

HAM ANTENNA - "ARCHITECTURAL FEATURES"
PARTIAL FED. + STATE PREEMPTIONS
CA Govt Code § 65850.3 (2017)

Any ordinance adopted by the legislative body of a city or county that regulates amateur radio station antenna structures shall allow those structures to be erected at heights and dimensions sufficient to accommodate amateur radio service communications, shall not preclude amateur radio service communications, shall reasonably accommodate amateur radio service communications, and shall constitute the minimum practicable regulation to accomplish the city's or county's legitimate purpose.

It is the intent of the Legislature in adding this section to the Government Code, to codify in state law the provisions of Section 97.15 of Title 47 of the Code of Federal Regulations, which expresses the Federal Communications Commission's limited preemption of local regulations governing amateur radio station facilities.

(Added by Stats. 2003, Ch. 50, Sec. 1. Effective January 1, 2004.)

In *Howard v. City of Burlingame*, 1991, the 9th Circuit Court of Appeals distinguished the Burlingame ordinance from those of other cities that were preempted by PRB-1, by saying, "Burlingame's ordinance is clearly distinguishable from those which establish absolute limitations on antenna height and are thus facially inconsistent with PRB-1." See, e.g. *Evans v. Commissioners. City of Boulder and Bodony v. Incorporated Village of Sands Point*.

If Goleta's proposed zoning ordinance specifies a blanket prohibition on antennas, as an "architectural feature", exceeding 20% more than the building height limit for the property, that constitutes an absolute limitation on height for that property, and as such, is forbidden by federal and state versions of PRB-1.

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The 9th Circuit Court of Appeals declined to construct specific dimensional guidelines for handling, "... future applications (for ham antennas) in accordance with PRB-1, and agreed with the F.C.C. that municipalities must evaluate *each application* on its own merits".

I suggest that in the new zoning ordinance, ham radio antennas should not be lumped with "antennas" as an "architectural feature", which suggests that the only consideration may be aesthetic, but that an opportunity for "reasonable accommodation" for the physical requirements** for radio communications, e.g. in emergencies and disasters, be specified in the ordinance.

** The length of antennas, and their height above ground are related to the wavelengths of the radio waves involved. Ham radio operators are assigned the use of wavelengths from a fraction of an inch to more 500 feet long, with the most commonly used wavelengths for day-time, long-distance communications being about sixty feet long.

In no universe is 42 feet a sufficient height above ground for an antenna intended for long-distance communications — for instance, communication with stations outside the immediate zone of a natural disaster.

Skip: In a disaster or widespread emergency — fire, flood, earthquake — long-distance communications are often essential. For example, because radio waves often "skip" over the immediate area of the transmitter, locals may not be able to talk to one another, but all may be able to talk to a distant station for the relay of information.