

ORDINANCE NO. 3651

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, ENTITLED "AN ORDINANCE TO AMEND THE CITY OF CUMBERLAND ZONING ORDINANCE (ORDINANCE NO. 3607, PASSED MARCH 18, 2008) BY AMENDING SECTIONS 2.03, 6.02(2), 6.04, 6.12, 6.15.1, 8.03.01 and 8.06 FOR THE PURPOSE OF IMPLEMENTING REGULATIONS REGARDING WIND ENERGY SYSTEMS."

WHEREAS, ARTICLE 66B of the Annotated Code of Maryland empowers municipalities with the authority to enact and amend zoning ordinances and to provide for their administration and enforcement.

WHEREAS, in accordance with the foregoing, the Mayor and City Council deem it necessary for the purpose of promoting the health, safety, morals, or general welfare of the City of Cumberland to occasionally amend its Zoning Ordinance as local needs and changes in State or Federal laws may warrant.

WHEREAS, City staffpersons have examined the Zoning Ordinance and have determined that there are no standards relative to the development of wind energy systems.

WHEREAS, with the advent of large and small scale wind energy systems as alternative "clean" sources of energy, there has been an increasing public demand for new zoning regulations to govern the development of such systems so that proper guidelines necessary to protect public interests in the future development of this technology can be implemented, including, but not limited to, the implementation of measures for the protection of Cumberland's viewshed and public safety.

WHEREAS, it is expected that the passage of this Ordinance will provide guidance for those persons and businesses who wish to utilize wind energy systems as alternative energy sources for their homes and businesses.

WHEREAS, the City of Cumberland Municipal Planning and Zoning Commission held a public hearing on the subject matter of this Ordinance on the 8th day of June, 2009, and has determined that it should recommend the amendments to the City of Cumberland Zoning Ordinance which are the subject of this Ordinance, said recommendation being set forth in its final report which was submitted to the Mayor and City Council.

WHEREAS, the City of Cumberland Municipal Planning and Zoning Commission specifically found that the only areas where

wind intensities are great enough to support industrial wind farms (i.e., large wind energy systems) are along the Haystack and Wills Mountain ridgelines. These ridgelines and the scenic and historic "Narrows" in between them form the natural and historically recognized backdrop of the City of Cumberland. Cumberland's efforts to protect the scenic qualities of this prominent natural landscape is evidenced by the adoption and enforcement of the Viewshed Protection Ordinance. Therefore, the City of Cumberland Municipal Planning and Zoning Commission's proposals to the Mayor and City Council of Cumberland prohibit the erection of large wind energy systems.

**WHEREAS**, the Mayor and City Council held a public hearing regarding the subject matter of this Ordinance on the 18th day of August, 2009, having published notice of the time and place of the hearing together with a summary this Ordinance in the Cumberland Times-News, a newspaper of general circulation in the City of Cumberland, once each week for two (2) successive weeks, with the first such notice having been published on August 4, 2009, said notice being published at least fourteen (14) days before the hearing as required by Section 4.04(b) of Article 66B of the Annotated Code of Maryland and Section 15.04.02 of the Zoning Ordinance.

**WHEREAS**, consistent with the recommendation of the Municipal Planning and Zoning Commission, the Mayor and City Council determined that the amendments to the Zoning Ordinance relative to wind energy systems will promote the health, safety and general welfare of the City of Cumberland and its inhabitants.

**NOW, THEREFORE:**

**SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND**, that Section 2.03 of the City of Cumberland Zoning Ordinance, as enacted by Ordinance No. 3607, passed on March 18, 2008, is hereby amended as follows:

Subsections 192-197 are renumbered sequentially as subsections 194-199. New subsections 192 and 193, as set forth below, are hereby enacted.

(192) Wind Energy System, Small: An exterior accessory device and essential supporting structure to a permitted principal use specifically designed to convert kinetic wind energy to electric power and

having a rated maximum output of not more than fifteen (15) Kilowatts of electricity for direct consumption on the subject property or for connection to the electric power grid to offset the cost of electric service consumed on the subject property. This use shall be allowed as a Conditional Accessory Use, subject to approval by the Zoning Board of Appeals, on any property in any zoning district, with the exception of the Conservation and Viewshed Protection Overlay Zones. Any wind energy system that exceeds these parameters shall be classified as a Large Wind Energy System.

