

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. TT04-1, IN THE MATTER OF THE APPLICATION
OF VERIZON WASHINGTON, DC, INC. FOR AUTHORITY TO AMEND THE
LOCAL EXCHANGE SERVICES TARIFF, P.S.C.-D.C.-NO. 203

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Code,¹ of its intent to act upon the Application of Verizon Washington, DC Inc. ("Verizon DC")² in not less than 45 days from the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. On April 15, 2004, Verizon DC resubmitted an Application³ requesting authority to modify the following tariff page:

LOCAL EXCHANGE SERVICES TARIFF, P.S.C.-D.C. No. 203
Section 31, 2nd Revised Page 4

3. In Verizon DC's Application, it proposes to increase the current rates by \$1.00 for both the Local Package Standard and Local Package.⁴ This proposed tariff affects only residential customers in the District. Verizon DC asserts that this tariff filing was submitted in compliance with Price Cap Plan 2002.⁵

¹ D. C. Code, 2001 Ed. § 2-505.

² *Formal Case No. TT04-1, In the Matter of the Application of Verizon Washington, DC, Inc. For Authority to Amend the Local Exchange Services Tariff, P.S.C.-D.C.-No. 203*, Letter to Sanford M. Speight, Acting Commission Secretary, from J. Henry Ambrose, Vice President for Regulatory Matters of Verizon DC, re: Formal Case No. TT04-1, filed April 19, 2004 (hereinafter referred to as "Application").

³ *Formal Case No. TT04-1, In the Matter of the Application of Verizon Washington, DC, Inc. For Authority to Amend the Local Exchange Services Tariff, P.S.C.-D.C.-No. 203*, of Verizon Washington, DC Inc. Original Application, re: Formal Case No. TT04-1, filed March 4, 2004. Verizon DC indicated that a re-filing of the Application was necessary because it was unable to meet customer bill insert requirements.

⁴ *Id.* The Local Package Standard contains unlimited local directory assistance and a choice of 4 custom calling features. The Local Package offers unlimited local directory assistance and a choice of 3 custom calling features.

⁵ *Formal Case No. 1005, In the Matter of Verizon Washington, D.C. Inc.'s Price Cap Plan 2002 for the Provision of Local Telecommunications Services in the District of Columbia*, Order No. 12368, rel. April 1, 2003.

4. This Application may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. Copies of the tariff pages are available upon request, at a per-page reproduction cost.

5. Comments on the proposed tariff must be made in writing to Sanford M. Speight, Acting Commission Secretary, at the above address. All comments must be received within 45 days of the date of publication of this NOPR in the *D.C. Register*. Persons wishing to file reply comments may do so no later than 60 days of the date of publication of this NOPR in the *D.C. Register*. Once the comment and reply comment period has expired, the Commission will take final rulemaking action on Verizon DC's Application.

STATE EDUCATION OFFICE OF THE DISTRICT OF COLUMBIA

AND

THE EDUCATION LICENSURE COMMISSION

NOTICE OF PROPOSED RULEMAKING

The State Education Officer of the District of Columbia and the Chairman of the Education Licensure Commission, pursuant to the authority set forth in section 3 of the Education Licensure Commission Act of 1976 (ELC Act), effective April 6, 1977, D.C. Law 1-104, D.C. Official Code § 38-1303 (2001), as amended by section 2(f) of the Educational Institution Licensure Commission Amendments Act of 1988, effective March 16, 1989, D.C. Law 7-217; D.C. Official Code § 38-1306 (2001), and the State Education Office Establishment Act of 2000, effective October 21, 2000, D.C. Law 13-176; D.C. Official Code § 38-2601 *et seq.* (2001), as amended by section 302 (c) of Title III of the Fiscal Year 2004 Budget Support Act of 2003, effective November 13, 2003, D.C. Law 15-039, 50 DCR 5668, hereby give notice of proposed amendments to the provisions for initial licensure and renewal of non-degree postsecondary school licenses granted by the Education Licensure Commission (the Commission) as set forth in Chapter 22 of Title 16 of the *D.C. Municipal Regulations*.

