this rule.
- d) Reception Antennas or Similar Structures must be placed in areas that are shielded from view from outside the Project or from other Units to the extent possible and consistent with their purposes; provided that nothing in this rule shall require a Reception Antenna to be shielded from view: (1) if it precludes reception of an acceptable quality signal unless no acceptable reception is available in any Exclusive Use Area; (2) if it would unreasonably increase the cost of installation; or (3) if it would unreasonably delay installation, provided further that screening may be required by the Board after the installation if it would not unreasonably impair the installation, maintenance or use of the antenna or similar structure. Reception Antennas shall be placed in the first of the following locations which allows reception of a signal of acceptable quality without unreasonably increasing the cost of the installation or unreasonably delaying the installation:
 - i) Within the apartment but not within the lanai;
 - ii) Within the vertical boundaries of the lanai below the top of the railings/walls of the lanai and closest to the interior of the apartment;
 - iii) Within the vertical boundaries of the lanai below the top of the railings/walls of the lanai;
 - iv) Within the vertical boundaries of the lanai above the top of the railings/walls of the lanai and closest to the apartment, but within the Exclusive Use Area; or
 - v) Within the vertical boundaries of the lanai above the top of the railings/walls of the lanai.
- e) Reception Antennas and Similar Structures shall not be placed in areas where it blocks fire exits, walkways, ingress or egress from an area, fire lanes, fire hoses, fire extinguishers, safety equipment, electrical panels, water shut-off valves or other areas necessary for the safe operation of the Project. The purpose of this rule is to permit evacuation of the Units and Project and to provide clear access for emergency personnel.
- f) Reception Antennas and Similar Structures shall not be placed within two feet of electric power lines and in no event shall they be placed within an area where it can be reached by the play in the electric power lines. The purpose of this rule is to prevent injury or damage resulting from contact with the power lines.
- g) Reception Antennas shall be no larger than necessary for reception of an acceptable quality signal; provided that under no circumstances shall Reception Antennas for direct broadcast satellite services or multipoint distribution services be larger than one meter in diameter or diagonal measurement.

- h) Masts shall be no taller than necessary for reception of an acceptable quality signal; provided all masts taller than 12 feet if mounted above the first floor of the building shall require the prior written approval of the Board. The Owner shall provide detailed plans and specifications for the installation. The purpose of this rule is to address safety concerns relating to wind loads and the risk of falling structures. These safety concerns are heightened whenever structures are installed on a tall mast substantially above ground level.
- i) No resident may install more than one (1) television antenna or more than one (1) antenna from any video programming service provider.

4) Installation

- a) Installation of Reception Antennas and Similar Structures shall be by a qualified person knowledgeable about the proper installation of Reception Antennas and Similar Structures. The purpose of this rule is to promote the proper and safe installation of Reception Antennas and Similar Structures.
- b) If installed by a contractor, the contractor shall be licensed and have insurance with the following minimum limits:
 - i) Commercial General Liability (including Completed Operations): \$1,000,000.00 and
 - ii) Workers' Compensation: Statutory Limits.
- c) Installation of a Reception Antenna or Similar Structure shall be in accordance with all applicable building, fire, electrical and related codes and a building permit shall be obtained if required by law.
- d) Unless contrary to law or these rules, installation of Reception Antennas or Similar Structures shall be in accordance with the manufacturer's installation specifications. The installer shall have a copy of such specifications on site at all times during the installation. A copy of the specifications shall be provided to the Association within 5 days of the installation.
- e) Wiring from the Reception Antenna to the television set(s) shall be installed so as to be minimally visible and blend into the material to which it is attached.
- f) There shall be no penetrations of the walls, floors or ceilings of the building unless they are part of the Exclusive Use Area without the authorization of the Board of Directors or the resident complies with the other provisions of these rules. Otherwise, the following devices may be used for transmission through the General Common Element walls, floors or ceilings:
 - i) Devices which permit the transmission of signals from one face of a glass pane to the other without cutting or drilling a hole through the glass pane;
 - ii) Devices which permit the transmission of signals from one face of a wall to the other face without cutting or drilling a hole through the wall;
 - iii) Devices which permit the transmission of signals from the Covered Antenna to the television set through or over the air signals; and
 - iv) Existing wiring for transmission of video programming signals.
- g) If penetrations of the General Common Element walls, floors or ceilings of the building are made, the penetrations shall be properly waterproofed or sealed in accordance with acceptable industry standards and applicable codes. The purpose of this rule is to prevent structural damage to the building.

- h) If Reception Antennas or Similar Structures are visible from outside the apartment, they must be painted to match the color of the building to the extent that the painting will not impermissibly impair the viewer's ability to install, maintain or use the Reception Antenna or Similar Structures. In addition, the Board may require a resident to install inexpensive screens or plants to shield the Reception Antenna from view. Such a requirement may be imposed by the Board at any time.
- i) In the event the addition of any screening or painting would unreasonably increase the cost of installation, the Association, at its option, may pay for a portion of the cost of the screening and the Owner shall permit the screening to be installed or the painting to occur.
- j) Any resident installing, maintaining, or using a Reception Antenna shall do so in such a way that it does not damage the General Common Elements or the Units, void any warranties of the Association or other Owners, or impair the water tight integrity of the buildings. The purpose of this provision is to prevent structural damage to the common elements.
- k) Reception Antennas and Similar Structures shall be securely installed and masts shall be constructed of corrosive-resistant noncombustible materials. If necessary for a secure installation, the Reception Antenna and Similar Structure shall be secured to the Exclusive Use Area and have guy wires securing the device to the Exclusive Use Area. Guy wires, bolts, and similar items may not be attached to the General Common Elements or other apartments. The purpose of this Rule is to prevent the falling or other movement of structures. For purposes of these Rules, a relatively small structure, item, device or equipment that is only temporarily on the premises (i.e. a for sale sign placed on the property) for a short period of time shall not be required to comply with the requirements that they be permanently secured.
- l) For safety concerns relating to electricity and lightning, all Reception Antennas and Similar Structures shall be permanently and effectively grounded.
- m) The Association, in the sole discretion of the Board, may provide video programming signals to the residents. A Reception Antenna shall not be installed to receive a video programming signal that is provided by the Association. In the event that the Association provides video programming signals to the residents, those Reception Antennas previously installed may be removed by the Association at its expense.

