

## WINTER'S BRANCH CONDOMINIUM

### POLICY RESOLUTION

#### (Policies and Procedures Regarding Satellite Dishes and Antennas)

**WHEREAS**, Section 59-79.53 of the Virginia Condominium Act requires every condominium unit owner and all those entitled to occupy a unit shall comply with all the provisions of the condominium; and,

**WHEREAS**, Article V, Section 2 of the Bylaws grants the Board of Directors all the powers and duties necessary for the administration and affairs of the Unit Owners Association and the authority to adopt rules and regulations governing the use of the Common Elements; and

As directed by Congress in Section 207 of the Telecommunications Act of 1996, the Federal Communications Commission adopted the Over-the-Air Reception Devices ("OTARD") rule concerning governmental and nongovernmental restrictions on viewers' ability to receive video programming signals from direct broadcast satellites ("DBS"), broadband radio service providers (formerly multichannel multipoint distribution service or MMDS), and television broadcast stations ("TVBS").

The rule (47 C.F.R. Section 1.4000) has been in effect since October 1996, and it prohibits restrictions that impair the installation, maintenance or use of antennas used to receive video programming. The rule applies to video antennas including direct-to-home satellite dishes that are less than one meter (39.37") in diameter (or of any size in Alaska), TV antennas, and wireless cable antennas. The rule prohibits most restrictions that: (1) unreasonably delay or prevent installation, maintenance or use; (2) unreasonably increase the cost of installation, maintenance or use; or (3) preclude reception of an acceptable quality signal.

Effective January 22, 1999, the Commission amended the rule so that it also applies to rental property where the renter has an exclusive use area, such as a balcony or patio.

On October 25, 2000, the Commission further amended the rule so that it applies to customer-end antennas that receive and transmit fixed wireless signals. This amendment became effective on May 25, 2001.

The rule applies to individuals who place antennas that meet size limitations on property that they own or rent and that is within their exclusive use or control, including condominium owners and cooperative owners, and tenants who have an area where they have exclusive use, such as a balcony or patio, in which to install the antenna. The rule applies to townhomes and manufactured homes, as well as to single family homes.

The rule allows local governments, community associations and landlords to enforce restrictions that do not impair the installation, maintenance or use of the types of antennas described above, as well as restrictions needed for safety or historic preservation. Under some circumstances

where a central or common antenna is available, a community association or landlord may restrict the installation of individual antennas. The rule does not apply to common areas that are owned by a landlord, a community association, or jointly by condominium or cooperative owners where the antenna user does not have an exclusive use area. Such common areas may include the roof or exterior wall of a multiple dwelling unit. Therefore, restrictions on antennas installed in or on such common areas are enforceable.

**WHEREAS**, the Association hereby adopts reasonable restrictions governing the installation, maintenance and use of satellite dishes and/or antennas so as to serve the best interest of the Association, consistent with the mandates of the FCC rules; and

**WHEREAS**, the Board of Directors deems it necessary and in the best interest of the Association to establish rules and regulations and an application process regarding satellite dishes.

**NOW THEREFORE, BE IT RESOLVED THAT** the following rules, regulations and procedures regarding the application process for satellite dishes are adopted.

**A. Installation on Exclusive Use Areas**

1. No Unit Owner may install a satellite dish on any common element property.
2. The Board of Directors may, at its discretion, grant permission to any Unit Owner to install a satellite dish on limited common element property so long as the satellite dish is no larger than one meter in diameter and so long as the installation of the satellite dish will not compromise the structural integrity of the limited common element property.
3. Installation of antennas on the common elements is not permitted. Installation on the limited common elements or individual units shall be completed so as not to void any warranties of the condominium association or other owners, or in any way impair the integrity of the building.

Any application must include:

- a) The full name and address of the Unit Owner;
  - b) The work, cell and home telephone #'s of the Unit Owner;
  - c) The size of the satellite dish the Unit Owner wishes to install; and
  - d) The exact location where the Unit Owner wishes to install the satellite dish.
4. The Board shall have the right to visit the intended location of the satellite dish before and after approving the installation.
  5. Any damage caused to the common elements or limited common elements by the installation or removal of a satellite dish will be assessed against the responsible Unit Owner.

6. Any Unit Owner owning a satellite dish will install, operate and maintain the satellite dish in accordance with applicable laws and regulations.

7. Unit Owner will reimburse the Association for all its costs and attorney's fees incurred in enforcing the provisions of this Resolution.

8. Antennas shall not be installed higher than is absolutely necessary for reception of an acceptable quality signal, as identified by the manufacturer.