Pursuant to section 6 of the ELC Act (D.C. Official Code § 38-1306)(2001) this rulemaking must be submitted to the Council for a 45-day period of review. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period the proposed rules shall be deemed approved. The State Education Officer and the Chairman of the Education Licensure Commission hereby give notice of their intent to issue final rules after the completion of both the required (30) thirty day comment period and the 45-day Council review period.

The proposed amendments to the rules regarding initial licensure of non-degree postsecondary schools licensed by the Commission would modify the current rules by eliminating the common term of licensure (from November 1st through October 31st of the next year) for all non-degree school licenses, and creating new license terms as follows:

- For each new license approved by the Commission, a term of one (1) year from the date of Commission approval; and
- For each renewal license, a variable period of not less than one (1) year and not more than three (3) years from the date of Commission approval of the license renewal, at the discretion of the Commission.

Chapter 22 of Title 16 DCMR regarding licensure of postsecondary non-degree schools is amended as follows:

2202 LICENSES

- 2202.1 The Commission shall award a license to every school which the Commission determines complies, or can within a reasonable time comply, with all requirements of this chapter, which license may be subject to such conditions as the Commission deems necessary to achieve full compliance with this chapter.
- 2202.2 The Commission recognizes that the requirements of this chapter may not be equally applicable to each school, and may for good cause waive in whole or in part one or more of the requirements of this chapter in granting a license to a school; except that the Commission may not waive any requirement of a statute.
- 2202.3 The Commission shall issue a license as follows:
- (a) For each new license approved, a term of one (1) year from the date of Commission approval; and
 - (b) For each renewal license, a variable period of not less than one (1) year and not more than three (3) years from the date of Commission approval of the license renewal, at the discretion of the Commission.
- 2202.4 An application for renewal of a license shall include:
- (a) A consolidated financial statement prepared by a certified public accountant or, for institutions with revenues exceeding three hundred thousand dollars per year (\$300,000) an audited financial statement for the most recent year of operation, a copy of the most recent tax return for the institution and such other financial documents as the Commission may require;
 - (b) A copy of the institution's catalogue published within two years of the date of submission to the Commission, unless otherwise authorized by the Commission upon request by the institution;
 - (c) A description of any differences in its ownership, locations, organization, program, officers or faculty since the previous licensure action by the Commission;
 - (d) A description of any such changes proposed during the period of license renewal;
 - (e) A description of the means whereby the school has satisfied any conditions of the current license by the Commission, or a statement justifying the renewal of the license in view of all such conditions not having been satisfied;

- (f) A statement of the calculation of the school's retention and placement rates;
- (g) The licensure fees and sureties required by this chapter; and
- (h) Such other information as the Commission may require.

- 2202.5 A school shall file an application for renewal of its license (60) sixty-days in advance of the date of expiration of the license, accompanied by the required surety and the proper license fee.
- 2202.6 If a school allows its license under this chapter to expire, without the Commission's concurrence in a short-term extension to permit overcoming identified obstacles to applying for license renewal, the Commission may require the school to apply for an initial license, as if the school had never been licensed.
- 2202.7 Upon a change in ownership of a school, the school shall file with the Commission an application for amendment of its license pursuant to § 2223 of this chapter.
- 2202.8 Nothing in this chapter shall be construed to invalidate a current license to operate a school held by any person or school on the effective date of these rules.

2222 APPLICATIONS FOR LICENSE RENEWAL

This section is deleted in its entirety, as license renewals are addressed in section 2202 of this chapter.

