

Proposed Amendment to Bill 1165

Recommended by: Staff
Date: June 23, 2009

Proposed Amendments: To include a requirement that prior to receipt of a building permit, small wind turbine production facilities provide a financial surety sufficient to cover removal of abandoned turbines and their associated elements.

KEY

UnderliningAdded to existing law by amendment.
~~Strikethrough~~.....Deleted from existing law by amendment.
* * *Existing law or bill unaffected.

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Article III Land Uses

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§ 190.104.1. Wind Turbine Tower

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B. General requirements

- (21) Prior to receipt of a building permit for a small wind turbine production facility the owner of the wind turbine production facility shall provide a financial surety (cashier’s check or other surety acceptable to the County) of a sufficient amount determined by the Planning Director to cover the cost of removal of the turbine, base, any associated control or conversion elements and any accessory structures. These funds shall be held in escrow by the County and returned if the owner removes the turbine. An abandoned turbine shall be removed within 90 days of abandonment. The cost of the removal of the turbine shall lie with the property owner. Talbot County shall retain the right to place a lien against the property until the tower is removed.

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Substantive: Opinion of counsel: - the Courts have said that an amended ordinance cannot be deemed to be a new or different one unless it enlarges or arrows the scope of the original ordinance to such an extent that the ordinance as enacted can be said to be misleading in a substantial manner in its final form. Amendments that do not defeat the original purpose of the ordinance are not so substantial as to become a new ordinance. *Ajamian v. Montgomery County*, 99 Md. App. 665, 684-685 (1994). This amendment meets that test and it is therefore not substantive in counsel's opinion.