- (193) Wind Energy System, Large: A device and essential supporting structure specifically designed to convert kinetic wind energy to electric power and having a rated maximum output in excess of fifteen (15) Kilowatts of electricity. Such systems shall be prohibited in all zones. (See also Wind Energy System, Small)

**SECTION 2: AND BE IT FURTHER ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND**, that Section 6.02(2), the Use Regulations Table, of the City of Cumberland Zoning Ordinance, as enacted by Ordinance No. 3607, passed on March 18, 2008, is hereby amended to incorporate use regulations as to wind energy system, large and wind energy system, small under the use description category "Transportation/Infrastructure Facilities" as follows: (**note:** bold print and underlining denote text amendments)

#### **6.02 USE REGULATIONS**

- (1) Uses permitted within the various zoning districts are listed in the table entitled "Use Regulations" on the following pages.
- (2) Any use which is not included in the table shall be considered as prohibited, except pursuant to Section 2.02.02 of this Ordinance.

USE REGULATIONS TABLE

USE DESCRIPTION	R-E	R-S	R-U	R-O	B-L	B-H	B-CBD	B-C	I-G	G-C	G-I
	<b>Residential</b>										
Single-family detached dwellings	P	P	P	P			C			P	P
Single-family attached dwellings	P*	P*	P	P			P			P	P
Two-family dwellings	P*	P*	P	P			P			P	P
Low-rise apartments	P*	P*	P	P			P			P	P
Mid-rise apartments				P			P				
High-rise apartments				P			P				
Motels, hotels, and motor inns				P		P	P	P		P	P
Bed and breakfasts	P		P	P			P			P	P

USE DESCRIPTION	R-E	R-S	R-U	R-O	B-L	B-H	B-CBD	B-C	I-G	G-C	G-I
	Key:	P Permitted Use C Conditional Use P* Permitted only within cluster developments (pursuant to Section 9)									
Dwelling units/restricted					P	P	P	P		P	P
Boarding houses			P	P						P	P
Home occupations	P		P	P	P	P	P	P	P	P	P
Home offices of convenience	P	P	P	P	P	P	P	P	P	P	P
Residential conversions			P	P						P	P
Group homes	P	P	P	P						P	P
Assisted living subject to the provisions of the zoning district	P	P	P	P			P			P	
Mobile home parks pursuant to the City's mobile home park ordinance			C								
Private Residential Garage	C	C	C	C							
<b>Commercial Uses/Sales</b>											

USE DESCRIPTION	R-E	R-S	R-U	R-O	B-L	B-H	B-CBD	B-C	I-G	G-C	G-I
	Key:	P Permitted Use C Conditional Use P* Permitted only within cluster developments (pursuant to Section 9)									
Retail buildings (less than 5,000 sq. ft.)				C	P	P	P	P	P	P	P
General merchandise buildings (more than 5,000 sq. ft. but less than 20,000 sq. ft.)					C	P	P	P	P	P	P
Retail centers (20,000 sq. ft. or greater)						P	P	P	P	P	P
Planned shopping centers						P	P	P	P	P	P
Retail/accessory light manufacturing				C	P	P	P	P	P	P	P
Repair services such as shops for household appliances, watch, shoe, bicycle, and lock repair and other similar services				C	P	P	P	P	P	P	P
Building materials yards						P		P	P		P
Contractor's equipment storage yard or plant								P	P		C
Wholesale businesses, warehouses, and similar non-processing storage and distribution uses, except bulk storage of chemicals, petroleum products, and other flammable, explosive, or noxious materials								P	P		C

USE DESCRIPTION	R-E	R-S	R-U	R-O	B-L	B-H	B-CBD	B-C	I-G	G-C	G-I
	Key:	P Permitted Use C Conditional Use P* Permitted only within cluster developments (pursuant to Section 9)									
Bulk plants									P		
<b>Manufacturing</b>											
Heavy manufacturing									P		
Light manufacturing and assembly						P	C	P	P		P
Incinerators									P		
Junk yard (Salvage yard)									C		
<b>Restaurants, Bars, Nightclubs</b>											
Restaurants, general					P	P	P	P	P	P	P
Restaurants, fast food, with drive-thru service					C	P	C	P	P	P	P
Restaurants, fast-food, w/o drive-thru service					P	P	P	P	P	P	P
Brewpubs, microbreweries					P	P	P	P	P	P	P

