SENATE BILL 68

By: Senators Klausmeier and Mooney
Introduced and read first time: January 19, 2007
Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Radio Communications – Regulation of Amateur Radio Equipment – Limitations

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

BY repealing and reenacting, with amendments,
Article 66B – Land Use
Section 1.02, 2.13, and 4.01(b)(1)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY adding to
Article 66B – Land Use
Section 4.01(b)(3)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
WHEREAS, The Congress of the United States has expressed the need to promote safety of life and protection of property through the use of radio communications and has established a framework for regulation of radio communications; and

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

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

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

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

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

WHEREAS, The General Assembly finds that amateur radio is recognized in more than 140 nations around the world as a leading medium of people–to–people diplomacy; and
WHEREAS, The United States has reciprocal agreements with more than 70 other nations permitting their amateur radio operators to operate in the United States with no additional notification or authorization; and

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

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

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

Article 66B – Land Use

1.02.

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

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

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

(2) § 1.01 (Visions);

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

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

(5) § 4.01(b)(3) (Regulation of amateur radio equipment);

(6) § 5.03(d) (Easements for burial sites);

(7) § 7.02 (Civil penalty for zoning violation);

(8) § 10.01 (Adequate Public Facilities Ordinances);
§ 11.01 (Transfer of Development Rights);

§ 12.01 (Inclusionary Zoning);

Except in Montgomery County or Prince George’s County, § 13.01 (Development rights and responsibilities agreements); and

For Baltimore County only, § 14.02.

This section supersedes any inconsistent provision of Article 28 of the Code.

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

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

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

(2) § 1.01 (Visions);

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

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

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

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

§ 7.02 (Civil penalty for zoning violation);

§ 10.01 (Adequate Public Facilities Ordinances);

§ 11.01 (Transfer of Development Rights);

§ 12.01 (Inclusionary Zoning); and

§ 13.01 (Development Rights and Responsibilities Agreements).
(b) (1) To promote the health, safety, morals, or general welfare of the community, a local legislative body may regulate and restrict, for trade, industry, residences, and other purposes:

(i) Subject to paragraph (3) of this subsection, the height, number of stories, and size of buildings and other structures;

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

(iii) Off-street parking;

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

(v) The density of population; and

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

(3) If a local legislative body regulates amateur radio equipment, as defined in § 11B–111.5(a) of the Real Property Article, the local legislative body shall comply with applicable federal amateur radio service regulations contained in 47 CFR § 97.15.

Article – Real Property

11B–111.5.

(A) (1) In this section, “amateur radio equipment” means any device used to transmit or receive communications on an amateur radio station frequency.

(2) “Amateur radio equipment” includes:

(i) An antenna that serves an amateur radio station; and

(ii) Any attachment or other structure that supports, rotates, feeds, stabilizes, raises, lowers, adjusts, or
OTHERWISE CONTRIBUTES TO THE FUNCTIONING OF AN ANTENNA THAT SERVES AN AMATEUR RADIO STATION.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION DOES NOT APPLY TO A HOMEOWNERS ASSOCIATION THAT HAS ADOPTED, ON OR BEFORE SEPTEMBER 30, 2007, PROVISIONS ACCORDING TO ITS COVENANTS, DECLARATION, OR GOVERNING DOCUMENTS THAT RESTRICT OR PROHIBIT AMATEUR RADIO EQUIPMENT.

(2) A HOMEOWNERS ASSOCIATION EXEMPTED FROM THE APPLICATION OF THIS SECTION MAY NOT AMEND, ON OR AFTER OCTOBER 1, 2007, ITS COVENANTS, DECLARATION, OR GOVERNING DOCUMENTS TO FURTHER RESTRICT OR PROHIBIT AMATEUR RADIO EQUIPMENT ON THE PROPERTY OF LOT OWNERS.

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

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

"IN COMPLIANCE WITH THE MARYLAND HOMEOWNERS ASSOCIATION ACT, THE ASSOCIATION MAY NOT RESTRICT OR PROHIBIT THE DESIGN, PLACEMENT, SCREENING, HEIGHT, OR USE OF AMATEUR RADIO EQUIPMENT ON THE PROPERTY OF LOT OWNERS. THE RESTRICTION OR PROHIBITION OF AMATEUR RADIO EQUIPMENT ON THE PROPERTY OF LOT OWNERS IS SOLELY WITHIN THE JURISDICTION OF THE FEDERAL COMMUNICATIONS COMMISSION AND THE LOCAL GOVERNMENT. THE ASSOCIATION RETAINS THE ABILITY TO RESTRICT OR PROHIBIT AMATEUR RADIO EQUIPMENT ON PROPERTY OWNED BY THE ASSOCIATION."

(2) A HOMEOWNERS ASSOCIATION SHALL GIVE THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 30 DAYS AFTER THE INITIAL SALE OF A LOT OR ON OR BEFORE OCTOBER 1, 2008, WHICHEVER IS LATER.
SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.