



Legislative Update – Issue # 6 July 2014

ARRL - 225 Main Street – Newington, CT 06111
Edited by Dan Henderson, N1ND, ARRL Regulatory Information Manager

HR 4969 – The Amateur Radio Parity Act of 2014

A Commonsense Solution to Provide Equality in Land Use Regulation

On Wednesday June 25th, Representative Adam Kinzinger (R-IL -16th), with Representative Joe Courtney (D-CT-02) as cosponsor, introduced in the 113th US Congress “*The Amateur Radio Parity Act of 2014*”. If passed by Congress and signed into law, Representative Kinzinger’s bill would require the FCC, within 120 days of the Bill’s enactment, to amend the Part 97 Amateur Service rules to apply its Amateur Radio limited preemption policy to all types of land use regulations including homeowners’ association regulations and deed restrictions, often referred to as “covenants, conditions, and restrictions” (CC&Rs). Presently, the policy only applies to state and local zoning laws and ordinances.

HR 4969 is the ARRL’s plan to secure reasonable accommodation for the thousands of licensed Amateur Radio operators who are denied effective antennas at their residences due to private land use regulations that are either part of their property deeds of purchase or are imposed by their local homeowner’s associations. CC&Rs typically preclude licensed Amateurs residing in deed-restricted communities from conducting public service or emergency preparedness communications. The number of communities that have such restrictions is increasing at exponential rates.

In a 2012 report to Congress, mandated by the “*Middle Class Tax Relief and Job Creation Act of 2012*”, the FCC concluded that “should Congress see fit to enact a statutory directive mandating the expansion of its limited preemption policy [PRB-1] to include more than state and local regulations, it would expeditiously act to fulfill its obligation...”. ARRL Regulatory Information Manager Dan Henderson, N1ND, says, “The purpose of HR 4969 is to provide the FCC with that directive.”

Bipartisan support for HR 4969 is the key to its success. In this newsletter, the ARRL will be providing information on how to engage your Congressperson on this issue. You should let your Representative know not only that this issue is important to you – their constituent – but why it is important. Be authentic and personal when speaking with your Congressperson and his or her staff.

The text of HR 4969 can be viewed in-line at <http://www.arrl.org/files/media/News/HR4969.pdf>

For more information on HR 4969 please visit: <http://www.arrl.org/hr-4969>



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A Message from ARRL President Kay Craigie

With the introduction of HR 4969, The Amateur Radio Parity Act of 2014, we have the chance to make full participation in Amateur Radio possible for thousands of present and future Amateurs.

This legislation is not just about you and me, the ARRL members of 2014. It is about everyone who will be an Amateur in the United States in the ARRL's second century, including Americans who haven't even been born yet, who could invent radio technology we cannot even imagine today.

Chances are, those Americans of the future will grow up in communities having private land use restrictions. That is the way the country is going, and it is very bad for Amateur Radio. How can Amateur Radio thrive, if more and more Americans cannot have reasonable antennas at home?

You and I have to stand for the Amateurs of the 2nd century. The ARRL members of the first century certainly spoke out for us, protecting spectrum and opposing unreasonable zoning regulations. Now it is our turn.

Even if private land use restrictions do not apply to us personally, we still need to speak out for our fellow hams that are affected. It is just what we hams do. We are able to think and act beyond our own personal interests. Contact your Congressman now to become a co-sponsor, and light a fire under your friends to contact their Congressmen, too.

We have to stand for each other. We have to stand for the Amateurs of the future. We have to do this now.

73,

Kay Craigie N3KN

How to Contact Your Representative in the US House

The ARRL is requesting you contact your member in the US House of Representatives. You can find your Congressperson's name and contact information on the ARRLWeb at:

<http://www.arrl.org/contacting-your-congressional-representatives>

Remember that regular US mail is extremely slow to reach Capitol Hill because of security screening that takes weeks. To expedite getting your signed letter to your Representative, you can send it to:

ARRL – Attn: HR 4969
225 Main St
Newington, CT 06111



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Sample Letter to your Congressperson

Dear Representative Smith:

As a constituent and a licensed Amateur Radio operator in your district, I am writing asking that you support HR 4969 – *The Amateur Radio Parity Act of 2014* – and request that you become a co-sponsor for this legislation.

For over 30 years, the FCC and Congress have repeatedly acknowledged the “strong Federal interest” in effective Amateur Radio communications. The FCC found that municipalities often unreasonably restricted Amateur Radio antennas in residential areas. In its declaratory ruling now codified at 47 C.F.R. §97.15(b) – the FCC determined that:

“Except as otherwise provided herein, a station antenna structure may be erected at heights and dimensions sufficient to accommodate amateur service communications. (State and local regulation of a station antenna structure must not preclude amateur service communications. Rather, it must reasonably accommodate such communications and must constitute the minimum practicable regulation to accomplish the state or local authority's legitimate purpose.”

