

METROPOLITAN POLICE DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

The Chief of Police, pursuant to section 2702(a) of the Metropolitan Police Department Video Surveillance Regulations Act of 2002 (Act), effective October 1, 2002 (D.C. Law 14-190; D.C. Official Code § 5-133.19(a)), and pursuant to the authority established in Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), hereby gives notice of his intent to adopt amendments to Chapter 25 (Metropolitan Police Department Use of Closed Circuit Television) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR) for the purpose of authorizing the use of the closed circuit television system in a pilot project for the purpose of combating crime.

The amendments would authorize a pilot project at up to three (3) separate locations for the purpose of evaluating the use of closed circuit television in preventing, detecting, deterring, or investigating crime in neighborhoods in the District of Columbia. The amendments establish criteria for selecting the pilot project locations, provide for passive monitoring, require the Chief of Police to report on the project's effectiveness within one (1) year of its initiation, and require approval from the Council before expanding the program beyond the pilot project.

Pursuant to section 2702(b) of the Act (D.C. Official Code § 5-133.19(b)), the proposed rulemaking is being transmitted to the Council of the District of Columbia for a 45-day period of review. Final rulemaking action shall be taken in not less than thirty (30) days from publication of this notice in the *D.C. Register*, or upon approval by the Council by resolution, whichever occurs later. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within the 45-day review period, the proposed rules shall be deemed disapproved.

Chapter 25 of Title 24 DCMR is amended as follows:

Section 2500.1 is amended by striking the phrase "within the Synchronized Operations Command Complex (SOCC)".

Section 2500.2 is amended by striking the phrase "and (2) to coordinate traffic control on an as needed basis" and inserting the phrase "(2) to coordinate traffic control on an as needed basis; and (3) to combat crime as authorized by § 2508." in its place.

Section 2501.10 is repealed.

Section 2502.1 is amended to read as follows:

"The Chief of Police shall provide public notification prior to the deployment of any additional permanent cameras, except:

“(a) Under exigent circumstances;

“(b) When cameras are deployed pursuant to a court order; or

“(c) When the Chief of Police determines that such notification would undermine the camera’s crime-fighting utility as described in § 2508.”.

Section 2504.2 is amended by striking the phrase “SOCC personnel will enter activation information, including the disposition of any observed incidents, into the running resume of the daily SOCC report, including” and inserting the phrase “MPD personnel will record activation information, including the disposition of any observed incidents,” in its place.

Section 2504.3 is amended to read as follows:

“2504.3 An official at the rank of Sergeant or above shall be present and shall supervise and monitor CCTV activities wherever they may occur.”

Section 2505.4 is amended by striking the phrase “of the SOCC.”.

Section 2505.11 is amended by striking the phrase “SOCC staff shall maintain a video catalog” and inserting the phrase “MPD personnel shall maintain a video catalog” in its place.

A new section 2508 is added to read as follows:

“2508 USE OF CCTV TO COMBAT CRIME

“2508.1 The Chief of Police is authorized to conduct a pilot project at no more than three (3) separate locations for the purpose of evaluating the effectiveness of the use of video surveillance in preventing, detecting, deterring, or investigating crime in neighborhoods in the District of Columbia.

“2508.2 The Chief of Police shall, at a minimum, consider the following factors prior to using the CCTV system to combat crime:

“(a) The occurrence of a disproportionately high number of calls for service in the proposed CCTV camera location within the preceding 6-month period;

“(b) Any crimes that were committed in the proposed CCTV camera location within the preceding 6-month period; and

“(c) Any other objectively verifiable information from which the Chief of Police may ascertain whether the health, safety, or property of residents who live in the proposed CCTV location are endangered by crime or other illegal activity.

“2508.3 When CCTV is used to combat crime, recordings may be passively monitored, meaning that the video feeds may not be monitored in real time, and recordings may

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be viewed by MPD personnel where there is reason to believe that the viewing may help solve a crime.

- “2508.4 Notwithstanding § 2508.5, the Chief of Police shall consult with the relevant Councilmember and the relevant ANC Commissioner prior to deploying CCTV cameras to combat crime.
- “2508.5 The Chief of Police is authorized to deploy cameras without first notifying or soliciting comments from the public if the Chief of Police determines that such notification would undermine the camera’s crime-fighting utility as described in this section. As soon as the Chief of Police determines that the camera will not provide any additional crime-fighting utility, the camera shall be turned off, and shall be removed as soon as feasible. The Chief of Police will provide post-deployment public notification of any camera deployed under this provision.
- “2508.6 Within one (1) year of initiating the pilot project, the Chief of Police shall report to the Mayor and to the Council on the project’s effectiveness at preventing, detecting, or solving crime. The report shall also evaluate whether the presence of cameras served to displace criminal activity.
- “2508.7 If the Chief of Police determines that CCTV is effective at preventing, detecting, or solving crime, he may seek amendment of these regulations, subject to Council approval, to expand the program beyond the pilot project.”.

