

SENATE BILL 80

N1
SB 68/07 – JPR

8lr1007

By: **Senators Klausmeier, Mooney, and Stone**
Introduced and read first time: January 15, 2008
Assigned to: Judicial Proceedings

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 their lot owners within a certain period of time;
11 defining a certain term; and generally relating to the regulation of amateur
12 radio 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 2007 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 2007 Supplement)

23 BY adding to
24 Article – Real Property
25 Section 11B–111.6
26 Annotated Code of Maryland
27 (2003 Replacement Volume and 2007 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



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, amateur radio
8 operators as national policy, and that Resolution became Public Law No. 103-408; and

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

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

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

27 WHEREAS, The General Assembly finds that amateur radio service has
28 pioneered space communications since 1961 by launching more than 60 orbital
29 satellites carrying amateur radio; and

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

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

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

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

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

7 **Article 66B – Land Use**

8 1.02.

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

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

12 (1) § 1.00(j) (Definition of “sensitive areas”);

13 (2) § 1.01 (Visions);

14 (3) § 1.03 (Charter county – Comprehensive plans);

15 (4) § 4.01(b)(2) (Regulation of bicycle parking);

16 **(5) § 4.01(B)(3) (REGULATION OF AMATEUR RADIO EQUIPMENT);**

17 ~~[(5)] (6)~~ § 5.03(d) (Easements for burial sites);

18 ~~[(6)] (7)~~ § 7.02 (Civil penalty for zoning violation);

19 ~~[(7)] (8)~~ § 10.01 (Adequate Public Facilities Ordinances);

20 ~~[(8)] (9)~~ § 11.01 (Transfer of Development Rights);

21 ~~[(9)] (10)~~ § 12.01 (Inclusionary Zoning);

22 ~~[(10)] (11)~~ Except in Montgomery County or Prince George’s County, §
 23 13.01 (Development rights and responsibilities agreements);

24 ~~[(11)] (12)~~ For Baltimore County only, § 14.02; and

25 ~~[(12)] (13)~~ For Howard County only, § 14.06.1.

26 (c) This section supersedes any inconsistent provision of Article 28 of the
 27 Code.

1 2.13.

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

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

5 (1) § 1.00(j) (Definition of “sensitive areas”);

6 (2) § 1.01 (Visions);

7 (3) § 1.03 (Charter county – Comprehensive plans);

8 (4) § 4.01(b)(2) (Regulation of bicycle parking);

9 **(5) § 4.01(B)(3) (REGULATION OF AMATEUR RADIO EQUIPMENT);**

10 ~~[(5)] (6)~~ § 5.03(d) (Easements for burial sites);

11 ~~[(6)] (7)~~ § 7.02 (Civil penalty for zoning violation);

12 ~~[(7)] (8)~~ § 10.01 (Adequate Public Facilities Ordinances);

13 ~~[(8)] (9)~~ § 11.01 (Transfer of Development Rights);

14 ~~[(9)] (10)~~ § 12.01 (Inclusionary Zoning); and

15 ~~[(10)] (11)~~ § 13.01 (Development Rights and Responsibilities
16 Agreements).

17 4.01.

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

21 (i) ~~[The]~~ **SUBJECT TO PARAGRAPH (3) OF THIS**
22 **SUBSECTION, THE** height, number of stories, and size of buildings and other
23 structures;

24 (ii) The percentage of a lot that may be occupied;

25 (iii) Off–street parking;

26 (iv) The size of yards, courts, and other open spaces;

27 (v) The density of population; and

1 (vi) The location and use of buildings, signs, structures and land.

2 (3) IF A LOCAL LEGISLATIVE BODY REGULATES AMATEUR RADIO
3 EQUIPMENT, AS DEFINED IN § 11B-111.6(A) OF THE REAL PROPERTY ARTICLE,
4 THE LOCAL LEGISLATIVE BODY SHALL COMPLY WITH APPLICABLE FEDERAL
5 AMATEUR RADIO SERVICE REGULATIONS CONTAINED IN 47 CFR § 97.15.

6 Article - Real Property

7 11B-111.6.

8 (A) (1) IN THIS SECTION, "AMATEUR RADIO EQUIPMENT" MEANS A
9 DEVICE USED TO TRANSMIT OR RECEIVE COMMUNICATIONS ON AN AMATEUR
10 RADIO STATION FREQUENCY.

11 (2) "AMATEUR RADIO EQUIPMENT" INCLUDES:

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

14 (II) ANY ATTACHMENT OR OTHER STRUCTURE THAT
15 SUPPORTS, ROTATES, FEEDS, STABILIZES, RAISES, LOWERS, ADJUSTS, OR
16 OTHERWISE CONTRIBUTES TO THE FUNCTIONING OF AN ANTENNA THAT SERVES
17 AN AMATEUR RADIO STATION.

18 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
19 SUBSECTION, THIS SECTION DOES NOT APPLY TO A HOMEOWNERS ASSOCIATION
20 THAT HAS ADOPTED, ON OR BEFORE SEPTEMBER 30, 2008, PROVISIONS
21 ACCORDING TO ITS COVENANTS, DECLARATION, OR GOVERNING DOCUMENTS
22 THAT RESTRICT OR PROHIBIT AMATEUR RADIO EQUIPMENT.

23 (2) A HOMEOWNERS ASSOCIATION EXEMPTED FROM THE
24 APPLICATION OF THIS SECTION MAY NOT AMEND, ON OR AFTER OCTOBER 1,
25 2008, ITS COVENANTS, DECLARATION, OR GOVERNING DOCUMENTS TO
26 FURTHER RESTRICT OR PROHIBIT AMATEUR RADIO EQUIPMENT ON THE
27 PROPERTY OF LOT OWNERS.

28 (C) A RECORDED COVENANT OR RESTRICTION, A PROVISION IN A
29 DECLARATION, OR A PROVISION OF THE GOVERNING DOCUMENTS OF A
30 HOMEOWNERS ASSOCIATION MAY NOT RESTRICT OR PROHIBIT THE DESIGN,
31 PLACEMENT, SCREENING, HEIGHT, OR USE OF AMATEUR RADIO EQUIPMENT ON
32 THE PROPERTY OF A LOT OWNER.

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

4 **“IN COMPLIANCE WITH THE MARYLAND HOMEOWNERS ASSOCIATION**
5 **ACT, THE ASSOCIATION MAY NOT RESTRICT OR PROHIBIT THE DESIGN,**
6 **PLACEMENT, SCREENING, HEIGHT, OR USE OF AMATEUR RADIO EQUIPMENT ON**
7 **THE PROPERTY OF LOT OWNERS. THE RESTRICTION OR PROHIBITION OF**
8 **AMATEUR RADIO EQUIPMENT ON THE PROPERTY OF LOT OWNERS IS SOLELY**
9 **WITHIN THE JURISDICTION OF THE FEDERAL COMMUNICATIONS COMMISSION**
10 **AND THE LOCAL GOVERNMENT. THE ASSOCIATION RETAINS THE ABILITY TO**
11 **RESTRICT OR PROHIBIT AMATEUR RADIO EQUIPMENT ON PROPERTY OWNED BY**
12 **THE ASSOCIATION.”.**

13 **(2) A HOMEOWNERS ASSOCIATION SHALL PROVIDE THE NOTICE**
14 **REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION ON OR BEFORE THE**
15 **LATER OF:**

16 **(I) OCTOBER 1, 2009; AND**

17 **(II) THE 30TH DAY AFTER THE INITIAL SALE OF A LOT.**

18 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
19 **October 1, 2008.**