HR 4969 will extend limited reasonable accommodation provisions to include all types of land use regulations, including preclusive homeowner’s association regulations and restrictive covenants. The FCC has jurisdiction to provide these protections when there is a conflict with Federal policy. This was established when, at Congress’ instructions, it enacted regulations that preempted municipal and private land use regulation over satellite dish antennas and television broadcast receive antennas in residences.

HR 4969 will provide a basis for radio Amateurs to negotiate reasonable accommodation for at least minimal outdoor Amateur Radio antennas with their homeowners’ association. This legislation is critically important to me and to the hundreds of other federally licensed Amateur Radio operators residing in your district. Please sign-on as a co-sponsor of HR 4969.

Sincerely,

Joe Amateur, W1AW
225 Main St
Your Town, CT

Remember to sign your Congressional letter before sending it. Unsigned letters are not beneficial.



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What is the Core Issue Behind HR 4969?

The largest threat to Amateur Radio communications is land use restrictions that prohibit the installation of outdoor antenna systems. An outdoor antenna is critical to the efficiency of an Amateur Radio station. Private land use regulations are escalating quickly and exponentially. Even an unobtrusive, largely invisible length of wire in a tree or under the eaves of a roof is routinely prohibited in most deed restricted or HOA controlled residential areas.

Since the early 1970s, growth of properties in the US that are subject to private land-use regulation in the United States is staggering:

Year	Communities	Housing Units	Residents
1970	10,000	701,000	2.1 million
1980	36,000	3.6 million	9.6 million
1990	130,000	11.6 million	29.6 million
2000	222,500	17.8 million	45.2 million
2002	240,000	19.2 million	48.0 million
2004	260,000	20.8 million	51.8 million
2006	286,000	23.1 million	57.0 million
2008	300,800	24.1 million	59.5 million
2010	309,600	24.8 million	62.0 million
2011	314,200	25.1 million	62.3 million

(Source: The Community Associations Institute (CAI))

The ability of a licensed Amateur Radio operator to erect even modest wire or “stealth” antennas under the eaves of their homes is becoming more and more problematic. The key term is *reasonable accommodation*. What the Amateur community continues to seek is the ability to erect reasonable antenna systems that allow them to pursue their interests. More and more communities and housing units implement an absolute prohibition on any kind of antenna. HR 4969 would require HOAs and other community associations to work with the Amateurs to find a reasonable solution to the problem instead of simply imposing an absolute prohibition, denying any request that the Amateur licensee makes.

The Amateur community has its work cut out for it as it promotes HR 4969. The opposition is already rallying its supporters to try to defeat this legislation. Amateur Radio operators need to band together as well. Amateurs across the country need to rally in a grassroots effort to talk to their members of Congress. Elsewhere in this newsletter, you will find a series of talking points to help you craft your own message if meeting with a Congressperson or Congressperson’s staff. If you have questions about how to assist in the Grassroots effort, please do not hesitate to contact the ARRL Regulatory Information Manager, Dan Henderson, N1ND, who also is the point of contact for the ARRL Legislative Action program. He can be reached at n1nd@arrl.org or by phone at 860-594-0236. You should also be in contact with your ARRL Division Director to see how you can assist his efforts in promoting the Amateur Radio Parity Act of 2014.



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Key Talking Points on HR 4969

Keep these key points in mind if writing a letter to or speaking with your Member of Congress one of the legislative assistants. They will help focus the discussion on HR 4969 and why it is important to you:

- ▶ The American Radio Relay League, Incorporated (ARRL) is the representative of Amateur Radio in the United States. There are more than 720,000 Amateur Radio operators licensed by the FCC. ARRL's membership of over 160,000 includes the most active and dedicated Amateur Radio operators.
- ▶ Radio Amateurs (hams) provide, on a volunteer basis, public service, emergency, and disaster relief communications using radio stations located in their residences. Their services cost taxpayers nothing, and are provided at no cost to any served agency or to any government entity. FEMA has stated that when Amateur Radio operators are needed in an emergency or disaster, they are really needed.
- ▶ Served agencies include the American Red Cross, the Salvation Army, the Federal Emergency Management Agency, and the Department of Defense. Disaster relief planning exercises and emergency communications certification courses guarantee trained operators throughout the United States.
- ▶ The largest threat to Amateur Radio emergency and public service communications (which is escalating quickly and exponentially) is land use restrictions that prohibit the installation of outdoor antenna systems. An outdoor antenna is critical to the efficiency of an Amateur Radio station. Even unobtrusive, largely invisible lengths of wire in a tree or under the eave of a roof are routinely prohibited in residential areas by private land use regulations.
- ▶ In 1985, the FCC found that there was a "strong Federal interest" in supporting effective Amateur Radio communications, and that zoning ordinances often unreasonably restricted Amateur Radio antennas in residential areas. The FCC created a three-part test for municipal regulations affecting Amateur Radio antennas. State or local land use regulations: (A) cannot preclude Amateur Radio communications; (B) must make "reasonable accommodation" for Amateur Radio communications; and (C) must constitute the "minimum practicable restriction" in order to accomplish a legitimate municipal purpose.
- ▶ The FCC did not extend this policy to private land use regulations at the time, and has declined to do so saying that deed restrictions, covenants and homeowner's association regulations were private agreements that did not normally concern the FCC. However, the Telecommunications Act of 1996 ordered the FCC to enact regulations that preempted municipal and private land use regulation over small satellite dish antennas and television broadcast antennas in residences. The FCC acknowledged that it does have jurisdiction to preempt private land use regulations that conflict with Federal policy.
- ▶ Upon ARRL's repeated requests to FCC to revisit its decision and to apply policy equally to all types of land use regulations which unreasonably restrict or preclude volunteer, public service communications, FCC said that it would do so upon receiving some guidance from Congress in this area.
- ▶ Pursuant to the *Middle Class Tax Relief and Job Creation Act of 2012*, the FCC conducted a study on "the uses and capabilities of Amateur Radio Service communications in emergencies and disaster relief" and submitted to the House and Senate a Report on the findings of such study. The docket proceeding created an impressive record demonstrating the severe and pervasive impact of private land use regulations on Amateur Radio emergency communications. The record in the docket proceeding justifies the even application of FCC's balanced, limited preemption policy to all types of land use regulation of Amateur Radio antennas. The FCC said, in effect, that should Congress instruct FCC to do so, it would expeditiously extend the policy.
- ▶ Therefore, we seek cosponsors for H.R. 4969, a Bill that would provide for regulatory parity and uniformity in land use regulations as they pertain to Amateur Radio.



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A Message from the Our Washington Consultant

As the 100th celebration of ARRL approaches, and we reflect on the association's greatest accomplishments and feats, it is also important to note that threats to our vocation remain. Without question, the greatest risk Amateur Radio emergency and public service communications continues to face is the proliferation of land use restrictions that prohibit the installation of outdoor antenna systems. As any ham knows, an outdoor antenna is critical to the efficiency of an Amateur Radio station. However, increasingly, private land use regulations are preventing the installation of even an unobtrusive, largely invisible length of wire in a tree or under the eave of a roof.

Upon ARRL's repeated requests, the FCC said that it requires guidance from Congress in this area to defray the severe and pervasive impact of private land use regulations on Amateur Radio emergency communications. The FCC said, in effect, that should Congress instruct FCC to do so, it would expeditiously extend the policy. Therefore, ARRL is working with Congress to nudge the FCC into action.

Last week, bipartisan legislation was introduced in the U.S. House of Representatives that would require the FCC to apply the balanced "reasonable accommodation" policy the agency currently uses for municipal land use regulation to private land use regulation for amateur radio antennas. H.R. 4969, the Amateur Radio Communications Regulatory Parity Act, was introduced by Reps. Adam Kinzinger (R-IL) and Joe Courtney (D-CT) to protect the strong Federal interest in amateur radio communications regardless of the type of land use regulation that applies to those communications, while preserving local land use authority. Most importantly, it will ensure that every ham in the US, regardless of the community they live in, will have the opportunity to practice their vocation from their own homes without breaking any rules or fear of reprisal.

The Keelan Group

Why Do We Request Letters Be Mailed to ARRL For Delivery?

We are frequently asked why the ARRL asks that letters be mailed to ARRL for delivery instead of simply mailing them directly to the Congressional offices. The answer is two-fold. First, since the 9/11 attacks and subsequent security threats, all incoming mail to Congressional offices is first diverted to a holding area outside of Washington DC. Once at that facility it undergoes a series of scans to test for a variety of problems. Only after it passes the security tests is it forwarded on to Capitol Hill for delivery. The delay in delivery is generally in the 5-7 week range. By mailing the letters to the ARRL, we are able to have the letters hand-delivered to the various congressional offices in a timely manner.

The second reason is just as important. When our Washington team delivers letters to a Congressional office, it provides them an opportunity for at least a brief face-to-face meeting with some of the key staff members in each Congressional office they visit. Each in-person meeting is another opportunity for the ARRL's story to be told – and is another chance to answer questions that may arise.

Most Congressional offices do provide some type of on-line email or web-based form for submitting comments. These too have their place in helping ensure our message is conveyed personally. Just remember when contacting your Congressman to be Courteous, Authentic, and Personal!