

Enacted On: \_\_\_\_\_, 2009

Effective Date: \_\_\_\_\_, 2009

AN ACT concerning

**CAROLINE COUNTY**  
**SMALL WIND ENERGY SYSTEMS**  
**ORDINANCE #2009-003**

*FOR the purpose of amending Chapter 175 of the Code of Public Local Laws of Caroline County, Maryland to provide for the erection, maintenance, and operation of small wind energy systems, and guidelines and requirements therefore; to provide definitions, criteria, restrictions, and processes regarding small wind energy systems; to provide that small wind energy systems are allowed as a matter of right in certain zoning districts; providing that the title of this ordinance shall be deemed a fair summary of this ordinance for all purposes; and generally relating to the erection, maintenance, and operation of small wind energy systems in Caroline County; and providing for an effective date.*

WHEREAS, County Commissioners of Caroline County, Maryland are authorized under Article 66B of the Annotated Code of Maryland to enact and administer a zoning ordinance, which ordinance is Chapter 175 of the Code of Public Local Laws of Caroline County, Maryland (the "Zoning Ordinance"); and

WHEREAS, the County Commissioners of Caroline County, Maryland (the "County Commissioners") have determined that small wind energy systems should be permitted in certain zoning districts in Caroline County; and

WHEREAS, the County Commissioners have determined that small wind energy systems are not clearly allowable under current provisions of the Zoning Ordinance; and

WHEREAS, the County Commissioners have determined that County residents may be better served, and the economy of the County may be better preserved and enhanced, by establishing guidelines, requirements, definitions, criteria, restrictions, and processes regarding the erection, maintenance, and operation of small wind energy systems in the Caroline County; and

WHEREAS, the Caroline County Planning Commission, on September 9, 2009 held a duly advertised public hearing on the subject of amending the Zoning Ordinance to provide for guidelines, requirements, definitions, criteria, restrictions, and processes regarding the erection, maintenance, and operation of small wind energy systems in the Caroline County and moved to forward ~~this~~ **the original version of this** ordinance to the County Commissioners with a favorable recommendation; and

WHEREAS, the County Commissioners, having received the recommendations of the Planning Commission, have determined that the proposals set forth by the Planning Commission for textual amendments to the Zoning Ordinance, **together with certain amendments reflected herein**, will adequately address the matter of small wind energy systems and serve to protect and improve the general health, safety, and welfare of the County and its residents;

NOW, THEREFORE, Be it enacted by the County Commissioners of Caroline County, Maryland, that:

**SECTION 1. CHAPTER 175 – ZONING – OF THE CODE OF PUBLIC LOCAL LAWS OF CAROLINE COUNTY, MARYLAND IS HEREBY AMENDED AS FOLLOWS:**

**ARTICLE I  
General Provisions**

§ 175-8. Word usage; terms defined.

B. Terms defined. As used in this chapter, the following terms shall have the meanings indicated:

***BUILDING SUPPORTED SMALL WIND ENERGY SYSTEM – A SMALL WIND ENERGY SYSTEM PLACED ON, OR SUPPORTED IN WHOLE OR IN PART BY, A BUILDING STRUCTURE AND HAVING A RATED NAMEPLATE CAPACITY OF TEN (10) KILOWATTS OR LESS, AND NOT EXCEEDING A HEIGHT OF MORE THAN EIGHT (8) FEET ABOVE THE HIGHEST POINT OF THE STRUCTURE.***

**ROTOR DIAMETER – THE CROSS SECTIONAL DIMENSIONS OF THE CIRCLE SWEEPED BY THE ROTATING BLADES.**

**SMALL WIND ENERGY SYSTEM – A WIND ENERGY SYSTEM THAT (1) IS USED TO GENERATE ELECTRICITY; (2) HAS A RATED NAMEPLATE CAPACITY OF ~~50~~ 100 KILOWATTS OR LESS; AND (3) HAS A TOTAL HEIGHT, AS DEFINED IN THIS CHAPTER 175, OF NOT MORE THAN ONE HUNDRED *NINETY-NINE (199)* ~~FIFTY (150)~~ FEET.**

