

Best Practices for Hams with Restricted Operating Opportunities

Do you live in a community with restricted operating opportunities but yearn to operate your amateur radio station? What can you do? What can't you do? What should you do? What shouldn't you do?

First, you need to understand what your community allows and what it restricts. We recommend that you thoroughly read any agreement or rules and employ the services of an attorney with land use experience as it applies to amateur radio operations. If you don't have an attorney, contact the ARRL Volunteer Counsel Program at headquarters. See www.arrl.org/volunteer-counsel-program. It may be useful to find a Volunteer Counsel in your area if possible. They may be more familiar with local rules and interpretations of HOA agreements and limitations in your state. Do not rely on well-meaning advice from officials, managers, your neighbors, and even lawyers who are not experienced in the subject matter. Not all lawyers understand what the rules require or simply misinterpret how they apply to amateur radio.

Not all communities are the same. Some are unclear and do not restrict amateur radio *per se*. A few older communities may allow amateur radio operations. Most planned communities outright forbid or restrict operations. Only after you determine your rights and restrictions with reasonable certainty can you determine how to proceed.

For example, many communities' restrictions refer to antennas but do not specifically speak to amateur radio or other two-way radio activities. Some communities prohibit radio operation anywhere on the property. This could mean that even using a portable transceiver inside your home may be considered a violation. It is important to also understand the authority a HOA manager or official actually has to approve your operations.

In the face of a community that expressly forbids the use of amateur radio or similar transmitting equipment, some operators are determined to go rogue. They may operate a radio from a VHF/UHF antenna affixed inconspicuously to deck railing or a window frame. Or, they may contemplate deploying a stealth antenna that looks like a downspout or extended plumbing roof venting. We don't recommend this or support any violations of community rules and regulations. Sometimes operating transmitters with stealth antennas will be discovered by neighbors who experience even minor interference to consumer electronics in close proximity and will investigate the source and complain about your operation.

If you have analyzed your community's rules and feel comfortable that it appears to allow limited amateur radio activity, double-check your thinking. Is your interpretation wishful thinking or is it arguable by a fair interpretation of the language?

Always get any approval in a signed writing from any HOA official who purports to have the authority to interpret, approve and/or waive certain restrictions. It is not uncommon for a well-meaning manager or community representative to give you "permission" to place an antenna outside who you later discover didn't have the authority to do so. Even a simple, clear email response is better than a verbal approval. If an official is reluctant to provide a formally presented approval or suggested it is not necessary, you are undertaking the risk that they will not be around later to confirm your approval if challenged. Even if that official was not empowered to provide approval, proof of approval from someone with apparent authority may help avoid a penalty under HOA enforcement procedures. It will affirm that you were at least trying to comply in good faith.

Regardless, you might be required to comply with the HOA rejection of the improper approval and remove your installations at your expense. It is still good practice to know the restrictions you have agreed to and not rely on seemingly good-faith approval from a HOA official unless that authority is clear in the HOA rules and regulations. Many times waivers of such restrictions by officials are just not allowed. This is a common issue with some HOAs

In making an informed decision, it is important that you understand the risks. The old adage that it is easier to ask for forgiveness than to seek permission may not be as consoling as you think. After all, it's just a harmless antenna. Right? Maybe. Your community may simply require you to remove your antennas. However, they may take more consequential steps, including levying penalties or fines, collecting administrative costs, or even more dire legal actions. You won't necessarily get a pass because it's your first violation.

We always recommend that you work with your community. Present your plan to any committee as might be required by the rules and determine if you can obtain written approval to proceed. Remember, if your operation is challenged in the future, you will want a clear audit trail that supports the steps you took to adhere to the restrictions. Do not rely on oral approval from anyone. And if you receive proper permission to install an antenna, you still must also comply with any local building code and building permit requirements as well. This separate requirement is sometimes overlooked.

If you are fortunate enough to get over any hurdle, you can enjoy operating from your home in addition to your portable and mobile operations. But wait, there's more! You might also choose to take advantage of remote station operations if you have access to a remote station facility. You might engage with a club-operated remote station or have one of your own in a second location. Our League provides information on remote stations to guide you in consideration of that style of operation.