Section 2599.1 is amended to read as follows:

“2599 DEFINITIONS

“2599.1 When used in this chapter, the following words and phrases shall have the meanings ascribed:

“Chief of Police – The Chief of Police or his or her designee.

“Closed Circuit Television – Any live video link that is electronically received into any MPD property.

“Demonstration – A temporary presentation of the capacity of the CCTV system to visitors of the MPD.

“Exigent Circumstances – Unanticipated situations that threaten the immediate safety of individuals or property within the District of Columbia.

“External Video Feeds – Any video link received by MPD on a live basis from a source other than MPD.

“Public Entities – District of Columbia, state, or federal agencies.

“Public Notice or Notification– Notice that includes at a minimum, but is not limited to, publication in the *D.C. Register*, posting on the MPD website, written notice to the relevant Councilmember, written notice to the relevant ANC Commissioner, and issuance of a press release.”

Any person desiring to comment on these proposed rules should submit comments in writing no later than thirty (30) days from the date of publication of this notice in the *D.C. Register*. Comments should be filed with Terrence D. Ryan, General Counsel, Metropolitan Police Department, Room 4125, 300 Indiana Avenue, N.W., Washington, D.C. 20001. Copies of the proposed rules may be obtained without charge at the same address.

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, DC 20005**

NOTICE OF PROPOSED RULEMAKING

**FORMAL CASE NO. 990, IN THE MATTER OF DEVELOPMENT
OF LOCAL EXCHANGE CARRIER QUALITY OF SERVICE
STANDARDS FOR THE DISTRICT**

The Public Service Commission of the District of Columbia ("DCPSC"), pursuant to its authority under D.C. Code, 2001 Ed. § § 34-802 and 34-2002(g) hereby gives notice of its intent to adopt the following amendments to Chapter 27 of Title 15 DCMR. The amendments establish retail quality of service measures and standards for these measures. The Commission gives notice of its intent to take final rulemaking action not less than thirty (30) days after publication of this notice in the *D.C. Register*.

**CHAPTER 27 REGULATION OF CERTIFIED TELECOMMUNICATIONS
SERVICE PROVIDERS**

2720 RETAIL QUALITY OF SERVICE MEASURES

All telecommunications service providers having more than 10,000 access lines shall comply with and report on the following retail quality of service measures.

- 2720.1 Installation Commitments Met measure – This measure evaluates the percentage of times that a telecommunications service provider completed the installation of the customer's local exchange service by the end of the day on the installation date set by the telecommunications service provider.
- (a) The standard for this measure is 95 percent completion by the installation date per month.
 - (b) Results for this measure shall be calculated by dividing the number of installation dates met by the total number of installation date commitments made. Results shall be stated as a percentage rounded to the hundredth using traditional mathematical rounding.
 - (c) Data collected for this measure shall be disaggregated into residential and business customer categories and reported by these categories.
 - (d) If the installation date is missed due to customer fault, then it shall not be included in the sample to be measured. Customer fault

means that the customer is not ready for the installation or access to the customer premises is unavailable or unsafe, unless the customer requests a different installation date from the telecommunications service provider before the installation date.

2720.2 Trouble Reports Per 100 Lines measure – This measure evaluates the number of access lines per 100 access lines for which a customer reports a trouble.

- (a) The following types of access lines shall be included in the measurement: residential access lines, business Centrex lines, payphone lines, and voice-grade PBX trunks.
- (b) Customer trouble reports for the following services shall not be included in the measurement: dedicated non-switched services, wide area telephone service, integrated service digital network services, the special service portion of PBX service, broadband services, voice mail, customer premises equipment, inside wire, and payphone equipment.
- (c) If a customer has multiple access lines and more than one access line experiences a network service problem, then each access line shall be counted separately.
- (d) The standard for this measure is 4 troubles per 100 lines.
- (e) Results for this measure shall be calculated by dividing the number of initial trouble reports by the total number of access lines. This figure is then multiplied by 100. Results shall be reported to the hundredth decimal place, rounded using traditional mathematical rounding principles.