**SMALL WIND ENERGY SYSTEM OWNER – THE PERSON THAT OWNS THE REAL PROPERTY UPON WHICH A SMALL WIND ENERGY SYSTEM WILL BE OPERATED. FOR PURPOSES OF THE PROVISIONS IN THIS CHAPTER 175, THE SMALL WIND ENERGY SYSTEM ITSELF MAY BE LEASED OR OWNED. OWNERSHIP OF THE REAL PROPERTY MAY INCLUDE OCCUPANCY PURSUANT TO A LEASE WITH THE CONSENT OF THE LESSOR OF THE REAL PROPERTY.**

**TOTAL HEIGHT – *FOR VERTICAL BLADE SYSTEMS, THE VERTICAL DISTANCE MEASURED FROM GROUND LEVEL TO THE TIP OF A WIND GENERATOR BLADE WHEN THE TIP IS POSITIONED AT ITS HIGHEST VERTICAL POINT, AND FOR HORIZONTAL BLADE SYSTEMS, TO THE TALLEST POINT OF THE SYSTEM. THIS DEFINITION EXCLUDES BUILDING SUPPORTED SMALL WIND ENERGY SYSTEMS.***

**WIND ENERGY SYSTEM – EQUIPMENT, INCLUDING EQUIPMENT NECESSARY THERETO, THAT CONVERTS AND THEN STORES OR TRANSFERS ENERGY FROM WIND INTO USABLE FORMS OF ENERGY. SUCH EQUIPMENT INCLUDES ANY BASE, BLADE, FOUNDATION, GENERATOR, NACELLE, ROTOR, TOWER, TRANSFORMER, VANE, WIRE, INVERTER, BATTERIES, GUY WIRE, OR OTHER COMPONENT USED IN SUCH SYSTEM.**

**WIND GENERATOR – THE BLADES AND ASSOCIATED MECHANICAL AND ELECTRICAL CONVERSION COMPONENTS MOUNTED ON THE TOP OF A WIND TOWER.**

**WIND TOWER – THE MONOPOLE, FREESTANDING, OR GUYED STRUCTURE THAT SUPPORTS A WIND GENERATOR.**

ARTICLE IX  
Accessory Structures and Uses

**§ 175-43.2 SMALL WIND ENERGY SYSTEMS.**

- A. **PERMITTED. SMALL WIND ENERGY SYSTEMS SHALL BE PERMITTED IN ALL ZONING DISTRICTS SUBJECT TO THE CONDITIONS SET FORTH IN THIS §175-43.2.**
- B. **LIMIT. ONLY ONE SMALL WIND ENERGY SYSTEM SHALL BE PERMITTED ON A LOT OR PARCEL; PROVIDED, HOWEVER, THAT LOTS OR PARCELS ON WHICH AN AGRICULTURAL OR BUSINESS OPERATION IS OTHERWISE PERMITTED (OTHER THAN HOME OCCUPATION BUSINESSES) MAY HAVE UP TO TWO SMALL WIND ENERGY SYSTEMS.**
- C. **SETBACKS. ALL SMALL WIND ENERGY SYSTEMS SHALL BE SET BACK A MINIMUM DISTANCE EQUAL TO TOTAL HEIGHT PLUS ~~THIRTY-FIVE (35) FEET~~ TEN PERCENT (10%) OF THE TOTAL HEIGHT FROM:**
- (1) **ANY STATE, COUNTY, OR MUNICIPAL RIGHT OF WAY, OR NEAREST EDGE OF A STATE, COUNTY, OR MUNICIPAL ROADWAY, WHICHEVER IS CLOSER TO THE WIND TOWER;**
  - (2) **ANY RIGHT OF INGRESS OR EGRESS OF ANOTHER ON THE SMALL WIND ENERGY SYSTEM OWNER'S PROPERTY;**
  - (3) **ANY OVERHEAD UTILITY LINES;**
  - (4) **ALL PROPERTY LINES;**
  - (5) **ANY EXISTING GUY WIRE, ANCHOR, OR WIND TOWER ON THE PROPERTY; AND**
  - (6) **ANY STRUCTURE USED FOR OCCUPANCY, WHETHER TRANSIENT OR OTHERWISE, OTHER THAN OCCUPANCY BY THE SMALL WIND ENERGY SYSTEM PROPERTY OWNER AND SUCH PERSON'S FAMILY.**
  - (7) ***EXCEPTION: BUILDING SUPPORTED SMALL WIND ENERGY SYSTEMS SHALL COMPLY WITH THE SAME SETBACK REQUIREMENTS AS THE STRUCTURE UPON OR BY WHICH SUCH SYSTEMS ARE PLACED OR SUPPORTED. ANY SUPPORTING STRUCTURES FOR A BUILDING SUPPORTED SMALL WIND ENERGY SYSTEM SHALL BE PLACED NOT MORE THAN FIVE (5) FEET FROM THE STRUCTURE.***
- D. **ACCESS.**

