



# *Ohio's Amateur Radio Antenna Law*

## Introduction

Both existing federal law and Ohio law define the rights of Ohio radio amateurs to erect and maintain antennas. The following has been prepared by the Ohio Section of the American Radio Relay League, Incorporated (“League”) to familiarize Ohio radio amateurs and city, township and county zoning authorities with their respective rights and responsibilities under these laws. **(i)**

The League is the national association for Amateur Radio, dedicated to the support of over 720,000 radio amateurs throughout the United States and having a membership of over 160,000 members.

The Ohio Section is a statewide branch of the League, dedicated to the support of over 28,000 radio amateurs within Ohio.

## Background

Amateur radio operators are licensed by the Federal Communication Commission (“FCC”). FCC regulations govern the examination, licensing process and operating privileges for each class of Amateur licensee. Each class of amateur license requires the passage of a rigorous examination governing both theory and operating regulations.

Over the years, radio amateurs (“hams”) have served as a valuable resource to public safety services in times of disaster when other forms of communication such as telephone, cell phone and the like have failed. Hams not only provide valuable disaster communications resources, they also serve as educational resources, for example, by connecting local school children with astronauts aboard the International Space Station. Additionally, the technical expertise of many radio amateurs has advanced the development of numerous technological achievements.

Because of these many significant contributions and in view of the negative impact of restrictive antenna zoning regulations on Amateur Radio, both the FCC and the United States Congress have recognized a strong federal interest in promoting Amateur Radio throughout the country and insuring its availability for the benefit of the public.

## Federal Law Creates Antenna Rights for Hams

The FCC has adopted regulations protecting the right of radio amateurs to erect and maintain antennas. The FCC regulations have the force and effect of federal statutes and are binding on the states as well as agencies of local

government, including local zoning authorities. To a limited extent, their regulations preempt the zoning authority of the local officials.

The FCC regulations contain three general requirements: 1) local zoning authorities may not prohibit Amateur Radio communications; and 2) local zoning authorities must provide reasonable accommodation for Amateur Radio antenna requests; and 3) local land use regulations affecting Amateur Radio antenna facilities must constitute the minimum practicable regulation to accomplish a legitimate municipal purpose. **(ii)**

## Ohio's Antenna Law

On August 15, 2012 H.B.158 (129th General Assembly) became law in Ohio. That Bill applies to all city, township and county zoning authorizes and codifies Ohio's recognition of the federally protected rights of Ohio amateur radio operators to antennas. The Bill requires that local zoning authorities “...not restrict the height or location of amateur station antenna structures in such a way as to prevent effective amateur radio service communications...”

The Bill also imposes affirmative obligations on local zoning authorities to provide “reasonable accommodation” for Amateur Radio antennas and limits the application of those regulations to the “...minimum practicable regulation necessary to accomplish the legislative authority's purpose.”

The duty of zoning authorities to provide “reasonable accommodation” for ham antennas is underscored by the obligation of the zoning authority to bear the burden of defending its actions in the event of appeal. **(iii)**

In enacting H.B. 158 Ohio joined 29 other states that have passed similar legislation protecting the rights of amateur radio operators to erect antennas.

### Impact on Building Permit and Zoning Variance Decisions

The concept of “reasonable accommodation” as required by both Ohio and federal law is based on the unique circumstances of each request. For example, the optimal height of some amateur antennas will be a function of the frequencies on which the antenna is designed to operate. The following suggestions convey the Section’s views on the intent of the laws as applied to some of the more common zoning issues that often arise in ham antenna cases.

### “- Tower Height -”

Many amateur activities can be accomplished with an antenna height of 75 feet above ground. Other applications may require a greater height.

### “- Setback Limitations -”

The size of an amateur’s lot should not dictate the configuration of his or her antenna installation. Properly engineered and installed antenna support structures will survive winds that could destroy other structures in the area. “Reasonable accommodation” of an amateur antenna request should take all of these circumstances into account, and may not simply be rejected by rote application of a formula based on lot size.

### “- Interference -”

The FCC has exclusive jurisdiction to address radio interference issues. Thus, interference is not a consideration for local authorities.

### “- Aesthetics -”

The fact that some may consider Amateur Radio antennas unsightly does not diminish the legally protected right of the radio amateur to have antennas. Antennas can, however, be sited on residential lots in a way as to minimize any aesthetic impact.

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**(i) The following material is offered as general information only and is not legal advice.**

**(ii) See 47 C.F.R. § & 97.15 (b)**

**(iii) R.C. § 5502.031**

### For More Information



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