
By: **Senator Klausmeier**

Introduced and read first time: January 16, 2006

Assigned to: Finance

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 design, placement, screening,
7 height, or use of certain amateur radio equipment; prohibiting certain
8 homeowners associations from amending certain governing documents under
9 certain circumstances; requiring certain homeowners associations to provide
10 certain written notice to its lot owners within a certain amount of time; defining
11 a 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)

1

Preamble

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
27 pioneered space communications since 1961 by launching more than 60 orbital
28 satellites carrying amateur radio; and

29 WHEREAS, The General Assembly finds that amateur radio is recognized in
30 more than 140 nations around the world as a leading medium of people-to-people
31 diplomacy; and

32 WHEREAS, The United States has reciprocal agreements with more than 70
33 other nations permitting their amateur radio operators to operate in the United
34 States with no additional notification or authorization; and

35 WHEREAS, The General Assembly finds that amateur radio has attracted
36 young people to careers in science and engineering for almost a century, including
37 many of today's technological leaders; now, therefore,

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

1

Article 66B - Land Use

2 1.02.

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

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

6 (1) § 1.00(j) (Definition of "sensitive areas");

7 (2) § 1.01 (Visions);

8 (3) § 1.03 (Charter county - Comprehensive plans);

9 (4) § 4.01(b)(2) (Regulation of bicycle parking);

10 (5) § 4.01(B)(3) (REGULATION OF AMATEUR RADIO EQUIPMENT);

11 [(5)] (6) § 5.03(d) (Easements for burial sites);

12 [(6)] (7) § 7.02 (Civil penalty for zoning violation);

13 [(7)] (8) § 10.01 (Adequate Public Facilities Ordinances);

14 [(8)] (9) § 11.01 (Transfer of Development Rights);

15 [(9)] (10) § 12.01 (Inclusionary Zoning);

16 [(10)] (11) Except in Montgomery County or Prince George's County, §
17 13.01 (Development rights and responsibilities agreements); and

18 [(11)] (12) For Baltimore County only, § 14.02.

19 (c) This section supersedes any inconsistent provision of Article 28 of the
20 Code.

21 2.13.

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

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

25 (1) § 1.00(j) (Definition of "sensitive areas");

26 (2) § 1.01 (Visions);

27 (3) § 1.03 (Charter county - Comprehensive plans);

28 (4) § 4.01(b)(2) (Regulation of bicycle parking);

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

8 4.01.

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

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

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

23 **Article - Real Property**

24 11B-111.5.

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

28 (2) "AMATEUR RADIO EQUIPMENT" INCLUDES:

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

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

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

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

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

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

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

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

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