

Legislation Text

File #: 100200-AAAA, Version: 5

Amending Title 14 of The Philadelphia Code, entitled "Zoning and Planning," by amending Section 14-231, entitled "Residential District Rules and Exceptions," by providing for restrictions on placement, installation and maintenance of certain satellite dishes and antennas, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Subcode "PM" of Title 4 of The Philadelphia Code is amended to read as follows:

SUBCODE "PM" (THE PHILADELPHIA PROPERTY MAINTENANCE CODE)

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CHAPTER 3. GENERAL PROPERTY AND STRUCTURAL MAINTENANCE

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§ PM-304.0 EXTERIOR STRUCTURE

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PM-304.3 Walls: All exterior walls shall be free from holes, breaks, loose or rotting materials; and maintained weatherproof and properly surface coated or pointed where required to prevent deterioration.

PM-304.3.1 Satellite Dishes and Antennas.

(a) Findings:

Whereas, The City of Philadelphia was established by Charter of 1701, is considered the birthplace of American Independence, the American Revolution and a centerpiece of early American history; and

Whereas, Philadelphia boasts historical, cultural and architectural lineage longer than that of almost any other place in America, with much of its buildings dating from the early 20th Century or earlier; and

Whereas, Certain considerations should be made to preserve the character and appeal of this uniquely American city as modern technological advancements are integrated into the City's landscape; and

Whereas, The City of Philadelphia has a vested interest in protecting its neighborhoods from

conditions that could substantially and interfere with enhancing quality of life, fostering and facilitating commerce, maintaining and improving property values, and preserving and protecting the public's health, safety, and welfare; and

Whereas, The City of Philadelphia has an interest in ensuring the structural integrity and safety of building appurtenants, particularly those that extend into the public right-of-way; and

Whereas, The City of Philadelphia also recognizes the interest of its citizens in receiving and maintaining access to television, cable and satellite airwaves; and

Whereas, The Federal Communications Commission in 1996 adopted the Over-the-Air Recepton Devices ("OTARD") rule concerning governmental and nongovernmental restrictions on viewers' ability to receive video programming signals; and

Whereas, Since then, the OTARD ruling has been interpreted by the FCC to allow the imposition of "reasonable" regulations on satellite dish and antenna placement under terms and conditions that don't impede signal access; and

Whereas, Particular attention needs to be given to tailoring measures that properly balance the interest of cable and satellite signal access and the City's interest in quality of life enhancement, historic preservation and public safety.

(b) Where an alternative location is available, including but not limited to a roof, rear yard or façade, or side yard or façade, no property owner or tenant in a multiple-family or two-family dwelling shall place or permit the placement of a satellite dish or antenna between the façade of the building and the street, unless the device is wholly within a balcony or patio area that is under the exclusive use or control of the unit owner or tenant.

(c) Where an alternative location is available for placement of a satellite dish or antenna, with no material delay or material reduction in signal reception and at no significant additional cost to the owner or tenant (including but not limited to a roof, rear yard or facade, or side yard or facade), no property owner or tenant in a one-family dwelling shall place, install or maintain, or allow to be placed, installed or maintained, a satellite dish or antenna between the facade of a building and the street.

(d) Any property owner or tenant in a one-family, two-family or multi-family dwelling, if his or her satellite dish or antenna was installed by a provider or installer, shall keep the certification provided by the installer as required by section 9-632(4) of this Code at the residence at which the satellite dish or antenna is maintained, and shall produce it upon request by an inspector from the Department.

(e) No property owner or tenant shall place a satellite dish or antenna that does not meet one of the following criteria between the façade of any building and the street:

(.1) A "dish" antenna that is one meter or less in diameter and is designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite.

(.2) An antenna that is one meter or less in diameter or diagonal measurement and is designed to receive video programming services via broadband radio service (wireless cable) or to receive or transmit fixed wireless signals other than via satellite.

(.3) An antenna that is designed to receive local television broadcast signals.

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SECTION 2. Title 9 of The Philadelphia Code is amended to read as follows:

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS

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CHAPTER 9-600. REGULATION OF SERVICE AND OTHER BUSINESSES

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§ 9-632. *Television Access Providers and Installers.*

(1) Findings:

The Findings set forth in Section PM-304.3.1(a) of this Code are incorporated herein by reference.

(2) Where an alternative location is available for placement of a satellite dish or antenna, with no material delay or reduction in signal reception and at no significant additional cost to the owner or tenant (including but not limited to a roof, rear yard or facade, or side yard or facade), no television access provider or installer shall place or install a satellite dish or antenna between the facade of a one-family dwelling and the street.

(3) Where an alternative location is available, including but not limited to a roof, rear yard or facade, or side yard or facade, no television access provider or installer shall place or install a satellite dish or antenna between the facade of a multiple-family or two-family dwelling and the street, unless the device is wholly within a balcony or patio area that is under the exclusive use or control of the unit owner or tenant.

(4) If the television access provider or installer ascertains, at the time of installation, that a satellite dish or antenna cannot be placed at a one-family dwelling in a location other than between the facade of a building and the street without a material delay, material reduction in signal reception or significant additional cost, or cannot be placed on a multiple-family or two-family dwelling in compliance with § 9-632(3) hereof, the provider or installer shall provide the user of the device with a signed statement certifying that, based on actual testing conducted at the site, the satellite dish or antenna cannot be placed in a location other than between the facade of the building and the street

without a material delay, material reduction in signal reception or significant additional cost. In the case of a multiple-family or two-family dwelling, the certification shall state that no alternative location was available as required by § 9-632(3). A copy of the certification form shall be provided to the Department, and a copy shall be maintained at the office of the installer or provider.

(5) A television access provider or installer of an existing satellite dish or antenna located between the façade of the building and the street shall, within 60 days after the date this ordinance is signed into law, notify the Department, in a form satisfactory to the Department, of the existence of the device, if the owner or tenant of the building at which the satellite dish or antenna is installed intends to continue to maintain the device at that location.

(6) The television access provider or installer of a satellite dish or antenna shall remove all satellite dishes or antennas that it previously installed, when such dish or antenna is no longer in service.

(7) No television access provider or installer shall place or install a satellite dish or antenna between the facade of a building and the street, where such dish or antenna does not meet one of the criteria set forth in §PM-304.3.1(e), and unless the installer has painted the dish to match the color of the building façade as closely as possible.

(8) A television access provider or installer who is found to be in violation of any of the provisions of this section may be assessed a penalty as provided in § 9-105.

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SECTION 3. The provisions of § PM-304.3.1(b), added by Section 1 of this ordinance, shall be effective with respect to any pre-existing satellite dish or antenna sixty (60) days after this ordinance is approved.

Explanation:

Italics indicate new matter added.