



OFFICE OF CITY MANAGER

JUL 17 1995

CITY OF FARMINGTON

23600 Liberty Street • Farmington, MI 48335 • (313) 474-5500 • Fax (313) 473-7261

July 12, 1995

Office of the Secretary
Federal Communications Commission
1919 M. Street NW
Washington, D.C. 20554

DOCKET FILE COPY ORIG

Re: Proposed FCC Rule Change Relating to Satellite Dish
Regulation: FCC 95-180 IB Docket No. 95-59
DA 91-577; 45-DSS-MISC-93

Dear Sir or Madam:

This letter is in response to the Federal Communication Commission's (FCC's) request for comments regarding a proposed rule change to preempt, effectively, all local regulation of satellite antennae. Our community strongly opposes the rule change, which would usurp well established local zoning authority and would undermine or eliminate needed building safety regulations enforced at the local level.

The current FCC rule allows local regulation of satellite dishes, including placement, setback, and screening requirements, so long as the regulations have a reasonable and clearly defined health, safety, or aesthetic objective and do not impose unreasonable limitations or costs on users or prevent reception. The current rule, passed in 1986 in response to actions by some communities essentially prohibiting satellite dish use, acknowledges the legitimate need of a local community to regulate the use and placement of structures within it, as well as the aesthetic appearance and physical safety of such structures. The need for regulation of these matters has been recognized by countless federal and state courts, and legislatures, as both a community right and an obligation.

The proposed amended rule, however, is closely worded to require a local authority to prove the existence of a federal interest in creating "fair and efficient competition" between communications service providers in order to avoid preemption. It also creates a "presumption" of preemption for dishes under two meters in diameter in commercial districts and one meter in residential districts, and authorizes an application to the FCC for a decision whether a local ordinance is preempted, setting up in effect a federal "zoning" commission -- but one without any expertise (or interest) in traditional zoning or land use principles or concepts.

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FCC No. 95-17

The new rule, in other words, is as a practical matter a total prohibition on all local regulation of satellite dishes. It also represents a complete rejection of the proposition -- implicitly accepted by the FCC under the current rule -- that some "balancing" must be done between the legitimate interests in allowing free speech and the communication of information, on one hand, and a local community's ability to protect both residential and commercial areas from declining property values and visual blight, among other things, on the other.

The current rule is clear enough: local communities can't regulate satellite dishes out of existence, and they can't stop a property owner from having a dish; they can, however, employ reasonable means to further legitimate safety and aesthetic goals. There is no reason to upset this existing balance of interests merely to address the "stray" case of overreaching by a particular municipality.

In sum, we strongly oppose the rule change noticed for comment, and would like our position recorded with those of other opposed communities.

Very truly yours,

City Council, City of Farmington


Frank J. Lauhoff, City Manager



City of Bloomfield Hills

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City Manager
Charles H. Harmon, Jr.

July 11, 1995

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Charles H. Harmon, Jr.
City Manager

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The proposed amended rule, however, is closely worded to require a local authority to prove the existence of a federal interest in creating fair and efficient "competition" between communications service providers in order to avoid preemption. It also creates a "presumption" of preemption for dishes under two meters in diameter in commercial districts and one meter in residential districts, and authorizes an application to the FCC for a decision whether a local ordinance is preempted, setting up in effect a federal "zoning" commission--but one without any expertise (or interest) in traditional zoning or land use principles and concepts.

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CITY OF BLOOMFIELD HILLS



Charles H. Harmon, Jr.

City Manager

WH:CH:cal