

MARKUP #1 ->

antenna is to be placed in the yard, then it must be painted a color which will make it blend in with the background landscaping).

- B. One MMDS/wireless cable antenna may be erected on a lot or on a living unit if:
- i. The MMDS/wireless cable antenna is one meter (39") or less in diameter or diagonal measurement.

ii. The mast upon which the MMDS/wireless cable antenna is mounted does not exceed twelve (12) feet above the roof line of the structure to which it is attached.
- C. One TVBS antenna may be erected on a lot or on a living unit if:
- i. The mast upon which the TVBS antenna is mounted does not exceed twelve (12) feet above the roof line of the structure to which it is attached.

6. VARIANCES FROM THE RESTRICTIONS FOR PERMITTED ANTENNAS:

Any person who is qualified to erect a Permitted Antenna may request that the above stated restrictions be altered, lessened or waived if they can demonstrate to the Association that erecting a Permitted Antenna in conformance with the restrictions impairs reception of an acceptable quality signal as defined by Section 1.4000 and the REPORT AND ORDER, MEMORANDUM OPINION AND ORDER, and FURTHER NOTICE OF PROPOSED RULEMAKING dated August 5, 1996. The Association may require reasonable proof of such claim.

7. ENFORCEMENT OF THIS RESTRICTION:

- A. The Association may enforce subsection 2 of this restriction in any fashion permitted by law, including the imposition of fines.
- B. The Association may enforce the remaining subsections of this restriction in any fashion permitted by Section 207 and Section 1.4000, including the filing of an action in the County or Circuit Courts in and for Seminole or Orange County, as applicable. However, no fines or other penalties will accrue against any antenna user while a proceeding is pending to determine the validity of any restriction.

7.02 ENERGY DEVICES BASED ON RENEWABLE RESOURCES:

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 207 (p. 23): Blanket ban, sub-1-meter size cap, or prior approval requirement on satellite dishes or antennas is preempted by federal FCC OTARD regulations.

Statutory / Legal Reference: 47 C.F.R. § 1.4000 (FCC OTARD Rule)

Statutory Comparison: The FCC Over-the-Air Reception Devices rule (47 C.F.R. § 1.4000, as expanded by the 2021 OTARD Report and Order, FCC 21-10) preempts community association restrictions that prohibit, charge application fees for, require prior architectural approval for, or impose sub-1-meter (39.37-inch) diameter caps on the installation, maintenance, or use of television broadcast antennas, direct-broadcast satellite dishes 1 meter or less in diameter, and fixed wireless broadband antennas (including hub and relay antennas) situated on property within the exclusive use or control of the owner/tenant.

CURRENT WORDING IN DOCUMENT:

the filing of an action in the County or Circuit Courts in and for Seminole or Orange County, as applicable. However, no fines or other penalties will accrue against any antenna user while a proceeding is pending to determine the validity of any restriction.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided that this restriction shall not prohibit or require prior approval for any owner or occupant installing an antenna, fixed wireless broadband hub/relay device, or satellite dish of one meter (39.37 inches) or less in diameter within areas under the owner's or occupant's exclusive use or control, in accordance with FCC OTARD regulations (47 C.F.R. § 1.4000).

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