

ORDINANCE 2007-15

AN ORDINANCE AMENDING THE CITY OF MARTINSBURG CODE, PART 17, BY AMENDING ARTICLE 1719 TO PROVIDE FOR THE PLACEMENT OF SATELLITE DISH ANTENNAS OR SATELLITE SIGNAL-RECEIVING DISH-TYPE EARTH STATIONS WITHIN THE CORPORATE LIMITS OF THE CITY OF MARTINSBURG

Satellite Dishes and Antennas

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARTINSBURG, that the Code of the City of Martinsburg, Part 17, be amended by adding "Article 1719 Satellite Dishes and Antennas" to include the following provisions:

SATELLITE DISHES AND ANTENNAS

1719.01 INTENT.

It is the intent of these regulations to ensure the following health, safety and aesthetic objectives:

- (a) To limit interference with natural sunlight and the circulation of air and to preserve space for trees and other plants;
- (b) To minimize the potential of dish antennas to block views, impair security, hinder utility or emergency access, pose safety hazards, particularly in high wind conditions, and accumulate weeds and debris underneath;
- (c) To reduce visual impact of dish antennas on the distinctive nature of both old and new homes, and to preserve property values;
- (d) To preserve pre-historic or historic sites, buildings, structures or objects included in, or eligible for inclusion on the National Register of Historic Places; and
- (e) To establish regulations which are reasonable and necessary to achieve the stated objectives.

1719.02 DEFINITIONS.

"Dish-type satellite signal-receiving earth station", sometimes referred to hereinafter as earth station or dish antenna, means an antenna of dish shape that is accessory to a permitted main building and installed for the purpose of receiving or transmitting signals related to communications for satellite transmissions.

1719.03 PERMIT NOT REQUIRED.

A permit is not required for the following types of dish antennas; However, any owner wishing to install a satellite dish more than one meter (39,37 inches) in diameter as listed below shall be required to register such intent with the Martinsburg Planning Department.

- (a) Satellite dish antennas that are one meter (39.37 inches) or less in diameter may be located in any residential zoning district. The City prefers placement of the antenna as follows:
- (1) That, if attached to the main building, such dish antenna be secured to a side wall, rear wall or roof. That, if roof-mounted, such dish antenna be mounted only upon the portion of any hip, gable or gambrel roof that faces the rear yard and not exceed the maximum height of the roof upon which it is mounted. That, if placement is on a flat roof, the dish antenna be set back from the building face a distance at least equal to the height by which it exceeds the building height.
 - (2) That, if not attached to the main building, such dish antenna, including its base or substructure, be located in a side or rear yard no less than ten feet from any lot line.
PROVIDED, THAT, the preferences in (1) and (2) above, shall be applicable only if such placement does not inhibit or impair, in any way, a person's ability to install, maintain, or use such an antenna.
- (b) Satellite dish antennas that are between one meter and two meters (78 inches) in diameter may be located in the Downtown Business District subject to the following:
- (1) If the site proposed for placement dish antenna is not a site building, or structure included in, or eligible for inclusion in, the National Register of Historic Places.
 - (2) Such dish antenna shall be secured to the roof of the main building, mounted only upon the portion of any hip, gable or gambrel roof that faces the rear yard and shall not exceed the maximum height of the roof upon which it is mounted. On flat roof, the dish antenna shall be set back from the building face a distance at least equal to the height by which it exceeds the building height.
 - (3) No portion of this size dish antenna or any supporting structure shall extend over a public right of way or public sidewalk.
- (c) Satellite dish antennas that are one meter (39.37 inches) or less in diameter may be located in the Downtown Business District subject only to the same restrictions and provisos as are set forth in (a)(1) and (2) above, except that the City hereby restricts placement of such antennas on structures included in, or eligible for inclusion in, the National Register of Historic Places, to the extent, and only to such extent, that such restriction is no more burdensome than necessary to accomplish its preservation purpose.
- (d) Satellite dish antennas that are between on meter and two meters (78 inches) in diameter may be located in the Business Districts (excluding Downtown Business District), Industrial Districts or Planned Development Districts subject to the following:
- (1) The site proposed for placement of the dish antenna is not a site, building, or structure included in, or eligible for inclusion in, the National Register of Historic Places.
 - (2) If attached to the main building, such dish antenna shall be secured to a side wall, rear wall or roof; however, no portion of a dish antenna or any supporting structure shall extend over a public right of way or public sidewalk.

- (3) If not attached to the main building, such dish antenna, including its base or substructure, shall be located in a side or rear yard no less than ten feet from any lot line.
- (e) Satellite dish antennas that are one meter (39.37 inches) or less in diameter may be located in the Business Districts (excluding Downtown Business District), Industrial District or Planned Development Districts subject only to those same restrictions and provisos as are set forth in (c) above.

1719.04 PERMIT REQUIRED; FEE.

Except as provided in the above section and except as to dish-type antennas one meter (39.37 inches) or less, no person, firm or corporation shall erect a satellite dish-type earth station without a permit and no installation or erection shall commence before a permit is issued in accordance with this Chapter. The permit fee for such satellite dish earth station is \$15.

1719.05 APPLICATION FOR PERMIT; PLANS.

Any owner who desires to construct or erect a satellite dish-type earth station in excess of one meter (39.37 inches) may apply to the Martinsburg Planning Department for the permit as required by this Chapter.

(a) Narrative Information.

- (1) The applicant shall submit the permit application upon forms provided by the Martinsburg Planning Department.
- (2) A part-owner, occupant or renter must submit documentation of written permission from the owner of the lot, premises or parcel of land within the City on which such construction or erected satellite station is proposed.
- (3) The application shall indicate the owner or owners of the subject property, the occupant of the subject premises and the contractor or other person who will be permitted to construct or erect the proposed satellite dish earth station.
- (4) The applicant shall also submit documentation demonstrating that the dish antenna must be sized in the proposed location. If the size of the proposed dish antenna is greater than one meter in residential districts and greater than two meters on nonresidential districts, documentation shall be submitted indicating that such size is technically necessary.

(b) Plans.

- (1) The applicant shall submit a plot plan of the lot, premises or parcel of land, showing the exact location of the proposed earth station and the location of all buildings on the subject lot and a description of the kind of earth station dish proposed.