USE DESCRIPTION	R-E	R-S	R-U	R-O	B-L	B-H	B-CBD	B-C	I-G	G-C	G-I
	<b>Office, Clerical, Services Not Related to Sale of Goods</b>										
Government uses	P	P	P	P	P	P	P	P	P	P	P
Banks and financial institutions				P	P	P	P	P	P	P	P
Banks and financial institutions, including drive-in service places				C	P	P	P	P	P	P	P
Personal service establishments				C	P	P	P	P	P	P	P
Health clubs or spas					P	P	P	P	P	P	P
Commercial laundry establishments						C		P	P	C	P
Professional services, including but not limited to offices of realtors, lawyers, clergymen, teachers, architects, engineers, insurance agents, etc.				P	P	P	P	P	P	P	P
Veterinary offices/hospitals					P	P		P	P	P	P
Kennels								P	P		C

USE DESCRIPTION	R-E	R-S	R-U	R-O	B-L	B-H	B-CBD	B-C	I-G	G-C	G-I
	Business, administrative, or corporate offices for public agencies, nonprofit organizations, or private corporations				P	P	P	P	P	P	P
Child day care homes	P	P	P	P						P	
Child day care centers	C	C	P	P	P		P			P	
Mini-storage facilities						P		P	P		P
<b>Health Care and Related Uses</b>											
Hospitals	C		C	P							
Laboratories, medical	C		C	P	C	P	P	C	C	P	C
Ambulatory health care facilities	C		C	P	C	C	C	C	C	C	C
Adult day treatment, domiciliary care facilities	C		C	P	C		P				
Convalescent homes	C		C	P							

USE DESCRIPTION	R-E	R-S	R-U	R-O	B-L	B-H	B-CBD	B-C	I-G	G-C	G-I
	Nursing homes	C		C	P						
<b>Motor Vehicle Related Sales &amp; Service</b>											
Automobile sales/service establishments, including used car lots						P	P	P	P	P	P
Truck, farm equipment, mobile home, boat, and recreational vehicle sales/service establishments						P		P	P	P	P
Auto service stations						P		P	P	P	P
Auto repair stations						C		P	P	C	P
Auto repair garages and body shops						C		P	P	C	P
Auto impoundment areas									P		
<b>Recreation, Amusement, Entertainment</b>											
Commercial indoor recreation, indoor theaters					P	P	P	P	P	P	P

USE DESCRIPTION	R-E	R-S	R-U	R-O	B-L	B-H	B-CBD	B-C	I-G	G-C	G-I
	Commercial outdoor recreation					C	P		P	P	
Public and private parks, recreation areas, historic areas, conservation areas, and other similar uses employing open land with open structures	P	P	P	P	P	P	P	P	P	P	P
<b>Adult Businesses<sup>1</sup></b>											
Adult entertainment establishments									P		
Adult retail establishments									P		
<b>Cemeteries and Funeral Homes</b>											
Cemeteries	C	C	C								
Funeral homes	C		C	P	P	P	P			C	
<b>Educational, Research, Cultural, Religious, Social, Fraternal</b>											
Schools and educational institutions	C	C	C	P							

<sup>1</sup>. Adult businesses may not be located within 1,500 linear feet of any public library, public park, public playground, school, church or similar place of worship, child care center, community center, or residence.

USE DESCRIPTION	R-E	R-S	R-U	R-O	B-L	B-H	B-CBD	B-C	I-G	G-C	G-I
	Key:	P Permitted Use C Conditional Use P* Permitted only within cluster developments (pursuant to Section 9)									
Dormitories, fraternity and sorority houses				P							
Places of worship and related uses	P	P	P	P	P	P	P	P		P	
Private commercial educational institutions including schools for dance, music, art, drama, and other similar activities				P	P	P	P			P	
Clubs, lodges, or social buildings					P	P	P	P		C	
Community and cultural center buildings	C		C	P	P	P	P	P		C	P
Laboratories, research								P	P		C
<b>Transportation/Infrastructure Facilities</b>											
Railroad terminals, repair yards, and facilities									P		
Motor freight terminals									P		
Passenger terminals including taxi stands, bus, and rail passenger stations and shelters						P	P				
Off-street parking lots	P	P	P	P	P	P	P	P	P	P	P