- (1) ALL GROUND MOUNTED ELECTRICAL AND CONTROL EQUIPMENT SHALL BE LABELED AND SECURED TO PREVENT UNAUTHORIZED ACCESS.
- (2) THE WIND TOWER SHALL BE DESIGNED AND INSTALLED SO AS NOT TO PROVIDE STEP BOLTS, A LADDER, OR OTHER MEANS OF ACCESS FOR A MINIMUM HEIGHT OF TWELVE (12) FEET.

**E. ELECTRICAL WIRES. ALL ELECTRICAL WIRES ASSOCIATED WITH A SMALL WIND ENERGY SYSTEM, OTHER THAN:**

- (1) WIRES NECESSARY TO CONNECT THE WIND GENERATOR TO THE WIND TOWER WIRING,
- (2) WIND TOWER WIRING TO A DISCONNECT JUNCTION BOX; AND
- (3) GROUNDING WIRES

**SHALL BE LOCATED UNDERGROUND.**

**F. LIGHTING. A WIND TOWER AND A WIND GENERATOR SHALL NOT BE ARTIFICIALLY LIGHTED UNLESS SUCH LIGHTING IS REQUIRED BY THE FEDERAL AVIATION ADMINISTRATION (“FAA”). LIGHTING OF OTHER PARTS OF A SMALL WIND ENERGY SYSTEM, SUCH AS APPURTENANT STRUCTURES, SHALL BE LIMITED TO THAT REQUIRED FOR SAFETY PURPOSES AND SHALL BE SHIELDED FROM NEIGHBORING PROPERTIES.**

**G. APPEARANCE, COLOR, AND FINISH. THE WIND GENERATOR AND THE WIND TOWER SHALL BE PAINTED OR TREATED WITH OR IN A NON-REFLECTIVE, NON-OBTRUSIVE COLOR, SUCH AS A MANUFACTURER’S DEFAULT COLOR OPTION OR A COLOR THAT CONFORMS TO THE ENVIRONMENT AND ARCHITECTURE OF THE SURROUNDING AREA (UNLESS OTHERWISE REQUIRED BY THE FAA). COLOR SHALL BE APPROVED BY THE DIRECTOR OF THE DEPARTMENT OF PLANNING, CODES & ENGINEERING. A SMALL WIND ENERGY SYSTEM OWNER MAY APPEAL THE DENIAL OF A REQUESTED COLOR TO THE BOARD OF ZONING APPEALS IN ACCORDANCE WITH THIS CHAPTER 175.**

**H. SIGNAGE. ALL SIGNAGE, OTHER THAN THE MANUFACTURER’S OR INSTALLER’S LABEL AND APPROPRIATE WARNING SIGNS, VISIBLE FROM ANY PUBLIC ROAD OR ADJOINING PROPERTY ARE PROHIBITED. NO ADVERTISING SHALL BE ALLOWED ON ANY SMALL WIND ENERGY SYSTEM.**

**I. CODE COMPLIANCE. ALL SMALL WIND ENERGY SYSTEMS SHALL COMPLY WITH ALL APPLICABLE PROVISIONS OF THE COUNTY’S BUILDING AND ELECTRICAL CODES. NOTWITHSTANDING ANY OTHER PROVISION OF THE CODE OF PUBLIC LOCAL LAWS OF CAROLINE COUNTY, MARYLAND TO THE CONTRARY, WIND GENERATOR BLADE TIPS SHALL AT NO TIME BE CLOSER TO THE GROUND THAN FIFTEEN (15) FEET. *ALL SMALL WIND ENERGY SYSTEMS SHALL BE CONSTRUCTED, ASSEMBLED, MOUNTED, AFFIXED OR***

