

# Town Homes at Fairway's Edge

## Satellite Dish Notification and Installation Procedures

1. Contact the Ocean Point Community Association office (OPCA): They will provide you with an **OPCA Satellite Dish Installation Notification Form** and a **THFE Resident's Notification of Antenna Installation Form**.
2. Please fill out both applications, and submit them to the OPCA office and provide a copy of both forms to the THFE Site Manager.
3. The OPCA will review the application and forward the request to the THFE Association Board after review.
4. Main installation guidelines for THFE include:
  - Dishes may be installed inside of unit privacy yards
  - Dishes may be installed on the fascia board of the roof edge
  - Dishes larger than 1 meter in diameter will NOT be permitted to be installed
  - Dishes may **not** be installed on the common elements, including unit rooftops.
  - Only one Satellite dish will be allowed to be installed, per unit.
  - See guidelines below for specific, detailed installation guidelines
5. If the proposed installation location requested is in compliance with the OPCA and THFE approved guidelines and locations, installation may proceed after the Notification Forms have been submitted.
6. If the installation location requested is not in compliance with the approved guidelines and locations, THFE Board approval and OPCA approval will be required before installation may begin.
7. Dishes installed in violation of the THFE and OPCA guidelines, and without the required Association approvals, will be subject to removal at the installers cost.
8. Both Owners and Renters are responsible to comply with these guidelines. Additionally, renters may need approval from the owners or rental agent for their unit.
9. Owners (or tenants) are responsible for the maintenance, repair and upkeep of the installed Satellite Dish.
10. Further information regarding Satellite Dish installations can be obtained at the Ocean Point Community Association Office or by contacting the managing agent, Associa Hawaii.

# TOWN HOMES AT FAIRWAY'S EDGE

## ANTENNA/SATELLITE DISH RULES AND RESTRICTIONS

WHEREAS, the Federal Communications Commission ("FCC") adopted a rule effective October 14, 1996, and amended effective January 4, and 22 and February 16, 1999, (47 C.F.R. Part 1, Subpart S, Sec. 1.400 et seq.), preempting certain association restrictions on the installation, maintenance and use of direct broadcast satellite, television broadcast, and multipoint distribution service antennas (Covered Antennas"); and,

WHEREAS, the Board of Directors wishes to adopt reasonable restrictions governing installation, maintenance and use of antennas in the best interests of the Association and consistent with the FCC Over the Air Reception Devices (OTARD) Rule;

NOW, THEREFORE, the Board of Directors adopts the following rules and restrictions governing installation, maintenance and use of antennas at the Town Homes at Fairway's Edge.

### **I. Definitions**

- A. Antenna: Any device used for the transmission and receipt of video or audio services, including direct broadcast satellite (DBS), television broadcast, and multipoint distribution service (MDS). A mast, cabling, supports, guy wires, conduits, wiring, fasteners, or other accessories necessary for the proper installation, maintenance and use of a reception antenna shall be considered part of the antenna.
- B. Covered Antenna: An Antenna covered by the FCC over the Air Reception Devices (OTARD) Rule.
- C. Central Antenna System: An antenna system installed by the Association to serve more than one resident simultaneously.
- D. Common Elements: All portions of the land and improvements within the Town Homes at Fairway Edge condominium project other than the apartments, as more specifically defined in the Town Homes at Fairway Edge Declaration and Chapters 514A and 5148, Hawaii Revised Statutes.
- E. Exclusive Use Area: The area (and airspace) in which the owner has a direct or indirect ownership interest and which is designated for the exclusive use of the owner. At the Town Homes at Fairway's Edge condominium project, this generally means the Rear Yard or privacy yard of an Apartment with a detached garage (TH1 or TH2 townhome building).
- F. Individual Antenna: Antenna installed by one Resident for reception by that resident.

G. Individually Owned Property: Property defined in a recorded instrument as being owned solely by the Resident, regardless of whether the Association has maintenance responsibilities for that property.

H. Mast: Structure to which an Antenna is attached that raises the Antenna height to enable the Antenna to receive acceptable-quality signals.

I. Resident: Any person residing at the Town Homes at Fairway Edge condominium project.

J. Transmission-only Antenna: An Antenna that has limited transmission capability and is designed for the Resident to select or use video programming.