2720.3 Out-of-service Clearing Time measure – This measure evaluates the percentage of customer trouble reports that are classified as out-of-service problems that are cleared within 24 hours.

- (a) For purposes of starting the 24-hour time clock to calculate the time period:
 - (1) If an outage report is received during normal business hours, then the time clock begins when the outage report is received by the telecommunications service provider.
 - (2) If an outage report is received outside of normal business hours, then the time clock begins at the beginning of the day on the next business day.

- (3) If the telecommunications service provider is unable to gain access to the customer premises to repair the out-of-service condition, then the 24-hour time clock is stopped until the provider can gain access to the property.
 - (4) Each telecommunications service provider shall establish its normal business hours in its customer bills and on a page that is readily accessible to consumers on its website.
- (b) The standard for this measure shall be 80 percent clearance within 24 hours.
 - (c) Results for this measure shall be calculated by dividing the number of trouble reports cleared within 24 hours by the total number of out-of-service reports received. The result shall be reported as a percentage rounded to the hundredth decimal place using traditional mathematical rounding.
 - (d) Data collected for this measure shall be disaggregated into residential and business customer categories and reported by those categories.
- 2720.4 Data for all measures shall be collected and reported on a District of Columbia-wide basis.
- 2720.5 Exceptions - The measures shall not apply to the following services: UNE-P, UNE-L, DS1, DS0, DS3, EEL, resold services, and VoIP. Additionally, failures caused by collocation or interconnection problems shall not be included in the sample size.
- 2720.6 Reporting - Each telecommunications service provider shall collect and retain accurate data demonstrating their compliance with the measures in this chapter. Data is to be collected on a monthly basis in a format established by Commission order.
- (a) Each telecommunications service provider shall submit their monthly reports to the Commission on a quarterly basis, with the months of January, February, and March being submitted on April 30; the months of April, May, and June being submitted on July 30; the months of July, August, and September being submitted on October 30; and the months of October, November, and December being submitted on January 30 of the next year.
 - (b) If a telecommunications service provider fails a measure in a quarterly report, the provider shall file an explanation for the

failure and a plan to remedy the failure. If the failure was due to data clustering, customer error, or unforeseeable events, then the telecommunications service provider may request a waiver of the performance standard. The request for a waiver shall contain a detailed explanation of the reasons for granting such a waiver.

- (c) Each telecommunications service provider shall retain its reporting data for three years in the case of an audit by the Commission.

2799 DEFINITIONS

“Access line” means a telecommunications channel of varying size that is associated with a particular telephone number.

“Business customer” means a customer who subscribes to a telecommunications service provider’s business services.

“Clearing” means that the telecommunications service provider has restored the service to the customer, so the out-of-service problem no longer exists.

“Customer trouble report” means a report of a trouble on a customer’s access line received by the telecommunications service provider. The customer trouble report can be filed by the customer, a third party, or an employee of the telecommunications service provider.

“Out-of-service” means a condition in which the customer either cannot complete outgoing calls or receive incoming calls or where interference makes connected calls incomprehensible.

“Installation date” means the date set by the telecommunications service provider by which an installation of an access line is to be completed.

“Outage report” means a report to the telecommunications service provider of an out-of-service condition.

“Residential customer” means a customer who subscribes to a telecommunications service provider’s residential services.

“Retail Quality of Service Measures” means the measures used to evaluate telecommunications service providers’ quality of service to retail customers.

“Trouble” means an impairment of the telephone network, or a deviation from its design specifications.

All persons interested in commenting on the subject matter of this proposed rulemaking action may submit written comments and reply comments not later than thirty

(30) and forty-five (45) days, respectively, after publication of this notice in the *D.C. Register* with Dorothy Wideman, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., East Tower, Suite 700, Washington, DC 20005. Copies of these proposed rules may be obtained, at cost, by writing the Commission Secretary at the above address.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
CORRECTED AND REVISED NOTICE OF PROPOSED RULEMAKING
Z.C. Case No. 02 - 19
(Text Amendment – Forest Hills Tree and Slope Overlay District - 11 DCMR)
May 8, 2006**

The Zoning Commission for the District of Columbia, pursuant to the authority set forth in § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799; D.C. Official Code § 6-641.01), hereby gives notice of the intent to adopt an amendment to Chapter 15 of the Zoning Regulations (11 DCMR), MISCELLANEOUS OVERLAY DISTRICTS. The proposed rule would add a new Tree and Slope Protection overlay in the Forest Hills area of the District of Columbia. Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register* (“DCR”).