9. Any installer other than the owner shall provide the Association with an insurance certificate naming the Association as a named insured prior to installation. Insurance shall meet the following minimum limits:

a) Contractor's General Liability (including completed operations): \$1,000,000.00

b) Workers' Compensation: Statutory Limits

c) This regulation is intended to ensure that antennas are installed in a manner that complies with current 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.

10. 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 antennas, including damage from wind velocity.

11. There shall be no penetration of exterior common elements. Additionally, there shall be no penetration of limited common element exclusive-use areas of the building unless it is necessary to receive an acceptable quality signal or it would unreasonably increase the cost of installation.

12. If penetration of the limited common elements is necessary, permissible, and appropriate, the penetration shall be properly waterproofed and sealed in accordance with applicable industry standards and building codes. This rule is intended to prevent structural damage to the building and residences from water intrusion.

#### **B. Maintenance Requirements**

1. Owners who install or maintain antennas are responsible for the following tasks and all associated costs, including but not limited to:

a) Place (or replace), repair, maintain, and move/remove antennas;

b) Repair any damage to any property, including the Condominium, caused by the antenna installation, maintenance or use;

c) Pay medical expenses incurred by persons injured by antenna installation, maintenance or use;



- d) Reimburse residents of the Association for damage caused by antenna installation, maintenance or use or the failure to perform any necessary maintenance, repair or replacement;
- e) Restore antenna installation sites to their original condition;
- f) Maintenance of all seals for any penetrations created in relation to the installation of the antenna; and
- g) Maintenance, repair and replacement of any attachments associated with the installation of the antenna.

2. Owners shall not permit their antenna to fall into disrepair or to become a safety hazard. Owners shall be responsible for antenna maintenance, repair and replacement, and the correction of any safety hazard.

3. If antennas become detached, owners shall remove or repair such detachment within 72 hours of the detachment. If the detachment poses a safety hazard, the Association may remove the antennae(s) at the expense of the owner.

4. Owners shall be responsible for antenna repainting or replacement if the exterior surface deteriorates.

### **C. Safety**

1. Antennas shall be installed and secured in a manner that complies with all the applicable city, county and state laws and regulations, and manufacturer's instructions.

2. Installation must comply with all applicable codes, take aesthetic considerations into account, and minimize the impact to the exterior and structure of the owner's unit.

3. Antennas shall be permanently grounded to prevent electrical and fire damage.

### **D. Antenna Removal**

Owners must restore the property to the condition that existed prior to the installation of their antenna at their expense if their antenna is removed for any reason.

### **E. Association Maintenance of Locations Upon Which Antennas are Installed**

If Antennas are installed on property that is maintained by the Association, the owners retain responsibility for maintenance. Antennas must not be installed in a manner that will result in increased maintenance costs for the Association or for other residents. If maintenance cost or damage occurs, the owners are responsible for all such costs.

### **F. Application Process**

1. Any owner wishing to install an antenna/satellite dish must submit the request in writing to the Board of Director's.

**G. Installation by Tenants**

These rules shall apply in all respects to tenants. Tenants desiring to install antennas/satellite dishes shall obtain prior written approval from the owner of the unit, from whom they lease or rent. A copy of this authorization from the owner must be furnished with the request.

**H. Enforcement**

If any antenna/satellite installation poses a serious, immediate safety hazard, the Association may seek injunctive relief to prohibit or seek removal of the installation if time permits, otherwise the Association may take such action as necessary to prevent injury to persons or property at the antenna owner's expense.

The effective date of this Resolution is June 6, 2013.


This Resolution was duly adopted by the Board of Directors this 6<sup>th</sup> day of June, 2013.

Winter's Branch Condominium

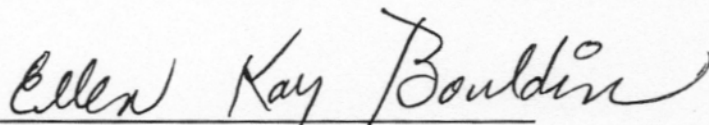
By: Belinda Miller, Pres.

Belinda Miller, President

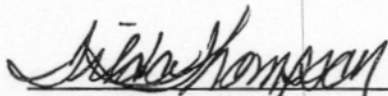
**WINTER'S BRANCH CONDOMINIUM ASSOCIATION**



**Belinda C. Miller, President  
Winter's Branch Condominium Assoc.**



**Ellen K. Bouldin, Vice President  
Winter's Branch Condominium Assoc.**



**Tilda Thompson, Secretary/Treasurer  
Winter's Branch Condominium Assoc.**