

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 one 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.

- (2) In addition to all other application requirements, nonresidential application shall include three complete sets of construction plans, specifications and elevations of the proposed location with sufficient details to show the method of assembly and construction. Each set of plans and specifications shall show the complete name and address of the subject property owner and the complete name and address of the person who prepared the plans and specifications. The City Engineer/Planning Director may require construction plans to be certified with a Professional Engineer's stamp.
- (c) Review.
 - (1) The Martinsburg Planning Department shall review the submitted application and shall note thereon whether all of the requirements of this chapter have been satisfied. The City Engineer/Planning Director may waive any of the above requirements that he/she determines to be inapplicable in specific instances. The provisions of the Building and Planning and Zoning Codes, so far as they are consistent with this chapter and applicable hereto, shall also apply to the construction of an earth station, except for additional fees.

1719.06 LOCATION OF SATELLITE DISH EARTH STATION.

For satellite dish earth stations or antennas greater than one meter (39.37 inches), the following is applicable:

- (a) To the maximum extent feasible, no earth station shall be erected in any front or side yard or within ten feet of any lot line.
- (b) An earth station may be secured to a side wall, rear wall or roof of the main building. If roof-mounted, such dish antenna shall be 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 roofs, the dish antenna shall be set back from the building face a distance to least equal to the height by which it exceeds the building height.
- (c) No earth station shall be linked to receivers which are not located on the same lot or premises as the earth station, unless the owner or occupant of the premises is operating pursuant to a franchise granted by the City of Martinsburg.

1719.07 SIZE.

The maximum diameter of any earth station shall not exceed four meters (156 inches).

1719.08 HEIGHT.

Unless attached to a main building, the maximum height of any earth station structure shall not exceed thirteen feet from natural grade level, unless, as to antennas which are one meter (39.37 inches) or less in diameter, a greater height is required to provide adequate reception or transmission.

1719.09 SCREENING; LETTERING; COLOR.

- (a) The dish shall be screened so as to permanently shield most of the structure from view from adjoining properties and public rights of way, unless, as to antennas which are one meter (39.37 inches) or less in diameter, such screening is unreasonably expensive or impairs reception or transmission of the signal.
- (b) No lettering, numerals, symbols, pictorial signs or designs shall be permitted on any surface of the earth station. No earth station dish shall be painted in a color other than grey, white or earth tones.

1719.10 DISMANTLING AND REMOVAL.

- (a) In the event that a satellite dish no longer serves its intended purpose, it shall be the responsibility of the owner of such premises upon which an earth station is located to cause the same to be dismantled completely, including all support structures and appurtenances and removed from the property.
- (b) Rental properties with existing satellite dishes that do not conform to the location requirements in this article must completely remove the nonconforming satellite dishes and all support structures and appurtenances prior to any change in tenants. Relocation or new installation of satellite dishes must conform to all requirements of this article.

1719.11 LIMITATIONS.

- (a) Only one dish antenna of any type shall be permitted for each dwelling unit, unless, as to antennas which are one meter (39.37 inches) or less in diameter, additional antennas are required to obtain adequate reception or transmission of signals.
- (b) Only one dish antenna of any type shall be permitted for each commercial use as determined by the City Engineer/Planning Director based on a review of Occupancy Permits, unless, as to antennas which are one meter (39.37 inches) or less in diameter, additional antennas are required to obtain adequate reception or transmission of signals.

1714.12 SEVERABILITY.

- (a) This ordinance and its various parts are hereby declared to be severable. If any section, clause, provision or portion of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of either this ordinance as a whole or any parts not declared invalid or unconstitutional.
- (b) If any part of this ordinance is found to be in conflict with any other ordinance of ordinance of the City of Martinsburg, the most restrictive or highest standard shall prevail.

1719.13 PENALTY.

Whoever violates or fails to comply with any provision of this chapter is guilty of a misdemeanor punishable by a fine of up to \$300. Each day that a violation continues, after due notice has been served, shall be deemed a separate offense.

Be it further Ordained by the City Council of the City of Martinsburg that this Ordinance shall take effect upon the date of adoption.

INTRODUCED: _____

ADOPTED: _____

THE CITY OF MARTINSBURG
WEST VIRGINIA, a municipal corporation

By: _____
George Karos, Mayor

Attest:

Sharon A. Flick, City Recorder