

The ARRL Letter for December 20, 2018

## ARRL Petitions FCC to Incorporate Parity Act Provisions into its Amateur Radio Rules

The ARRL has filed a *Petition for Rulemaking* ([PRM](#)) asking the FCC to amend its Part 97 Amateur Service rules to incorporate the provisions of the Amateur Radio Parity Act. The *Petition* has not yet been assigned a rule making (RM) number and is not yet open for public comment. In the past, the FCC has said that it would not take such action without guidance from the US Congress, but, as ARRL's *Petition* notes, Congress "has overwhelmingly and consistently" offered bipartisan support for the Amateur Radio Parity Act.



"Private land use regulations which either prohibit or which do not accommodate the installation and maintenance of an effective outdoor antenna in residences of Amateur Service licensees are unquestionably the most significant and damaging impediments to Amateur Radio Service communications that exist now," ARRL said in its *Petition*. "They are already precluding opportunities for young people to become active in the avocation and to conduct technical self-training and participate in

STEM [science, technology, engineering, and mathematics] learning activities inherent in an active, experiential learning environment. Without the relief in this *Petition*, the future of Amateur Radio is bleak indeed." The proposed amendments would have no effect on the FCC's limited preemption policy in §97.15(b), which pertains to state and municipal governing bodies, ARRL said.

Specifically, ARRL is proposing that the FCC amend Part 97 by adding a new subsection under §97.15 that prohibits and ceases the enforcement of "any private land use restriction, including restrictive covenants and regulations imposed by a community association," that either fails to permit a licensee to install and maintain an effective outdoor antenna capable of operation on all Amateur Radio frequency bands; on property under the exclusive use or control of the licensee; precludes or fails to permit Amateur Service communications, or which does not constitute the minimum practicable restriction on such communications to accomplish the lawful purposes specifically articulated in the declaration of covenants of a community association seeking to enforce such restriction. ARRL's proposed rule would not affect any existing antenna approved or installed before the effective date of a *Report and Order* resulting from ARRL's petition.

The proposed provisions reflect the accommodation reached in the ultimate version of the Parity Act bill at the urging of federal lawmakers between ARRL and the Community Associations Institute (CAI), the only organization representing homeowners' associations. "That legislation was passed unanimously by the House of Representatives four separate times and has the support of the Senate Commerce Committee and the current Administration," ARRL stressed.



"Private land use regulations are not 'contracts' in the sense that there is any meeting of the minds between the buyer and seller of land," ARRL said. "Rather, they are simply restrictions on the use of owned land, imposed by the developer of a subdivision... They bind all lots in the subdivision." ARRL noted in its *Petition* that an increasing number of homes available for purchase today are already subject to restrictive covenants prohibiting outdoor antennas.

In addition, ARRL pointed out that the Telecommunications Act of 1996 gives the FCC jurisdiction "to preempt private land use regulations that conflict with federal policy..."

"It is now time for actual and functional parity in the Commission's regulations in order to protect the strong federal interest in Amateur Radio communications," ARRL said. Read [more](#).

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