

ACTIONS	
Board of Supervisors Meeting of December 10, 2009	
December 16, 2009	
<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
1. Call to Order. <ul style="list-style-type: none"> • Meeting was called to order at 12:23 p.m. by the Vice-Chairman, Ms. Mallek. All BOS members were present, with the exception of David Slutzky. Also present were Rob Bell, David Toscano, David Blount, Bob Tucker, Larry Davis, and Meagan Hoy. 	
2. Albemarle County Board of Supervisors & State Legislators Meeting. <ul style="list-style-type: none"> • HELD. 	
3. Non-Agenda. <ul style="list-style-type: none"> • ADOPTED, by a vote of 5:0 (Absent Slutzky), the attached ordinance. 	<u>Clerk:</u> Forward copy ordinance to Mark Graham, Wayne Cilimberg, Amelia McCulley, and County Attorney's office. (Attachment 1)
4. Adjourn to December 17, 2009, 2:00 p.m., to COB 5 th Street for the EPA/TMDL Meeting. <ul style="list-style-type: none"> • At 2:01 p.m., the Board meeting was adjourned to December 17, 2009. 	

/mrh

Attachment 1– Ordinance – Small wind turbines

ORDINANCE NO. 09-18(11)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, ARTICLE II, BASIC REGULATIONS, AND ARTICLE III, DISTRICT REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Provisions, Article II, Basic Regulations, and Article III, District Regulations, are hereby amended and reordained as follows:

By Amending:

- Sec. 3.1 Definitions
- Sec. 10.2.1 By right

By Adding:

- Sec. 5.1.46 Small wind turbines

Chapter 18. Zoning

Article I. General Regulations

Sec. 3.1 Definitions

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Fall zone. A zone on the surface of the ground that is a circle whose center is the proposed or standing personal wireless service facility or small wind turbine (the “facility or turbine”), where the radius is measured from the outer surface of the facility’s or turbine’s pole or other vertical structure immediately above its foundation, and where the radius is: (i) for facilities, equal to the height of the facility; and (ii) for turbines, equal to the height of the turbine plus a distance of twenty (20) feet.

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Historic district. The Southwest Mountains Rural Historic District, the Southern Albemarle Historic District, the Proffit Historic District and the Batesville Historic District, all of which are listed on the Virginia Landmarks Register.

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Small wind turbine. A wind energy conversion system used for the generation of power to support an authorized use on the property and all components of the system including, but not limited to, the tower, guy wires, wiring, rotors and turbine blades, generators and control systems.

Article II. Basic Regulations

Sec. 5.1.46 Small wind turbines

The purpose of this section 5.1.46 is to authorize small wind turbines as an accessory use in order to promote renewable energy. Each small wind turbine shall be subject to the following, as applicable:

- a. *Application for approval.* In conjunction with the submittal of a building permit application for a small wind turbine, the applicant shall submit the following information:
 1. A plat of the parcel showing the lot lines, the location of the proposed small wind turbine and the setbacks to the lot lines.
 2. Plans that show the total height of the proposed structure, including rotors or turbine blades and that show compliance with the building code.

- b. *Requirements.* Each small wind turbine shall be subject to the following:
1. *Primary purpose.* The primary purpose of the small wind turbine shall be to support and provide power for one or more authorized uses of the property; provided that nothing herein shall prohibit the owner from connecting the small wind turbine to a public utility and selling surplus power to the utility.
 2. *Location.* Notwithstanding section 4.2.3.1 of this chapter, the small wind turbine may be located in an area on a lot other than a building site. A small wind turbine shall not be located within a historic district or within a ridge area.
 3. *Setbacks.* The small wind turbine shall not be located closer in distance to any lot line than one hundred and fifty (150) feet. The agent may authorize a small wind turbine to be located closer to any lot line if the applicant obtains an easement or other recordable document showing agreement between the lot owners that is acceptable to the county attorney and, where applicable, that prohibits development on the portion of the abutting parcel sharing the common lot line that is within the small wind turbine's fall zone. If the right-of-way for a public street is within the fall zone, the Virginia Department of Transportation shall be included in the staff review, in lieu of recording an easement or other document.
 4. *Height.* The small wind turbine shall not exceed the maximum height permitted for structures within the applicable zoning district.
 5. *Lighting.* The small wind turbine shall have no lighting.
 6. *Collocation.* The small wind turbine shall not have personal wireless service facilities collocated upon it.
 7. *Removal.* The small wind turbine shall be disassembled and removed from the property within ninety (90) days after the date the use(s) to which it provides power is discontinued or its use to generate power is discontinued. If the agent determines at any time that surety is required to guarantee that the small wind turbine will be removed as required, the agent may require that the owner submit a certified check, a bond with surety, or a letter of credit, in an amount sufficient for, and conditioned upon, the removal of the small wind turbine. The type and form of the surety guarantee shall be to the satisfaction of the agent and the county attorney.
- c. *Approval.* The agent is authorized to review and approve small wind turbines. The agent shall act on the application before the building permit application or site plan for the small wind turbine is approved. Notwithstanding subsection 5.1, no requirement of subsection 5.1.46(b) may be waived or modified for a small wind turbine.
- d. *Denial.* If the agent denies an application, it shall identify which requirements were not satisfied and inform the applicant of what needs to be done to satisfy each requirement.

Article III. District Regulations

Sec. 10.2.1 By right

The following uses shall be permitted by right in the RA district, subject to the applicable requirements of this chapter:

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25. Small wind turbines (reference 5.1.46)