This is the third notice of proposed rulemaking for this text amendment. A notice of proposed rulemaking was originally published on December 13, 2002 at 49 DCR 11309. Before the Commission considered final action on the proposed rule, however, it requested that the Office of Planning come up with an alternative approach to accomplish the goals of the proposed overlay district. The Office of Planning submitted a new proposed text, and the Commission published a new notice of public hearing on March 12, 2004 at 51 DCR 2707. The Commission then republished the notice of public hearing on May 21, 2004 at 51 DCR 5207 after it rescheduled the hearing date. The Commission ultimately decided against the alternative approach. Instead, at a decision meeting held March 14, 2005 the Commission decided to apply the provisions of the original proposed rulemaking, but restrict the application of some of its provisions to a limited area within the overlay district.

The Commission published a Notice of Proposed Rulemaking requesting public comments on this approach on March 31, 2006 at 53 DCR 2435. However, that notice inadvertently included a section carried over from the original notice of proposed rulemaking that it intended to delete from the text. At its May 8, 2006 public meeting, the Commission clarified that it did not intend to include the section in the text, and authorized the publication of this corrected notice of proposed rulemaking. In addition, the second page of the proposed notice did not appear as a result of a publication error.

The following text reflects the Commission’s decision at its March 14, 2005 meeting, as clarified by the Commission at its May 8, 2006 meeting, and is to be given effect for the purpose of processing applications for building permits and certificates of occupancy, as provided by 11 DCMR §§ 3202.5(b) and 3203.7(b) (commonly referred to as the “setdown rule”).

The following rulemaking action is proposed:

Title 11, Chapter 15 of the Zoning Regulations (11 DCMR), MISCELLANEOUS OVERLAY DISTRICTS is amended by adding new sections 1516 through 1520 to read as follows:

1516 FOREST HILLS TREE AND SLOPE PROTECTION OVERLAY DISTRICT

1516.1 The Forest Hills Tree and Slope Protection (FH/TSP) Overlay District is established to preserve and enhance the park-like setting of the designated neighborhoods between Connecticut Avenue and Thirty-Second Street on the west and Rock Creek Park on the east, south of Fort Circle National Park and Nevada Avenue, N.W., north of Melvin C. Hazen Park and adjacent to streams and parks, by regulating alteration or disturbance of terrain, destruction of trees, and ground coverage of permitted buildings and other impervious surfaces. It includes Soapstone Valley Park as well as Melvin C. Hazen Park.

1516.2 The purposes of the FH/TSP Overlay District are to:

- (a) Preserve the natural topography and mature trees to the maximum extent feasible in the Forest Hills neighborhoods;
- (b) Prevent significant adverse impact on adjacent open space, parkland, stream beds, or other environmentally sensitive natural areas; and
- (c) Limit permitted ground coverage of new and expanded buildings and other construction, so as to encourage a general compatibility between the siting of new buildings or construction and the existing neighborhood.

1516.3 The FH/TSP Overlay District has a significant quantity of steep slopes, has stands of mature trees, is located at the edge of stream beds and public open spaces, and has undeveloped lots and parcels subject to potential terrain alteration and tree removal. Few lots are developed on a rectangular grid system.

1516.4 The Forest Hills Tree and Slope Overlay district includes all lots zoned R-1-A, R-1-B, and R-2 in squares 2030 through 2033, 2040 through 2043, 2046, 2049 except for lots 804 (Van Ness North), 805 (Van Ness Center), 806 (Van Ness South), Square 2231, 2232, 2238, 2239, 2241 through 2251, 2254 through 2256, 2258, 2262 through 2270, 2272, 2274 through 2277, and 2282.

1517 GENERAL PROVISIONS (FH/TSP)

1517.1 The FH/TSP Overlay District is mapped in combination with the underlying R-1, R-1-B or R-2 District and not in lieu of the underlying district.

1517.2 Where there is a conflict between the FH/TSP Overlay District and an underlying zoning district, the more restrictive provisions of the FH/TSP shall govern.

1518 GROUND COVERAGE RESTRICTIONS (FH/TSP)

1518.1 The principal building and any accessory building on the lot shall not exceed total lot occupancy of thirty percent (30%).

1518.2 The maximum impervious surface coverage on a lot shall be fifty percent (50%); provided this subsection shall not:

- (a) Preclude enlargement of a principal building in existence as the effective date of the FH/TSP overlay; or
- (b) Create nonconformity of a structure as regulated by chapter 20 of this title.