USE DESCRIPTION	R-E	R-S	R-U	R-O	B-L	B-H	B-CBD	B-C	I-G	G-C	G-I
	Key:	P Permitted Use C Conditional Use P* Permitted only within cluster developments (pursuant to Section 9)									
Communications towers	P	P	P	P	P	P	P	P	P	P	P
<u>Wind energy system, large</u>											
<u>Wind energy system, small</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<b>Agricultural Operations</b>											
Agricultural, horticultural, and forestry uses	P										
Nurseries for growing of flowers, trees, and shrubs not for sale on the lot	P	P	P					P			P
Nurseries for growing of flowers, trees, and shrubs for sale on the lot					P	P		P	P	P	P

**NOTES :**

1. Permitted and prohibited uses in the Conservation District are presented in Section 6.12.
2. Permitted and prohibited uses in the Rehabilitation and Redevelopment Floating Zone District are presented in Section 6.14.
3. All public, professional, commercial, industrial, or other non-residential uses; all multi-family dwelling uses; all temporary structures; and certain other uses designated in

Sections 6.09 (Steep Slope Development), 6.10 (Development within Floodplains, Streams, and Buffer Areas), 6.11 (Preservation of Habitats of Threatened and Endangered Species), 6.13 (Gateway Districts), and 10 (Viewshed Protection Overlay District) are subject to the provisions of Section 8 (Site Plan Review).

**SECTION 3: AND BE IT FURTHER ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND,** that Section 6.04 of the City of Cumberland Zoning Ordinance, as enacted by Ordinance No. 3607, passed on March 18, 2008, is hereby amended by adding a Section 6.04.07 at the end of that Section, which Section 6.04.07 shall read as follows:

**6.04.07 Small Wind Energy Systems**

Small Wind Energy Systems, as defined in Section 2.03 of this Ordinance, shall be permitted as a conditional accessory use to any permitted principal use (excluding non-conforming uses) in any zoning district, with the exception of the Conservation and Viewshed Protection Overlay Zones, subject to a determination by the Zoning Board of Appeals of compliance with all of the following requirements:

- (1) No more than one (1) free-standing Small Wind Energy System with a rated maximum output of not more than fifteen (15) kilowatts of electricity shall be permitted on any individual property. No roof-mounted Wind Energy Systems shall be permitted.
- (2) The minimum setback from any property line for a Small Wind Energy System shall be:
  - (a) One and one-tenth (1.1) foot from the base of the structure to each property line for every one (1) foot in structure height (as measured from the lowest point along the base to the highest point of the support tower, the top of either the turbine device or the area swept by the rotor blades, whichever is greatest).
  - (b) In the event that the maximum permitted height for a small wind energy system cannot be achieved on a specific property by virtue of setback constraints,

the maximum permitted height shall be controlled by the setback constraints. The Zoning Board of Appeals shall not issue a variance to the minimum required setbacks for a small wind energy system.

- (3) No Small Wind Energy System shall have a rated maximum output in excess of fifteen (15) kilowatts of electricity. No variance to this electric generating capacity limit shall be granted by the Zoning Board of Appeals.
- (4) No support tower for a Small Wind Energy System shall be taller than thirty (30) meters (approximately 100 feet) in height. The Zoning Board of Appeals may issue a variance to the height limit for a ground-mounted Small Wind Energy System only, subject to compliance with all of the following requirements:
  - (a) The applicant shall provide wind speed measurements taken during the peak wind season documenting that the average wind speed from the prevailing wind direction at the maximum permitted height of thirty (30) meters does not exceed six (6) miles per hour and that the average wind speed from the prevailing wind direction at the requested height does exceed six (6) miles per hour.
  - (b) That the proposed Small Wind Energy System will be sited on the property in a location where an additional one and one-tenth (1.1) foot in setback distance from all property lines shall be provided for each additional one (1) foot in supporting tower height over and above the minimum setback required for the permitted height in Subsection (2) (a) above.
  - (c) The maximum height variance that the Zoning Board of Appeals may grant, based on the applicant's evidence and justification, shall not exceed one hundred fifty (150) feet.
  - (d) The proposed device shall satisfy all other applicable requirements of the Zoning Ordinance.