***OTHERWISE PLACED IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDED STANDARDS OR PRACTICES AND IN COMPLIANCE WITH ALL CODES. TO THE EXTENT THAT A MANUFACTURER'S RECOMMENDED STANDARDS OR PRACTICES DIFFER ANY APPLICABLE CODE PROVISION, THE MORE STRICT PROVISION SHALL APPLY.***

- J. PUBLIC SERVICE COMMISSION COMPLIANCE. ALL SMALL WIND ENERGY SYSTEMS SHALL COMPLY WITH ALL REQUIREMENTS OF THE LAWS OF MARYLAND AND MARYLAND PUBLIC SERVICE COMMISSION RULES AND REGULATIONS. ANY PERSON SEEKING TO CONSTRUCT A SMALL WIND ENERGY SYSTEM SHALL APPLY TO THE MARYLAND PUBLIC SERVICE COMMISSION, IN ADDITION TO APPLYING FOR ANY COUNTY PERMIT PURSUANT TO THIS CHAPTER 175. UTILITIES TO WHICH A SMALL WIND ENERGY SYSTEM IS TO BE CONNECTED SHALL BE NOTIFIED IN ACCORDANCE WITH APPLICABLE RULES, REGULATIONS, AND TARIFFS.**
- K. SEPARATION. *EXCEPT AS PROVIDED FOR BUILDING SUPPORTED SMALL WIND ENERGY SYSTEMS*, SMALL WIND ENERGY SYSTEMS SHALL NOT BE ATTACHED TO ANY OTHER BUILDING OR STRUCTURE, INCLUDING GUY WIRES.**
- L. PERMITS. ANY PERSON DESIRING TO ERECT, OPERATE, OR MAINTAIN A SMALL WIND ENERGY SYSTEM SHALL APPLY FOR A PERMIT FROM THE DEPARTMENT, AND SHALL SUBMIT WITH SUCH APPLICATION ALL MATERIAL, DRAWINGS, SPECIFICATIONS, AND OTHER INFORMATION REQUIRED OR REQUESTED BY THE DIRECTOR OF THE DEPARTMENT FOR PURPOSE OF DETERMINING COMPLIANCE WITH THIS CHAPTER 175. FEES FOR SMALL WIND ENERGY SYSTEMS SHALL BE DETERMINED BY THE COUNTY COMMISSIONERS FROM TIME TO TIME BY RESOLUTION.**
- M. VARIANCES. VARIANCES TO THE PROVISIONS OF THIS § 175-43.2, INCLUDING SETBACK DISTANCES, SHALL NOT BE PERMITTED.**
- N. NOISE. SMALL WIND ENERGY SYSTEM SHALL COMPLY WITH ALL COUNTY LAWS, ORDINANCES, RULES, AND REGULATIONS REGARDING NOISE. IF NO COUNTY STANDARDS OR RESTRICTIONS ARE OTHERWISE IN EFFECT, NOISE LEVELS SHALL NOT EXCEED FIFTY-FIVE (55) DBA WHEN MEASURED AT THE PROPERTY LINE OF ANY PROPERTY CONTAINING AN OCCUPIED STRUCTURE (EXCLUDING TEMPORARY EXCESSIVE NOISE LEVELS DUE TO TEMPORARY UTILITY OUTAGES AND SEVERE THUNDERSTORMS).**
- O. A VIOLATION OF ANY PROVISION OF THIS § 175-43.2 SHALL BE A CLASS A CIVIL INFRACTION UNDER CHAPTER 92 OF THE CODE OF PUBLIC LOCAL LAWS OF CAROLINE COUNTY, MARYLAND AND SHALL SUBJECT THE SMALL WIND ENERGY SYSTEM OWNER AND THE OWNER OF THE PROPERTY ON WHICH THE SMALL WIND ENERGY SYSTEM IS LOCATED TO A CIVIL PENALTY OF \$500 FOR THE FIRST OFFENSE AND \$1,000 FOR SUBSEQUENT VIOLATIONS.**
- P. ABANDONMENT.**