5) Maintenance and Repair

- a) The Owner shall be responsible for the maintenance of any Reception Antenna or Similar Structure installed by the Owner or one of the Owner's residents. Maintenance and repair shall include, but not be limited to:
 - i) Reattachment or removal within 72 hours of dislodgement from its original point of installation.
 - ii) Repainting or replacement, if for any reason the exterior surface of the Reception Antenna or Similar Structure becomes worn, disfigured or deteriorated.
 - iii) Repair or replacement, if for any reason the Reception Antenna or Similar Structure no longer retains its original condition.
 - iv) Repair or replacement to prevent the Reception Antenna or Similar Structure from becoming a safety hazard.
- b) Should the Owner fail to properly maintain the Reception Antenna or Similar Structure, the Association may, after notification to the Owner, fine the Unit Owner following notice and

opportunity for hearing and take such further action, legal or otherwise, as permitted by Declaration or statute.

- c) Except in an emergency situation, the Board shall notify the Owner, in writing, that the Reception Antenna or Similar Structure requires maintenance, repair or replacement, and that such maintenance, repair or replacement must be completed within 30 days of such notification unless extended by the Board.
- d) If any required work is not completed within the time period for completion of the repair, maintenance or replacement, the Association may remove and/or repair the Reception Antenna at the expense of the Unit Owner, such expense being added to the Owner's assessment.
- e) The Owner of the apartment or Exclusive Use Area in which the Reception Antenna or Similar Structure is located is responsible for all costs associated with his Reception Antenna including, but not limited to, costs to: (a) repair, maintain, remove and replace the Reception Antenna; (b) repair damages to the common elements, the Unit, other Units and other property caused by the installation, existence or use of the Reception Antenna; (c) pay for medical expenses incurred by persons injured by the installation, existence or use of the Reception Antenna; and (d) reimburse residents or the Association for damages caused by the installation, existence or use of the Reception Antenna.
- f) It shall be the Owner's responsibility to remove any Reception Antenna or Similar Structure when the Association maintains, repairs or replaces building components if the removal is necessary for the orderly completion of the work. Such removal shall take place within 72 hours of written notification, except in emergency conditions, when removal shall take place immediately. The cost of removal and replacement shall be the responsibility of the Owner.
- g) Should the Owner fail to remove the Reception Antenna or Similar Structure in a timely fashion, the Association may remove it at the expense of the Owner and the Association shall not be responsible for any damage to the Reception Antenna or Similar Structure.
- h) In the event the Owner removes a Reception Antenna or Similar Structure, the Owner shall promptly restore the property to its original condition.

6) Process and Procedure

- a) In the event of a violation of these rules, the Association may bring an action for declaratory relief with the Federal Communications Commission ("FCC") or any court having jurisdiction over the matter. If the rules have been upheld by the FCC or by court decision, any future violations shall result in a fine of \$10 a day commencing 21 days after the FCC or court determination. To the extent permitted by law, the Association shall be entitled to reasonable attorneys' fees and costs and expenses. In addition, the Association may seek injunctive relief.
- b) Within 5 days of the installation of any Reception Antenna or Similar Structure, a copy of the Notification Form attached hereto shall be submitted to the Site Manager unless a Mast exceeding 12 feet above the first floor is installed which requires prior Board approval.

NOTIFICATION FORM INSTALLATION OF RECEPTION ANTENNAS AND SIMILAR STRUCTURES

NOTE: This form must be completed and returned within five (5) days of the installation of an antenna unless a Mast exceeding 12 feet above the first floor is installed which requires prior Board approval.

Owner's Name: _____

Mailing Address: _____

Phones: Home: _____ Work: _____ Cell: _____

Unit Address: _____

Type of satellite dish or antenna to be installed (check any that apply):

- ☐ DBS satellite dish - 1 meter or smaller (e.g. Dish TV)
- ☐ MMDS antenna (wireless cable) - 1 meter or smaller (e.g. GTE Americast)
- ☐ Television antenna

Installation will include a mast: ☐ No ☐ Yes

If yes, insert total height of mast: _____ feet (Note: mast may not exceed 12 feet above the first floor without obtaining prior approval of the Board).

Installation of the dish or antenna will be done by:

Name: _____

Address: _____

Phone: _____

Date of Installation: _____

Name of the insurer of any Contractor: _____

Attach a drawing showing the exact location of the Reception Antenna or Similar Structure and attach a diagram or drawing of the installation.

Does the location of the dish or antenna comply with the Association's House Rules and Board Policies?

- ☐ Yes ☐ No (If no, state in detail the reason for non-compliance on a separate sheet of paper.)

I acknowledge that I have read, understand and have complied or will comply with the Association's House Rules on antennas to the extent required by law. If any of the House Rules violates FCC regulations, my signing this statement does not deprive me of any of my rights under the FCC regulations. I further agree to be responsible for any and all costs associated with the antenna and will indemnify and defend the Association for any claims arising from my antenna.

Resident's Signature: _____

Date: _____