All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than (30) thirty-days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the State Education Officer of the State Education Office, C. Vanessa Spinner, or the Chairman of the Education Licensure Commission, Dr. Michael Gould, and should be submitted to 441 Fourth Street NW, Room 350 North, Washington, DC 20001. Copies of these proposed rules may be obtained from the State Education Office at the same address.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

The Director of the District of Columbia Department of Transportation, pursuant to the authority of section 3(b) of Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code § 50-921.02 (b)); the Urban Forest Preservation Act of 2002, effective June 12, 2003 (D.C. Law 14-309; D.C. Official Code 8-651.01 *et seq.*) (the act); Mayor's Order 2003-11, January 16, 2003, and Mayor's Order 2003-173, December 1, 2003), hereby gives notice of the intent to amend the Public Space and Safety Regulations (24 DCMR) by adding a new Chapter 37, Special Trees. This chapter implements the act, which established an urban forest preservation program requiring a Special Tree Removal Permit prior to the removal of a tree with a circumference of 55 inches or more. Although the next available chapter in Title 24 would have been chapter 35, the Department wishes to reserve chapters 35 and 36 in the event that additional excavation related rules are needed. Final rulemaking action to adopt these amendments shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, but not until the Council adopts a resolution approving these rules as required by section 103 (b) of the act (D.C. Official Code 8-6501.03 (b)).

Proposed regulations were published in a Notice of Proposed Rulemaking in the *D.C. Register* (51 DCR 1446) on February 6, 2004. In response to comments received, the regulations have been revised to: (1) deem a special tree unprotected from removal if the Urban Forestry Administration fails to determine otherwise within 40 days after a permit application is received; (2) increase the length of time for which removal permits are valid, (3) clarify the guidelines for tree replacement, (4) add, correct, and clarify definitions; and (5) correct typographical, grammatical, and numbering errors.

The following amendments are proposed:

TITLE 24, DCMR, Public Space and Safety, is amended by adding a new Chapter 37 to read as follows:

Chapter 37 SPECIAL TREES**3700 SPECIAL TREE REMOVAL PERMIT**

3700.1 No person or non-governmental entity shall remove a Special Tree, other than a Hazardous Tree, without a Special Tree Removal Permit issued by the Urban Forestry Administration, as provided in the Urban Forest Preservation Act of 2002, effective June 12, 2003 (D.C. Law 14-309; D.C. Official Code 8-6501.01 *et seq.*) ("the act").

3700.2 Any person removing a Hazardous Tree without a Special Tree Removal Permit shall submit to the Urban Forestry Administration, within 15 business days after removal, a certification by an International Society of Arboriculture certified arborist that the tree was a Hazardous Tree.

3701 PERMIT APPLICATION PROCEDURES FOR REMOVAL OF SPECIAL TREES

3701.1 A permit application shall be signed by the property owner or representative of the property owner, and submitted on the form provided by the Urban Forestry Administration. The application must be submitted at least fifteen (15) business days prior to the day that tree removal is desired.

3701.2 As part of the application, the applicant must agree to permit an Arborist from the Urban Forestry Administration to inspect the site of the proposed removal. The inspection shall occur during the Administration's normal business hours and prior to permit issuance.

3701.3 If an International Society of Arboriculture certified arborist or an Urban Forestry Administration arborist determines that the tree to be removed is a Hazardous Tree or is a species that has been identified under § 3701.6 as appropriate for removal, a Special Tree Removal Permit shall be issued.

3701.4 If the applicant elects to have the species or Hazardous Tree determination made by an Urban Forestry Administration arborist and the UFA arborist fails to make a determination within forty (40) days after the application is accepted, the tree will be deemed Hazardous or otherwise appropriate for removal.

3701.5 If an International Society of Arboriculture certified arborist or an Urban Forestry Administration arborist determines that the tree to be removed is not a Hazardous Tree and is not a species identified under § 3701.7 as appropriate for removal, or if the applicant stipulates as to both on the permit application, no Special Tree Removal Permit may be issued until the Applicant:

- (a) Pays into the Tree Fund a tree replacement fee equivalent to thirty-five dollars (\$35) per inch of circumference of each special tree that is to be removed;
- (b) Avers on its Special Tree removal application to plant, on the same lot and in accordance with § 3702, a quantity of saplings whose aggregated circumference equals or exceeds the circumference of the Special Tree(s) to be removed; or
- (c) A combination of a) and b) so as to account for the circumference of the tree(s) removed.

