Government of the District of Columbia
OFFICE OF ZONING

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MEMORANDUM

TO: Arnold R. Finlayson, Administrator
Office of Documents and Administrative Issuance

FROM: Alberto P. Bastida, AICP
Secretary to the Zoning Commission

DATE: May 22, 2003

SUBJECT: Publication for the Office of Zoning

Please publish the following in the D.C. Register on May 30, 2003:

1. Z.C. Notice of Proposed Rulemaking Case No. 02-34 and
2. Z.C. Notice of Proposed Rulemaking Case No. 02-41.

Received By

5/22/03
Date

Attachments

441 4th Street, N.W., Suite 210-S, Washington, D.C. 20001
Tel: (202) 727-6311 • Fax: (202) 727-6072
E-Mail: zoning info@dcoz.dcgov.org • Web Site: http://dcoz.dcgov.org/

ZONING COMMISSION
District of Columbia
Case 02-34
EXHIBIT 10

ZONING COMMISSION
District of Columbia
CASE NO.02-34
EXHIBIT NO.10

RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION: [ ] EMERGENCY RULES [ ] FINAL RULES [x] PROPOSED RULES [ ] COMBINED

DATE AND TIME RECEIVED
Office of Documents use only

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: MR. ALBERTO BASTIDA

ADDRESS: 441 4th Street, N.W., Suite 210 South TELEPHONE: (202) 727-0330

TITLE AND DESCRIPTION OF RULES:
ZC Case No. 02-34TA, Text Amendment – 11 DCMR, Optical Transmission Nodes

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning) Sections 199, 509, 608, 701, 907, 2101

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: DATE:

COMPLETE CITATION to the statute, regulation, or other legal authority which specifically authorizes the issuance of the substance of these rules: Section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799; D.C. Official Code § 6-641.01).

LEGAL CERTIFICATION: I certify that I have reviewed the attached rulemaking and, in my opinion, the substance of the text of the rules is legally sufficient.
DATE: SIGNED: Allen Bryant for PHONE: (202) 442-9777

✓	FINAL		CONDITIONAL	NAME: ARABELLA W. TEAL	TITLE: INTERIM CORPORATION COUNSEL

PROMULGATOR: Name and title of the person legally authorized to adopt and promulgate these rules (or the name of the board or other body authorized to adopt rules by vote)
Zoning Commission For The District Of Columbia Title:

COMPLETE CITATION to the statute, regulation, order, or other legal authority that specifically authorizes this person or agency to adopt and promulgate these rules. Section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799; D.C. Official Code § 6-641.01).

SIGNATURE OF THE PERSON AUTHORIZED TO ADOPT RULES OR ATTEST TO THE ADOPTION OF RULES

DATE OF APPROVAL OF VOTE: 4/14/03 ~~October 17, 2002~~

APPROVAL OF ATTEST: Alberto So Bastida
TITLE: Secretary to the Zoning Commission PHONE: (202) 727-0330

Office of Documents use only: THIS NOTICE PUBLISHED AT: VOL: DCR: DATE:

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING
Z.C. CASE NO. 02-34TA

(Text Amendment – Optical Transmission Nodes)

The Zoning Commission for the District of Columbia, pursuant to its authority under Section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01) (2001 Ed.), hereby gives notice of its intent to adopt the following amendment, which will establish optical transmission nodes as a use recognized in the Zoning Regulations and permitted as a matter of right or special exception in specified districts. Final rulemaking action shall be taken in not less than thirty (30) days from the date this notice is published in the *D.C. Register.*

Proposed language is shown in **bold and underlined**.

Title 11, DCMR is amended as follows:

A. Amend Section 199, subsection 199.1, DEFINITIONS by adding the following definition, to read as follows:

Optical Transmission Node – an interior or exterior facility that is utilized as remote terminal units for the operation of such things as cable television systems, high-speed internet access and interactive video, not including any broadcast antenna or related towers for the transmission of radio waves.

B. Amend Section 509, UTILITIES (SP), subsections 509.2 and 509.3 to read as follows:

509.2 Use as an optical transmission node shall be permitted in an SP district if approved by the Board of Zoning Adjustment in accordance with the conditions specified in § 3104, subject to the following:

(a) Any new construction of a freestanding structure used primarily for the purpose of housing an optical transmission node shall be built to appear compatible with surrounding construction, including exterior building material, fenestration, and landscaping; and

(b) There shall be no advertisement on the structure.

509.3 The utilities allowed in § 509.1 **and optical transmission nodes in § 509.2** shall be subject to requirements for setbacks, screening, or other requirements as the Board deems necessary for the protection of neighboring or adjacent property.

C. Amend Section 608, UTILITIES (CR), to read as follows:

608 UTILITIES (CR)

608.1 Use as an electric substation, natural gas regulator station, public utility pumping station, **optical transmission node,** or telephone exchange, shall be permitted in a CR district as a special exception when authorized by the Board of Zoning Adjustment under § 3104, if the Board considers that this use is appropriate in furthering the objectives of the CR Districts, subject to the provisions of this section.

608.2 Any new construction of a freestanding structure used primarily for the purpose of housing an optical transmission node shall be subject to the following:

(a) The structure shall be built to appear compatible with surrounding construction, including exterior building material, fenestration, and landscaping; and

(b) There shall be no advertisement on the structure.

608.3 The Board may impose any requirements for setbacks, screening, or other safeguards that it deems necessary for protection of the neighborhood.

D. Section 701, USES AS A MATTER OF RIGHT (C-1), subsection 701.6, is amended as follows:

1) Paragraph (h) is amended by deleting the word "and".

2) By adding a new paragraph (j) to read as follows:

(j) Optical Transmission Node.

E. Amend Section 907, UTILITIES (W), to read as follows:

907 UTILITIES (W)

907.1 If the Board of Zoning Adjustment considers that it is appropriate in furthering the objectives of the Waterfront district, an electric sub-station, natural gas regulator station, public utility pumping station, **optical transmission node,** or telephone exchange shall be permitted as a special exception in a Waterfront district when authorized by the Board under § 3104, subject to the provisions of this section.

907.2 **Any new construction of a freestanding structure used primarily for the purpose of housing an optical transmission node shall be subject to the following:**

(a) The structure shall be built to appear compatible with surrounding construction, including exterior building material, fenestration, and landscaping; and

(b) There shall be no advertisement on the structure.

907.3 The Board shall establish requirements for setbacks and screening.

907.4 The Board shall establish other safeguards as deemed necessary for protection of the neighborhood.

F. Chapter 21, SCHEDULE OF REQUIREMENTS FOR PARKING SPACES, subsection 2101.1, is amended by adding the following use:

USES	NUMBER OF PARKING SPACES REQUIRED
Optical Transmission Nodes:	
All districts	**1 for each 3,000 sq. ft of gross floor area**

All persons wishing to comment on the subject matter of this proposed rulemaking should file comments in writing to the Zoning Commission for the District of Columbia, c/o Alberto P. Bastida, AICP, Secretary to the Zoning Commission, 441 Fourth Street, N.W., Suite 210S, Washington, D.C., 20001. Comments must be received no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of this proposal may be purchased at cost by writing to the above address.