- (e) In granting a height variance for a Small Wind Energy System, the Zoning Board of Appeals may impose additional landscaping requirements along the boundaries of the property as may be warranted and reasonably effective to offset or minimize the visual impacts of the system on neighboring residences.
- (f) The Zoning Board of Appeals shall not vary the minimum setback requirements for a Small Wind Energy System in the granting of a height variance.
- (5) All wind energy systems shall be designed such that the lowest point of the area that may be swept by the rotor blades shall have a clearance of not less than fifteen (15) feet above the base of the supporting structure. The supporting tower shall not be climbable more than twelve (12) feet above the base of the structure. Any access doors to wind energy towers and electrical equipment shall be secured by safety locks.
- (6) The applicant shall document that the proposed Small Wind Energy System shall not generate noise levels at all property boundaries in excess of the residential use noise standards specified in Section 6.08 (6) (b) of the Zoning Ordinance. When measuring noise levels or determining compliance with the requirements of section 6.08 (6) (b) of the zoning ordinance, the Zoning Board of Appeals may require that all decibel levels and readings shall be measured using a C-weighted filter, rather than or in addition to an A-weighted filter, due to the predominance of low frequency noise emissions typically generated by wind turbines.
- (7) Guy wires used to support a Small Wind Energy System structure shall be set back at least ten (10) feet from all property lines and shall be secured to stationary anchors properly and securely mounted into the ground, not a tree or other structure on the property. Appropriate, but not excessive, reflective or visible painting or colored objects (such as flags, reflectors, or tapes) shall be placed on all guy wires

- within ten (10) feet of the ground in sufficient quantities or spacing to make them visible.
- (8) All Small Wind Energy Systems shall be designed with braking, governing, or feathering systems to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and system components.
  - (9) Where required, Small Wind Energy Systems must provide complete and appropriate documentation and approvals to show compliance with all applicable Federal Aviation Administration regulations, including any necessary approvals for systems that may be located near airport runways or may encroach upon protected approach/departure or accident potential zones around an airport. The applicant also shall provide documentation that the proposed Small Wind Energy System shall not create interference with telecommunication signals and reception in the immediate area.
  - (10) To the maximum extent practicable under the applicable regulatory requirements, rotor blades for all Small Wind Energy Systems shall be designed with non-reflective (non-gloss) paints and materials to minimize the potential "flicker" or "strobing" effect of reflected sunlight on adjoining properties. The system also shall be designed or sited to minimize the potential impacts of rotor blade shadow strobing on nearby residential dwellings, where such siting flexibility exists.
  - (11) No Small Wind Energy System shall be lighted or illuminated in any way that is not otherwise specifically required by the Federal Aviation Administration.
  - (12) No Small Wind Energy System shall contain any lettering, advertisement, or signage of any kind, with the exception of any required or standard warning signage and not more than one (1) manufacturer label bonded to or painted upon the wind turbine device.

- (13) Small Wind Energy Systems shall be designed and painted in a manner that is appropriate to minimize visual impacts on the area and setting.
- (14) All supporting towers for a small wind energy device shall be specifically engineered to support a wind turbine. Steel lattice support towers shall be prohibited in all residential zones. The use or modification of a supporting tower originally designed for a telecommunication antenna as a supporting tower for a small wind energy system shall be prohibited. Supporting towers constructed of aluminum also shall be prohibited.
- (15) To the maximum extent practicable, all on-site wiring or power lines necessary to control or transmit power from the wind energy device shall be undergrounded or hidden from public view, except where necessary to connect the system with an above-ground power line.
- (16) Where a Small Wind Energy System will be connected to the electric power grid to permit "net-metering," the applicant also shall provide an affidavit signed by the owner documenting that "[t]he owner will comply with all applicable utility notification requirements contained in the Maryland net metering law, and the system will comply with the Institute of Electrical and Electronics Engineers (IEEE) 1547 Standard for Interconnecting Distributed Resources with Electric Power Systems, as may be amended, and the applicable requirements promulgated by the Maryland Small Generator Interconnection Standards by the Maryland Public Service Commission."
- (17) When an approved Small Wind Energy System has ceased active production of electricity for a period of at least twelve (12) consecutive months, the owner of said property shall remove the device and supporting structure from the property.

**SECTION 4: AND BE IT FURTHER ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND,** that Section 6.12 of the City of Cumberland Zoning Ordinance, as enacted by Ordinance No. 3607, passed on March 18, 2008, is hereby amended by adding a Section

6.12(10) at the end of that Section, such that Section 6.12 shall now read as follows: (note: bold print and underlining denote text amendments)

**6.12 CONSERVATION DISTRICT (PROHIBITED/PERMITTED USES)**

Within this district, no structure shall be erected, nor shall any material or equipment be stored, nor shall any fill be placed, nor shall the elevation of any land be substantially changed, except that the following uses are permitted:

- (1) Agricultural, horticultural, and forestry uses.
- (2) Public and private parks, recreation areas, historic areas, conservation areas, and other similar uses employing open land with open structures.
- (3) Forestry, excluding buildings, structures, and open storage.
- (4) Flower and vegetable gardening, outdoor plant nurseries, with no buildings or structures.
- (5) Surface parking areas covered with natural materials such as wood chips, loose stones, etc.
- (6) Bridges, roads, utility installations, and the like pursuant to Section 8 (Site Plan Review).
- (7) Governmental uses pursuant to Section 8 (Site Plan Review).
- (8) Temporary storage of materials or equipment pursuant to Section 8 (Site Plan Review).
- (9) Paved surface parking areas pursuant to Section 8 (Site Plan Review).
- (10) Large and Small Wind Energy Systems, as defined in Section 2.03 of this Ordinance.**

SECTION 5: AND BE IT FURTHER ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, that Section 6.15.01 of the City of Cumberland Zoning Ordinance, as enacted by Ordinance No. 3607,

passed on March 18, 2008, is hereby amended by adding a Section 6.15.01(4) at the end of that Section, such that Section 6.15.01 shall now read as follows: (note: bold print and underlining denote text amendments)

**6.15.01 General Considerations**

- (1) The design of developments within the Viewshed Protection Overlay District shall address the following elements:
  - (a) Maximum feasible preservation of existing topographical forms;
  - (b) Vehicular circulation and how it relates to existing contours; and
  - (c) Maximum preservation of existing vegetation.
- (2) Disturbance to existing topographical features and vegetation should be minimized. Development should be designed to fit into the hillside rather than altering the existing topography to create a "flatland" type of development. This latter type of development results in greater loss of existing vegetation and increased earthwork.
- (3) Roads and driveways should be sensitive to existing contours and their length and width minimized to the greatest extent possible without affecting the health, safety, and welfare of residents.
- (4) Large and Small Wind Energy Systems, as defined in Section 2.03 of this Ordinance, shall not be permitted on any property subject to the Viewshed Protection Overlay Zone.

SECTION 6: AND BE IT FURTHER ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, that Section 8.03.01 of the City of Cumberland Zoning Ordinance, as enacted by Ordinance No. 3607, passed on March 18, 2008, is hereby amended by adding a Section 8.03.01(7) at the end of that Section, such that Section 8.03.01 shall now read as follows: (note: bold print and underlining denote text amendments)

8.03.01 Site Plans Subject to Minor Site Plan Review

The following site plans shall be subject to minor site plan review:

- (1) Single-family dwellings located within the Gateway or Viewshed Protection Overlay Districts, or otherwise requiring site plan review.
- (2) Minor subdivisions as defined in the Subdivision Regulations, where subject to site plan review.
- (3) Multi-family developments with five (5) or fewer dwelling units.
- (4) Private driveways located within public rights-of-way, with the approval of the City Engineer in accordance with Section 5.02(10) of the Subdivision Regulations.
- (5) New construction of public, professional, commercial, industrial, or other nonresidential use occupying less than 15,000 square feet of floor area.
- (6) Steep slope developments, as defined in Section 6.09, resulting in disturbance of not more than 10,000 square feet of the land surface.
- (7) Small Wind Energy Systems, subject to Conditional Use approval by the Zoning Board of Appeals.

SECTION 7: AND BE IT FURTHER ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, that Section 8.06 of the City of Cumberland Zoning Ordinance, as enacted by Ordinance No. 3607, passed on March 18, 2008, is hereby amended renumbering Section 8.06(17) to 8.06(18) and inserting a new Section 8.06(17) to read as follows:

(17) Small Wind Energy Systems

Small Wind Energy Systems, as defined in Section 2.03 of this Ordinance, shall be permitted as a conditional accessory use to any permitted principal use (excluding non-conforming uses) in any zoning district, with the exception of the

Conservation and Viewshed Protection Overlay Zones, subject to a determination by the Zoning Board of Appeals of compliance with all of the requirements specified in Section 6.04.07 of this Ordinance.

SECTION 8: AND BE IT FURTHER ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, that this Ordinance shall take effect ten (10) days from the date of its passage.

Passed this 8th day of September, 2009.

  
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Lee N. Fiedler, Mayor

ATTEST:

  
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Marjorie A. Eirich, City Clerk

Publication Dates: August 11, 18, 2009

1<sup>st</sup> Reading: August 4, 2009

2<sup>nd</sup> Reading: September 8, 2009

3<sup>rd</sup> Reading: September 8, 2009

Effective Date: September 18, 2009