## II. Antenna Size and Type

Subject to criteria detailed elsewhere in these rules, the following are Covered Antennas and may be installed:

1. Antennas designed to receive Direct Broadcast Satellite (DBS) service that are 39.4 inches (1 meter) or less in diameter may be installed. DBS antennas larger than 39.4 inches (1 meter) are prohibited.
2. Antennas designed to receive Multipoint Distribution Service (MDS) that are 39.4 inches (meter) or less in diameter. MDS antennas larger than 39.4 inches (1 meter) are prohibited.
3. Antennas designed to receive television broadcast signals, regardless of size.
4. Transmission Only Antennas that are necessary for the use of Covered Antennas.
5. Masts that are required for the installation of Covered Antennas.
6. All other Antennas (including amateur or ham radio antennas) not covered by the FCC Over-the-Air Reception Devices Rule as amended are prohibited.

## III. General Rules

A. Section H(11) of the Town Homes at Fairway Edge Declaration provides:

Antenna Use and Installation. An antenna covered by the Federal Communications Commission ("FCC") Over the air' Reception Device (OTARD) rule (47 C.F.R. Sec. 1400 et seq.) ("Antenna") may be installed at an Apartment only pursuant to the following rules:

- (a) Except for Apartments without detached garages, (TH11, TH12, or TH21 townhome buildings), the Covered Antenna may only be installed in an area where the Apartment owner or occupant has the exclusive use and control (generally the Rear/Privacy Yard of an Apartment, within a TH1 or TH2 townhome building that has a detached garage).
- (b) The Covered Antenna fully complies with the FCC requirements.
- (c) Unless the Covered Antenna being installed in a Rear/Privacy Yard of an apartment (of a TH1 or TH2 townhome building) is unable to receive acceptable-quality signals, the

Covered Antenna should be located in a place shielded from view from other units or homes, from streets, or from outside the development to the maximum extent possible. If the Covered Antenna can receive acceptable quality signals from more than one location that is in the exclusive use and control of an Apartment owner or occupant, then the Covered Antenna should be installed in the least visible preferred location.

(d) For Apartments (within a TH11, TH12, or TH21 townhome building, with attached garages), the Covered Antenna should not be installed in the front entrance and/or front yard area. Instead, the Association will designate areas within the common elements of the project in which to install a covered antenna. Only in the event that the covered antenna is unable to receive acceptable quality signals from these designated areas will a covered antenna be allowed to be installed on such front entrance and/or front yard areas.

(e) Prior to commencing the installation of a Covered Antenna, the Apartment owner or occupant shall submit a Notification Form to OPCA Design Review Committee for confirmation that the proposed installation conforms to the above rules, the applicable Design Guidelines, and any other applicable laws, ordinances, rules, etc.

These above restrictions will continue to apply to all installations of antennas, except for installation of covered antennas.

B. Residents may install Covered Antennas according to the following rules, provided that these rules do not unreasonably delay covered antenna installation, maintenance or use; unreasonably increase the cost of covered antenna installation, maintenance or use, or preclude reception of acceptable quality signals from covered antennas.

#### C. Location

1. Covered Antennas shall be installed solely on individually owned property.
2. Television broadcast Covered Antennas must be installed inside an apartment, whenever possible.
3. Covered Antennas shall not encroach upon any Common Elements, any other resident's individually owned property or exclusive use area, common area airspace, or the airspace of another Resident's individually owned property.
4. Covered Antennas shall be located in a place shielded from view from other apartments, from streets, or from outside the Town Homes at Fairway's Edge condominium project to the maximum extent possible. If covered antennas can receive acceptable signals from more than one location, then Covered Antennas must be located in the least visible preferred location. This section does not permit installation on Common Elements, even if an acceptable quality signal cannot be received from an individually owned or exclusive area.
5. If an installation cannot comply with the previous section because the installation would unreasonably delay, unreasonably increase the cost, or preclude reception of acceptable quality signals, the resident must ensure the location is as close to conforming as possible. The Association may request an explanation of why the nonconforming location is necessary.

