

HOUSE BILL 1444

L6, C5, M1

9lr3300

By: **Delegate Dwyer**

Introduced and read first time: February 26, 2009

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Planning and Zoning – Wireless Telecommunications Towers – Structural**
3 **Requirements**

4 FOR the purpose of making a certain provision of law applicable to charter counties
5 and Baltimore City; prohibiting a local governing body from issuing a permit,
6 variance, special exception, or other certification or approval required for the
7 location, erection, or operation of a wireless telecommunications tower within a
8 certain distance of the Chesapeake Bay unless the tower is constructed to
9 contain certain features; defining a certain term; providing for the application of
10 this Act; providing that existing obligations or contract rights may not be
11 impaired by this Act; providing for the construction of this Act; and generally
12 relating to the authority of a local governing body to approve the location,
13 erection, or operation of a wireless telecommunications tower.

14 BY repealing and reenacting, without amendments,
15 Article 66B – Land Use
16 Section 1.00(a)
17 Annotated Code of Maryland
18 (2003 Replacement Volume and 2008 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article 66B – Land Use
21 Section 1.02 and 2.13
22 Annotated Code of Maryland
23 (2003 Replacement Volume and 2008 Supplement)

24 BY adding to
25 Article 66B – Land Use
26 Section 1.00(n) and 7.06
27 Annotated Code of Maryland
28 (2003 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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 1.00.

5 (a) In this article the following words have the meanings indicated, except
6 where the context clearly indicates otherwise.

7 (N) **“WIRELESS TELECOMMUNICATIONS TOWER” MEANS A STRUCTURE**
8 **INTENDED TO SUPPORT OR CONTAIN EQUIPMENT USED TO SEND OR RECEIVE**
9 **TELEVISION, RADIO, DIGITAL, MICROWAVE, CELLULAR, TELEPHONE,**
10 **ELECTRONIC, OR ANY OTHER FORM OF COMMUNICATION SIGNAL, INCLUDING**
11 **STRUCTURES THAT ARE FREE-STANDING, GUYED, MONOPOLE,**
12 **SELF-SUPPORTING, OR LATTICE.**

13 1.02.

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

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

17 (1) § 1.00(j) (Definition of “sensitive areas”);

18 (2) § 1.01 (Visions);

19 (3) § 1.03 (Charter county – Comprehensive plans);

20 (4) § 4.01(b)(2) (Regulation of bicycle parking);

21 (5) § 5.03(d) (Easements for burial sites);

22 (6) § 7.02 (Civil penalty for zoning violation);

23 (7) **§ 7.06 (WIRELESS TELECOMMUNICATIONS TOWERS);**

24 (8) § 10.01 (Adequate Public Facilities Ordinances);

25 [(8)] (9) § 11.01 (Transfer of Development Rights);

26 [(9)] (10) § 12.01 (Inclusionary Zoning);

27 [(10)] (11) Except in Montgomery County or Prince George’s County, §
28 13.01 (Development rights and responsibilities agreements);

1 [(11)] **(12)** For Baltimore County only, § 14.02; and

2 [(12)] **(13)** For Howard County only, § 14.06.1.

3 (c) This section supersedes any inconsistent provision of Article 28 of the
4 Code.

5 2.13.

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

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

9 (1) § 1.00(j) (Definition of “sensitive areas”);

10 (2) § 1.01 (Visions);

11 (3) § 1.03 (Charter county – Comprehensive plans);

12 (4) § 4.01(b)(2) (Regulation of bicycle parking);

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

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

15 (7) **§ 7.06 (WIRELESS TELECOMMUNICATIONS TOWERS);**

16 (8) § 10.01 (Adequate Public Facilities Ordinances);

17 [(8)] **(9)** § 11.01 (Transfer of Development Rights);

18 [(9)] **(10)** § 12.01 (Inclusionary Zoning); and

19 [(10)] **(11)** § 13.01 (Development Rights and Responsibilities
20 Agreements).

21 **7.06.**

22 **A LOCAL GOVERNING BODY MAY NOT ISSUE A PERMIT, VARIANCE,**
23 **SPECIAL EXCEPTION, OR OTHER CERTIFICATION OR APPROVAL REQUIRED FOR**
24 **THE LOCATION, ERECTION, OR OPERATION OF A WIRELESS**
25 **TELECOMMUNICATIONS TOWER WITHIN 25 MILES OF THE CHESAPEAKE BAY**
26 **UNLESS THE TOWER IS CONSTRUCTED SO THAT BIRDS:**

1 **(1) MAY SAFELY NEST ON THE TOWER; OR**

2 **(2) ARE PREVENTED FROM NESTING ON THE TOWER WITHOUT**
3 **CAUSING THE BIRDS PHYSICAL HARM.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
5 construed to apply only prospectively and may not be applied or interpreted to have
6 any effect on or application to any wireless telecommunications tower in existence or
7 for which all necessary permits for construction have been issued before the effective
8 date of this Act. If the use of a wireless telecommunications tower is allowed to
9 continue in accordance with this section:

10 (1) the use may not be expanded; and

11 (2) if abandoned, the use may not be resumed.

12 SECTION 3. AND BE IT FURTHER ENACTED, That a presently existing
13 obligation or contract right may not be impaired in any way by this Act.

14 SECTION 4. AND BE IT FURTHER ENACTED, That this Act may not be
15 construed to abrogate existing powers, explicit or implied, exercised by a local
16 governing body to regulate zoning of communications facilities.

17 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2009.