

**47 CFR §97.15(b).** Subsequent to the issuance of the FCC's Order, the essence of PRB-1 was issued as a Federal regulation. The text of 47 CFR §97.15 may be found at: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=47&PART=97&SECTION=15&YEAR=1999&TYPE=TEXT>, but is short enough to be included here:

Sec. 97.15 Station antenna structures.

(a) Owners of certain antenna structures more than 60.96 meters (200 feet) above ground level at the site or located near or at a public use airport must notify the Federal Aviation Administration and register with the Commission as required by part 17 of this chapter.

(b) 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. See PRB-1, 101 FCC 2d 952 (1985) for details.)

[64 FR 53242, Oct. 1, 1999]

Thus, the locality must answer “yes” to this additional question:

- Does the ordinance permit “heights and dimensions” sufficient to accommodate amateur service communications? [Note: Restrictions on height and dimensions are subject to this scrutiny.]

**DA 99-2569.** An additional FCC order was issued in 1999, stating the FCC position on two items which some localities and courts had found confusing. DA 99-2569 rejects balancing tests (“it is clear that a “balancing of interests” approach is not appropriate”). The local authority may not balance the interests of the community against those of the amateur, as the FCC has already done the balancing and issued a Federal rule.

The FCC further ordered that “the very least regulation necessary for the welfare of the community must be the aim of its regulations so that such regulations will not impinge on the needs of amateur operators to engage in amateur communications.”

This Order may be found at <http://www.fcc.gov/Bureaus/Wireless/Orders/1999/da992569.txt>.

Thus, the locality must answer “no” to these questions:

- Does the ordinance permit a “balancing of interests” approach to the application for a permit?
- Does the ordinance “impinge on the needs of amateur operators to engage in amateur communications”?