D. Installation:

1. Covered Antennas shall be neither larger nor installed higher than is absolutely necessary for reception of an acceptable signal.
2. All installations shall be completed so that they do not materially damage any property of the Association, or void any warranties of the Association, or other residents, or in any way impair the integrity of the building.
3. A Resident is not required to hire a professional antenna installer. However, any installer, other than the resident shall employ qualified personnel to install the covered antenna and shall provide the association, through the Site Manager, with proof of insurance as may be required by the Board from time to time.
4. The purpose of this regulation is to ensure that covered antennas are installed in a manner that complies with the building and safety codes and manufacturer's instructions. Improper installation could cause damage to structures, posing a potential safety hazard to Association Residents and personnel.
5. Covered Antennas must be secured so that they do not jeopardize the soundness or safety of any structure or the safety of any person at or near the covered antennas, or cause property damage, including damage from wind velocity.
6. Residents are liable for any personal injury or damage occurring to the Common Elements or other Residents' individually Owned Property or exclusive use areas arising from installation, maintenance or use of a covered antenna, and shall pay the costs to:
  - a. Repair damages to the Common Elements, other Residents individually Owned Property or Exclusive Areas and any other property damaged by covered Antenna installation, maintenance or use.
  - b. Pay medical expenses incurred by persons injured by Covered Antenna installation, maintenance, or use; and
  - c. Reimburse residents or the Association for damages caused by Covered Antenna installation, maintenance, or use.
7. A Resident installing a Covered Antenna shall indemnify the Association against injury or loss caused by the Covered Antenna.

E. Installation on Exclusive-Use Area:

There shall be no penetrations of exterior areas of the building to install, use or maintain Covered Antennas. This includes the bearing walls and floor slabs and rooftops, which are Common Elements. You may wish to check with your retailer or installer for advice on how to install your covered antenna without drilling a hole. The following devices shall be used whenever possible:

- a. Devices that permit the transmission of telecommunications signals through a glass pane without cutting or drilling a hole through the glass pane or other Common Elements.
- b. Devices such as ribbon cable that permit the transmission of telecommunications signals into an apartment through a window or door without penetrating the wall; or
- c. Existing wiring for transmitting telecommunications signals and cable services signals.

## F. Maintenance

1. Residents shall not permit their Covered Antennas to fall into disrepair or to become a safety hazard. Residents shall be responsible for Covered Antenna maintenance, repair, and replacement, and the correction of any safety hazard within thirty days after notification of the need for repair.
2. If Covered Antennas detach, Residents shall remove the Antennas or repair such detachment within seventy two hours of the detachment. If the detachment threatens safety, the Association may remove Covered Antennas at the expense of the Resident.
3. Residents shall be responsible for Covered Antenna maintenance if the exterior surfaces of the covered antennas deteriorate.
4. If the Resident does not correct a safety hazard within thirty (30) days after notification, the Association may exercise its right of access and enter the Apartment to abate or correct the hazardous condition. Any expenses incurred by the Association shall be charged to the Resident.

## G. Covered Antenna Camouflaging

1. Covered Antennas shall be neutral in color or painted to match the color of the surrounding background surfaces to the extent that this will not preclude reception of an acceptable quality signal.
2. Exterior Covered Antenna wiring shall be installed so as to be minimally visible.

## IV. Safety

Because the Association has a legitimate safety interest in preventing personal injury or property damage occurring due to improper or unsafe Covered Antenna installation, Residents must follow the listed safety guidelines:

- A. Covered Antennas shall be installed and secured in a manner that complies with all applicable codes, safety ordinances, City ordinances and State statutes, rules and regulations, and manufacturer's instructions. If a Resident must obtain a permit in compliance with a valid safety law or ordinance, then the Resident shall provide a copy of that permit to the site manager before installation. The purpose of this rule is to ensure that Covered Antennas are installed safely and securely, and to minimize the possibility of detachment and resulting personal injury or property damage.
- B. In no event shall Covered Antennas be placed where they may come into contact with electrical power lines.
- C. Covered Antennas shall not obstruct access to or exit from any doorway or window or an apartment.

- D. To prevent electrical and fire damage, Covered Antennas shall be permanently and effectively grounded.
- E. To prevent detachment during a storm, Covered Antennas shall be installed to withstand wind speeds up to 70 mph.

#### V. Number of Covered Antennas

No more than one covered antenna providing the same service from the same provider may be installed by a resident.

#### VI. Mast installation

- A. Mast height may be no higher than absolutely necessary to receive acceptable-quality signals.
- B. Covered Antennas may be mounted on masts so long as the installation does not extend beyond the limits of the Individually Owned or Exclusive- Use Area property.
- C. Masts shall not encroach upon Common Elements or another Resident's individually Owned Property or Exclusive-Use Areas.
- D. To prevent personal injury and property damage, Masts must be installed to safely withstand environmental conditions natural to the Town Homes at Fairway Edge condominium projects location.
- E. Masts must be painted the appropriate color to match their surroundings.

