

**Proposed Amendments to Bill 1165**

Recommended by: Staff  
Date: June 23, 2009

Proposed Amendment: To change reference “100 kilowatt hours” to “100 kilowatts” as the cumulative total rating used to define and distinguish a small wind turbine system from a small wind turbine production facility

**KEY**

Underlining .....Added 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**

**§ 190.104.1. Wind Turbine Tower**

**A. Small Wind Turbine Uses**

The following are specific requirements for Small Wind Turbine Systems and Small Wind Turbine Production Facilities.

- (1) Small Wind Turbine Systems:
  - (a) Must comply with all general requirements listed in B below.
  - (b) Are limited to a maximum of two small wind turbine towers on parcels 20 acres or less.
  - (c) Shall be limited to single-site consumption.
  - (d) Shall not exceed metering rates with a cumulative total of 100 kilowatts ~~hours~~.
  
- (2) Small Wind Turbine Production Facilities:
  - (a) Must comply with all general requirements listed in B below.
  - (b) Shall provide an engineering report stating the proposed small wind turbine tower does not exceed the minimum height necessary to accomplish the purpose for which it is constructed.

- (c) Shall be limited to off-site or a combination of both off-site and single-site consumption.
- (d) May result in metering rates with a cumulative total greater than 100 kilowatts. ~~hours.~~

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*Article XI Definitions*

*§190-208. Definitions*

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WIND TURBINE PRODUCTION FACILITY, SMALL – a facility producing primarily off-site electricity or a total rated capacity greater than 100 kilowatts (kW) ~~hours~~.

WIND TURBINE SYSTEM, SMALL – A wind energy conversion system that is used to generate electricity; has a total rated capacity of 100 kilowatts (kW) ~~hours~~ or less.

\* \* \*

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.