3701.6 The Special Tree Removal Permit shall be valid for one hundred eighty (180) calendar days after its issuance.

3701.7 Tree species appropriate for removal are:

- (a) *Ailanthus altissima* (common name-Ailanthus);
- (b) *Morus* species (common name-Mulberry); and
- (c) *Acer platanoides* (common name-Norway maple).

3702 PERMIT CONDITIONS FOR TREE REPLACEMENT

3702.1 A Special Tree Removal Permit issued to a Permittee electing to plant replacement trees pursuant to § 3701.4 (b) shall contain the following conditions:

- (a) Replacement trees shall, when planted, have a minimum caliper size of two (2) inches;
- (b) The replacement trees shall be properly planted according to International Society of Arboriculture standards;
- (c) The replacement trees shall be planted only during the planting season (October 15 to May 1), except that planting must be completed no later than seven (7) months after tree removal, unless construction activity makes tree replacement infeasible, in which case planting shall be completed no later than seven (7) months after construction is finished;
- (d) Replacement trees shall not be of a species listed in § 3701.7.
- (e) For a twelve (12) month period after planting, the permittee shall water, mulch, and, when appropriate, remove from the tree any tree protection stakes and guy wires;
- (f) Not later than thirty (30) days after the replacement trees are planted, the permittee shall mail or hand deliver to the Urban Forestry Administration a certification, signed by the applicant, attesting to the successful planting of the replacement trees; and
- (g) The permittee shall grant an inspector of the Urban Forestry Administration reasonable access to the property that is the subject of the Special Tree Removal Permit for twelve months after planting.

3703 ENFORCEMENT AND ADJUDICATION

3703.1 Notices of Infractions for violations of the act, this chapter, or any condition of a Special Tree Removal Permit shall be issued, answered and adjudicated pursuant to the Department of Consumer and Regulatory Affairs Civil Infraction Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.06 *et seq.*) and the provisions of Chapter 31 of Title 16 of the District of Columbia Municipal Regulations.

3704 SCHEDULE OF FINES

3704.1 Any person who violates any provision of the act, this chapter, or any condition of a Special Tree Removal Permit shall be subject to a civil infraction fine of \$100 per inch of circumference of the tree or trees in question.

3705 PUBLIC UTILITIES

3705.1 Public utility companies regulated by the Public Service Commission may remove Special Trees in connection with utility construction, line maintenance, and emergency work within the District's right-of-way without a Special Tree Removal Permit. Such companies shall comply with the notice requirement set forth in section 105(b) of the act, D.C. Official Code § 6-651-05(b) and shall comply with ANSI(a)(300) standards.

3799 DEFINITIONS

3799.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed below:

ANSI(a)(300) standards - the American National Standards Institute, Inc., American National Standard Specifications for Standards for Tree Care Operations; Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices

Caliper - the diameter (width) of the trunk of a tree when measured at a height of six inches above the ground/soil.

Circumference - the linear distance around the trunk of a tree when measured at a height of 4 ½ feet above the ground.

District's right-of-way - all the publicly owned property between the property line on a street, park, or other public property as such property lines are shown on the records of the District, and includes any roadway, tree space, sidewalk, or parking between such property lines.

Hazardous Tree – a Special Tree that should be removed because it is:

- (a) Structurally defective, diseased, dying, or dead;
- (b) Posing a high risk of failure or fracture with the potential to cause injury to people or damage to property: or
- (c) Causing damage to property or structures that cannot be mitigated in any manner other than removal of the tree.

Person or non-governmental entity - any individual, corporation, firm, agency, association, organization, or utility company.

Remove- cutting down, topping, girdling, breaking, or destroying a Special Tree.

Special Tree – a tree within the District of Columbia that has a minimum circumference of 55 inches at 4 ½ feet above the ground.

Tree Fund – the fund established under section 107 of the Urban Forest Preservation Act of 2002, effective June 12, 2003 (D.C. Law 14-309; D.C. Official Code 8-6501.07).

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in the D.C. Register, with Mariclaire McCartan, Urban Forestry Administration, Department of Transportation, 4901 Shepherd Parkway, SW, Washington, D.C. 20032. Copies of this proposal are available, at cost, by writing to the above address.