#### VII. Covered Antenna Removal

- A. Covered Antenna removal requires restoration of the installation location and any other affected locations, if any, to their original condition. Residents shall be responsible for all costs relating to restoration of these areas.
- B. If maintenance of Common Elements such as the floor slabs or bearing walls requires the temporary removal of Covered Antennas, the Association shall provide Residents with ten-days' written notice. Residents shall be responsible, at their own expense, for removing or relocating Covered Antennas before maintenance begins and replacing covered Antennas afterward. If they are not removed in the required time, then the Association may do so at the Residents' expense. The Association is not liable for any damage to Covered Antennas caused by Association removal. The Association is not responsible for reinstalling Covered Antennas.
- C. If a Covered Antenna poses an immediate threat to the residents and personnel or property, then the Association has the right to remove the Covered Antenna. The Association is not liable for any damage to Covered Antennas caused by this removal.
- D. Covered Antenna's may not be disposed of on site.

## VIII. Notification Process

- A. Any resident desiring to install a covered antenna must complete the required Notification Forms and submit them to the OPCA and the THFE Board of Directors, by care of the Site Manager. The installation may then begin immediately if in compliance with approved installation locations. The purpose of the notification process is to allow the Association to provide covered antennae installation rules and other information to residents to know if a person other than the resident will be entering the building for covered antenna installation and to determine whether the installation could pose a safety hazard.
- B. The Association may hire an independent contractor to determine whether an installation in a non-conforming location is necessary. If the independent contractor finds that installation in a conforming location is possible, then the resident will be required to relocate the Covered Antenna to the conforming location. The installing unit may be responsible for the cost of the independent contractor.

## IX. Installation by Tenants

These rules shall apply in all respects to all Residents, whether owners or tenants.

## X. Enforcement

- A. If these rules are violated, the Association, after providing the resident with notice and opportunity to be heard, may bring action for declaratory relief with the FCC or any court of competent jurisdiction. If the court of FCC determines that the Association Rules are enforceable, the resident shall have a twenty day grace period in which to comply before the Association may exercise its enforcement rights as set forth in the governing documents. However, if these Association Rules have previously been validated, the grace period does not apply unless the resident challenges the valid rule or restriction as it applies to his or her particular situation.
- B. As permitted in the Association's governing documents and State law, attorneys' fees may be collected for any work done after the Association rules have been validated by the FCC or court.
- C. If a Covered Antenna installation poses a serious, immediate safety hazard, the Association may seek injunctive relief to prohibit the installation or seek removal of the installation.

## XI. Severability

If any of these provisions is ruled to be invalid, the remainder of these rules shall remain in full force and effect.

Date of Adoption by the Board of Directors: July 11, 2016



**TOWN HOMES AT FAIRWAY'S EDGE  
RESIDENT'S NOTIFICATION OF ANTENNA INSTALLATION**

(Please note: Satellite Dishes may not exceed 1 meter in diameter and may not be installed on any Common Elements, including, but not limited to, exterior walls, roof tops or grounds. Please refer to the 'THFE Antenna/Satellite Dish Rules and Restrictions' Document for approved locations.

Resident(s) Name(s): \_\_\_\_\_

Address/Apt. Number: \_\_\_\_\_

Type of antenna to be installed:    \_\_\_ Direct broadcast satellite  
    \_\_\_ Television broadcast  
    \_\_\_ Multipoint distribution service

Name of company performing installation (if any): \_\_\_\_\_

Company address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Installation location: \_\_\_\_\_

Date installation is to be performed: \_\_\_\_\_

Please indicate the method of installation and how the installation is to be secured:  
 \_\_\_\_\_  
 \_\_\_\_\_

(Additional sheets of paper may be used if necessary)

**Please note that the installation must comply with the Association's Antenna Rules and Restrictions as well as the manufacturer's guidelines and applicable building codes.**

After reviewing the above terms and conditions of antenna installation, please sign the statement below:

I/We will comply with the Association's **Antenna Rules and Restrictions**. I/We assume liability for any personal injury or damage to Association and other residents' property or exclusive-use areas that occurs due to antenna installation, maintenance and/or use.

Signature(s): \_\_\_\_\_ Date: \_\_\_\_\_  
    Print name:

\_\_\_\_\_ Date: \_\_\_\_\_  
    Print name:

Board Approved: Yes \_\_\_\_\_ NO \_\_\_\_\_ Date: \_\_\_\_\_

Comments: \_\_\_\_\_  
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