- (1) A SMALL WIND ENERGY SYSTEM THAT IS OUT-OF-SERVICE, OR NOT OTHERWISE USED, FOR A CONTINUOUS PERIOD OF TWELVE (12) MONTHS SHALL BE DEEMED TO HAVE BEEN ABANDONED. THE DIRECTOR SHALL ISSUE A NOTICE OF ABANDONMENT TO THE SMALL WIND ENERGY SYSTEM OWNER, WHO SHALL THEN HAVE THIRTY (30) DAYS TO RESPOND TO THE DIRECTOR AND TO PROVIDE ANY INFORMATION REGARDING THE CAUSES FOR NON-OPERATION AND ANY REMEDIAL OR CORRECTIVE ACTION PLANNED OR BEING UNDERTAKEN, WHICH ACTIONS SHALL BE UNDERTAKEN AND COMPLETED IN A REASONABLE TIME, NOT TO EXCEED SIXTY (60) DAYS. IF SUCH INFORMATION IS PROVIDED AND REMEDIAL OR CORRECTIVE ACTION IS TAKEN, THE DIRECTOR SHALL WITHDRAW THE NOTICE.
  
- (2) IF A SMALL WIND ENERGY SYSTEM IS DETERMINED BY THE DIRECTOR TO BE ABANDONED, THE SMALL WIND ENERGY SYSTEM OWNER SHALL REMOVE THE WIND GENERATOR AND THE WIND TOWER AT SUCH OWNER'S EXPENSE WITHIN NINETY (90) DAYS OF THE NOTICE OR, IF LATER, WITHIN SIXTY (60) DAYS OF THE TERMINATION OF ANY PERIOD FOR REMEDIAL OR CORRECTION ACTION OR THE FAILURE OF SUCH ACTIONS. IF THE SMALL ENERGY SYSTEM OWNER SHALL FAIL TO DO SO, THE COUNTY MAY CAUSE THE WIND GENERATOR AND THE WIND TOWER TO BE REMOVED AT SUCH OWNER'S EXPENSE. THE COUNTY SHALL HAVE TO RIGHT TO PURSUE ALL LEGAL MEANS OF COLLECTION OF ANY SUMS EXPENDED AND SUCH SUMS SHALL CONSTITUTE A LIEN AGAINST THE PROPERTY ON WHICH THE SMALL WIND ENERGY SYSTEM WAS LOCATED, ENFORCEABLE AND COLLECTIBLE AS PROPERTY TAXES.

**SECTION 2.** CHAPTER 175 – ZONING – TABLE OF USES OF THE CODE OF PUBLIC LOCAL LAWS OF CAROLINE COUNTY, MARYLAND IS HEREBY AMENDED AS FOLLOWS:

A NEW ITEM STYLED AS “SMALL WIND ENERGY SYSTEMS” SHALL BE ADDED AS A PERMITTED USE IN ALL ZONING DISTRICTS WITH A NOTATIONAL REFERENCE IN THE “ADDITIONAL REGULATIONS” COLUMN TO “SEE §§ 175-8 AND 175-43.2.”

**SECTION 3.** The title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this act for publication and all other purposes.

**SECTION 4.** Matter deleted from current law is indicated by ~~strike through~~ and matter added is indicated by **BOLD CAPITALIZATION**. Matter deleted by amendment is indicated by ~~double strike through~~ and matter added by amendment is indicated *bold italic*.

**SECTION 5.** This ordinance shall take effect on \_\_\_\_\_, 2009.

ENACTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009.

ATTEST:

\_\_\_\_\_  
Sara B. Visintainer, Executive Assistant

(SEAL)

**COUNTY COMMISSIONERS OF  
CAROLINE COUNTY, MARYLAND**

\_\_\_\_\_  
JOHN W. COLE, PRESIDENT

\_\_\_\_\_  
ROGER L. LAYTON, VICE-PRESIDENT

\_\_\_\_\_  
JEFFERSON L. GHRIST, MEMBER