1518.3 To the extent that any residential district within the overlay requires a side yard, the side yard requirement for all buildings, accessory buildings, or an addition to buildings shall be a minimum of eight (8) feet and a minimum of twenty-four (24) feet in the aggregate.

1519 RESTRICTIONS (FH/TSP)

1519.1 The provisions of this section shall only apply to Squares 2042, 2043, 2046, 2049, 2231, 2232, 2238, 2239, 2244 to 2248, 2250, 2258, 2272, and 2282.

1519.2 Constructing a building, accessory building, or an addition to a building; creating any impervious surface area; subdividing any unimproved lot; or subdividing any improved lot so as to increase the number of principal structures thereupon shall only be permitted as a matter of right subject to the following tree removal limitations:

- (a) The restrictions of this Section against removing, cutting down, or fatally damaging trees apply only to trees having a circumference of twelve inches (12 in) or greater at a height of four and one half feet (4½ ft.) above ground;
- (b) The prohibitions of this section do not apply to the removal or cutting down of any dead or unhealthy tree or a tree that creates an unsafe condition. The need for removal of any tree shall be certified by an arborist or other tree care professional;
- (c) No tree that has a circumference of seventy-five inches (75 in.) or more at a height of four and one-half feet (4½ ft.) above ground may be removed, cut down, or fatally damaged;
- (d) No more than three (3) trees that have a circumference of more than thirty-eight inches (38 in.) at a height of four and a half feet (4½ ft.) above ground may be removed, cut down, or fatally damaged and none of these may be located within twenty-five feet (25 ft.) of any building restriction line or lot line abutting a public street;
- (e) The total circumference inches of all trees removed or cut down on a lot may not exceed twenty-five percent (25%) of the total circumference inches of all trees on the lot having a circumference greater than twelve inches (12 in.);

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provided, that this section does not abrogate the right to remove or cut down up to three (3) trees as provided in paragraph (d) of this subsection; and

- (f) Where removal or cutting of trees has occurred that would be prohibited by this section if a building permit were contemporaneously applied for, no building permit shall be issued for a period of seven (7) years from such removal or cutting unless a special exception is granted by the Board of Zoning Adjustment.

1519.3 The minimum lot size for homes within the FH/TSP Overlay district shall be 9,500 S.F. for lots subdivided after the effective date of this provision.

1519.4 To the extent that any person seeks permission for building or terrain alteration on a lot with a slope steeper than twenty-five percent (25%) or with "highly erodible soil" as defined by the Natural Resources Conservation Service of the U.S. Department of Agriculture, that person shall supply to the Zoning Administrator in the Department of Consumer and Regulatory Affairs a professional certification that the plans for alteration and/or construction will follow best geo-technical, structural engineering and arboreal practices.

1520 SPECIAL EXCEPTIONS (FH/TSP)

1520.1 Any exception from the requirements of this FH/TSP Overlay, as distinct from the requirements of the underlying zoning district, shall be permitted only as a special exception, if approved by the Board of Zoning Adjustment after public hearing, under § 3104, and subject to the following requirements:

- (a) Tree removal, grading, and topographical change shall be limited to the maximum extent possible, consistent with construction of a building permitted by the standards of the FH/TSP overlay;
- (b) The applicant shall demonstrate that there are specific physical characteristics of the lot that justify the exception;
- (c) The excepted building and overall site plan of the lot shall be generally consistent with the purposes of the FH/TSP Overlay District and not adversely affect neighboring property; and
- (d) The Board may impose requirements as to design, appearance, tree protection practices during construction, buffering, and other requirements as it deems necessary to achieve the purposes of this section and may vary side and rear yard requirements in order to achieve the purposes of this section.

1520.2 Before taking final action on an application, the Board shall submit the application to the following agencies for review and written reports:

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- (a) D.C. Office of Planning;
- (b) District Department of Transportation, Tree Maintenance Division;
- (c) D.C. Department of Parks and Recreation;
- (d) D.C. Department of Consumer and Regulatory Affairs, Soil Erosion and Storm Management Branch; and
- (e) National Park Service, U.S. Department of the Interior.

1520.3 An applicant for a special exception shall submit at least the following materials:

- (a) A site plan for development, including computation and illustration of total lot occupancy and impervious surface ratio, and regulated trees proposed to be removed; and
- (b) A plan and statement indicating how trees to be preserved on the lot will be protected during the construction period, including reference to proposed procedures to guard against long-term damage by such factors as soil compaction.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to Sharon S. Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200-S, Washington D.C. 20001. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. A copy of this proposal may be obtained, at cost, by writing to the above address.