
By: **Delegates Kach and Bromwell**
Introduced and read first time: January 25, 2006
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Radio Communications - Regulation of Amateur Radio Equipment -**
3 **Limitations**

4 FOR the purpose of requiring local zoning authorities to comply with certain federal
5 regulations governing amateur radio service; prohibiting certain homeowners
6 associations from restricting or prohibiting the placement, screening, height, or
7 use of certain amateur radio equipment; prohibiting certain homeowners
8 associations from amending certain governing documents under certain
9 circumstances; requiring certain homeowners associations to provide certain
10 written notice to its lot owners within a certain amount of time; defining a
11 certain term; and generally relating to the regulation of amateur radio
12 equipment.

13 BY repealing and reenacting, with amendments,
14 Article 66B - Land Use
15 Section 1.02, 2.13, and 4.01(b)(1)
16 Annotated Code of Maryland
17 (2003 Replacement Volume and 2005 Supplement)

18 BY adding to
19 Article 66B - Land Use
20 Section 4.01(b)(3)
21 Annotated Code of Maryland
22 (2003 Replacement Volume and 2005 Supplement)

23 BY adding to
24 Article - Real Property
25 Section 11B-111.5
26 Annotated Code of Maryland
27 (2003 Replacement Volume and 2005 Supplement)

Preamble

1
2 WHEREAS, The Congress of the United States has expressed the need to
3 promote safety of life and protection of property through the use of radio
4 communications and has established a framework for regulation of radio
5 communications; and

6 WHEREAS, The Congress of the United States, in 1994, passed a Senate Joint
7 Resolution to recognize the achievements of, and establish support for, radio
8 amateurs as national policy, and that Resolution became Public Law No. 103-408;
9 and

10 WHEREAS, The Federal Communications Commission has set forth in Title 47,
11 Part 97 of the Code of Federal Regulations that among the basic purposes of the
12 amateur radio service are to provide voluntary, noncommercial radio service,
13 particularly with respect to providing emergency communications, to improve the
14 amateur radio service through rules which provide for advancing skills in both the
15 communication and technical phases, to expand the existing reservoir within the
16 amateur radio service of trained operators, technicians, and electronics experts, and
17 to extend the amateur's unique ability to enhance international goodwill; and

18 WHEREAS, The General Assembly finds that members of the amateur radio
19 service community have provided invaluable emergency radio communication
20 services in the State and across the United States before, during, and after floods,
21 hurricanes, tornadoes, forest fires, earthquakes, blizzards, train accidents, chemical
22 spills, and other disasters; and

23 WHEREAS, The General Assembly finds that members of the amateur radio
24 service community continually train, and promote readiness, for times of emergency
25 and disaster; and

26 WHEREAS, The General Assembly finds that amateur radio service has made a
27 contribution to our nation's communications by its crafting of the first Earth satellite
28 licensed by the Federal Communications Commission in 1961, by its proof-of-concept
29 for search-and-rescue satellites, and by its continued exploration of the low Earth
30 orbit; and

31 WHEREAS, The General Assembly finds that amateur radio service provides
32 continued advancements to our nation's communications by its pioneering of
33 communications using reflections from meteor trails, a technique now used for certain
34 government and commercial communications, and by its leading role in the
35 development of low-cost, practical data transmission by radio that is increasingly put
36 to extensive use in land mobile service; and

37 WHEREAS, The amateur radio community endeavors with difficulty to enlist
38 and retain new members and is finding it ever more difficult to practice the craft due
39 to stringent public and private regulation of transmission and receiving devices; now,
40 therefore,

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article 66B - Land Use**

4 1.02.

5 (a) Except as provided in this section, this article does not apply to charter
6 counties.

7 (b) The following sections of this article apply to a charter county:

8 (1) § 1.00(j) (Definition of "sensitive areas");

9 (2) § 1.01 (Visions);

10 (3) § 1.03 (Charter county - Comprehensive plans);

11 (4) § 4.01(b)(2) (Regulation of bicycle parking);

12 (5) § 4.01(B)(3) (REGULATION OF AMATEUR RADIO EQUIPMENT);

13 [(5)] (6) § 5.03(d) (Easements for burial sites);

14 [(6)] (7) § 7.02 (Civil penalty for zoning violation);

15 [(7)] (8) § 10.01 (Adequate Public Facilities Ordinances);

16 [(8)] (9) § 11.01 (Transfer of Development Rights);

17 [(9)] (10) § 12.01 (Inclusionary Zoning);

18 [(10)] (11) Except in Montgomery County or Prince George's County, §
19 13.01 (Development rights and responsibilities agreements); and

20 [(11)] (12) For Baltimore County only, § 14.02.

21 (c) This section supersedes any inconsistent provision of Article 28 of the
22 Code.

23 2.13.

24 (a) Except as provided in subsection (b) of this section, §§ 3.01 through 8.15 of
25 this article do not apply in Baltimore City.

