

Chapter 5 - Antennas and Satellite Dishes



Creating Community

ABC'S OF HOA LAW IN NEW MEXICO

A Guide to New Mexico Community Association Law

Antennas and Satellite Dishes

Several years ago, the federal government passed laws that allow the Federal Communications Commission (“FCC”) to enact rules that override provisions in associations’ governing documents that prohibit or limit the use of antennas and satellite dishes within their communities. The following are some common questions regarding what an association can and cannot do in relation to governance of antennas and satellite dishes.

1. What types of devices are governed by the FCC rules?
 - (A) Television antennas of any size.
 - (B) Fixed wireless devices that are one meter or less in diameter regardless of the nature of services being provided through the device (such as video or internet), so long as the devices are being used for personal use.
2. What property within an association is governed by the FCC rules?
 - (A) Property that is owned by an owner (such as the owner’s lot).
 - (B) Property that is within the exclusive use and control of the member, such as a patio or balcony of a condominium, if that area is in the exclusive use and control of the owner.
3. What kinds of rules can an association have regarding antennas and satellite dishes not governed by the FCC?

- (A) The association can completely prohibit antennas and satellite dishes not governed by the FCC. For example, the association could prohibit ham radio antennas and satellite dishes larger than one meter in diameter.
4. What types of rules are unenforceable?
- (A) The association cannot completely prohibit all satellite dishes and antennas.
 - (B) The association cannot require prior approval before an owner installs an antenna or satellite dish that is governed by the FCC.
 - (C) The association cannot require the antennas or satellite dishes to be painted a certain color if to require them to be painted would void the manufacturer's warranty or affect the signal.
 - (D) The association cannot require the owner to take certain actions (such as install expensive screening) if to do so would unreasonably increase the cost of such installation.
5. What types of rules can the association adopt?
- (A) The association can require the owner to paint the antenna or satellite dish a certain color if doing so will not affect the manufacturer's warranty or affect the signal.
 - (B) The association can require the owner to place the antenna or satellite dish in a certain location so long as the owner can still receive an acceptable signal.
 - (C) The association can make these rules available to all owners ahead of time so that the owner knows what is required when the owner is installing the satellite dish or antenna.
6. What are the association's remedies if there is a violation?
- (A) If the owner installed the satellite dish or antenna in a place not approved by the association, the association has the burden of proving that the owner can receive an acceptable signal in the location where the association wants the dish or antenna to be placed.
 - (B) The association cannot impose fines until either a court or the

FCC has found the association's rules to be reasonable. After this occurs, the owner has a certain time to comply before the association can impose any fines. Therefore, if the association wishes to enforce its restrictions relating to satellite dishes or antennas, it must either bring legal action or file documentation with the FCC to rule on the association's rules before further action can be taken.