26 (b) The following sections of this article apply to Baltimore City:

27 (1) § 1.00(j) (Definition of "sensitive areas");

28 (2) § 1.01 (Visions);

- 1 (3) § 1.03 (Charter county - Comprehensive plans);
- 2 (4) § 4.01(b)(2) (Regulation of bicycle parking);
- 3 (5) § 4.01(B)(3) (REGULATION OF AMATEUR RADIO EQUIPMENT);
- 4 [(5)] (6) § 5.03(d) (Easements for burial sites);
- 5 [(6)] (7) § 7.02 (Civil penalty for zoning violation);
- 6 [(7)] (8) § 10.01 (Adequate Public Facilities Ordinances);
- 7 [(8)] (9) § 11.01 (Transfer of Development Rights);
- 8 [(9)] (10) § 12.01 (Inclusionary Zoning); and
- 9 [(10)] (11) § 13.01 (Development Rights and Responsibilities Agreements).

10 4.01.

11 (b) (1) To promote the health, safety, morals, or general welfare of the
12 community, a local legislative body may regulate and restrict, for trade, industry,
13 residences, and other purposes:

- 14 (i) [The] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE
15 height, number of stories, and size of buildings and other structures;
- 16 (ii) The percentage of a lot that may be occupied;
- 17 (iii) Off-street parking;
- 18 (iv) The size of yards, courts, and other open spaces;
- 19 (v) The density of population; and
- 20 (vi) The location and use of buildings, signs, structures and land.

21 (3) IF A LOCAL LEGISLATIVE BODY REGULATES AMATEUR RADIO
22 EQUIPMENT, AS DEFINED IN § 11B-111.5(A) OF THE REAL PROPERTY ARTICLE, THE
23 LOCAL LEGISLATIVE BODY SHALL COMPLY WITH APPLICABLE FEDERAL AMATEUR
24 RADIO SERVICE REGULATIONS CONTAINED IN 47 CFR § 97.15.

25 **Article - Real Property**

26 11B-111.5.

27 (A) (1) IN THIS SECTION, "AMATEUR RADIO EQUIPMENT" MEANS ANY
28 DEVICE USED TO TRANSMIT OR RECEIVE COMMUNICATIONS ON AN AMATEUR RADIO
29 STATION FREQUENCY.

30 (2) "AMATEUR RADIO EQUIPMENT" INCLUDES:

1 (I) AN ANTENNA THAT SERVES AN AMATEUR RADIO STATION; AND

2 (II) ANY ATTACHMENT OR OTHER STRUCTURE THAT SUPPORTS,
3 STABILIZES, RAISES, LOWERS, OR ADJUSTS AN ANTENNA THAT SERVES AN AMATEUR
4 RADIO STATION.

5 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS
6 SECTION DOES NOT APPLY TO A HOMEOWNERS ASSOCIATION THAT HAS ADOPTED,
7 ON OR BEFORE SEPTEMBER 30, 2006, PROVISIONS ACCORDING TO ITS COVENANTS,
8 DECLARATION, OR GOVERNING DOCUMENTS THAT RESTRICT OR PROHIBIT AMATEUR
9 RADIO EQUIPMENT.

10 (2) A HOMEOWNERS ASSOCIATION EXEMPTED FROM THE APPLICATION
11 OF THIS SECTION MAY NOT AMEND, ON OR AFTER OCTOBER 1, 2006, ITS COVENANTS,
12 DECLARATION, OR GOVERNING DOCUMENTS TO FURTHER RESTRICT OR PROHIBIT
13 AMATEUR RADIO EQUIPMENT.

14 (C) A RECORDED COVENANT OR RESTRICTION, A PROVISION IN A
15 DECLARATION, OR A PROVISION OF THE GOVERNING DOCUMENTS OF A
16 HOMEOWNERS ASSOCIATION MAY NOT RESTRICT OR PROHIBIT THE PLACEMENT,
17 SCREENING, HEIGHT, OR USE OF AMATEUR RADIO EQUIPMENT.

18 (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A HOMEOWNERS
19 ASSOCIATION SHALL PROVIDE TO ITS LOT OWNERS WRITTEN NOTICE IN A FORM
20 SUBSTANTIALLY THE SAME AS THE FOLLOWING:

21 "IN COMPLIANCE WITH THE MARYLAND HOMEOWNERS ASSOCIATION ACT, THE
22 ASSOCIATION MAY NOT RESTRICT OR PROHIBIT THE PLACEMENT, SCREENING,
23 HEIGHT, OR USE OF AMATEUR RADIO EQUIPMENT. THE RESTRICTION OR
24 PROHIBITION OF AMATEUR RADIO EQUIPMENT IS SOLELY WITHIN THE
25 JURISDICTION OF THE FEDERAL COMMUNICATIONS COMMISSION AND THE LOCAL
26 ZONING AUTHORITY."

27 (2) A HOMEOWNERS ASSOCIATION SHALL GIVE THE NOTICE REQUIRED
28 UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 30 DAYS AFTER THE INITIAL
29 SALE OF A LOT OR ON OR BEFORE OCTOBER 1, 2007, WHICHEVER IS LATER.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2006.