

Enacted On: _____, 2009

Effective Date: _____, 2009

AN ACT concerning

CAROLINE COUNTY
RESIDENTIAL BASED TRUCKING AND SERVICE BUSINESSES
ORDINANCE #2009-002

FOR the purpose of amending Chapter 175 of the Code of Public Local Laws of Caroline County, Maryland to provide for the continuation and establishment of certain residential based trucking and service businesses; to provide definitions, criteria, restrictions, and processes regarding such businesses; to provide that such businesses are permitted in the R-Rural zoning district only by Special Use Exception; to provide for certain non-residential based trucking and service businesses in certain other zoning districts in the County; providing that the title of this ordinance shall be deemed a fair summary of this ordinance for all purposes; and generally relating to the establishment and operation of residential based trucking and service businesses in Caroline County; and providing for an effective date.

WHEREAS, County Commissioners of Caroline County, Maryland (the “County”) is 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 (the “County Commissioners”) have determined that certain residential based trucking and service businesses have located in the R-Rural zoning district; and

WHEREAS, the County Commissioners have determined that such businesses 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 the continued operation of such businesses in the R-Rural zoning district under certain specific criteria by special use exception; and by providing for the location of non-residential based trucking and services businesses in certain other zoning districts in the County; and

WHEREAS, the County Commissioners declared a moratorium on the enforcement of certain provisions of the Zoning Ordinance to enable a work group consisting of County personnel, members of the affected business community, and residents of the County to review and assess the operations of such businesses and to propose any recommendations for legislative changes; and

WHEREAS, the Caroline County Planning Commission, on April 8, 2009 held a duly advertised public hearing on the subject of amending the Zoning Ordinance to provide for residential based trucking and service businesses and non-residential trucking and service businesses and moved to forward this ordinance to the County Commissioners with a favorable recommendation; and

WHEREAS, the County Commissioners, having received the recommendations of the work group and the Planning Commission, have determined that the proposals set forth by the work group and as recommended by the Planning Commission for textual amendments to the Zoning Ordinance will address the concerns regarding such businesses 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:

RESIDENTIAL TRUCKING OR SERVICE BUSINESS – A BUSINESS WHERE DRIVERS AND OTHER EMPLOYEES REPORT TO A RESIDENTIAL LOT TO PICK UP A VEHICLE OR TRAILER FOR USE IN A BUSINESS WHICH TRANSPORTS GOODS FROM ONE POINT TO ANOTHER OFF-SITE, OR WHICH PROVIDES SERVICES AT OFF-SITE LOCATIONS, AND IN WHICH GOODS ARE NOT REGULARLY STORED ON THE RESIDENTIAL LOT.

TRUCKING OR SERVICE BUSINESS – A BUSINESS WHERE DRIVERS AND OTHER EMPLOYEES REPORT TO A BUSINESS OR COMMERCIAL LOT TO PICK UP A VEHICLE OR TRAILER FOR USE IN A BUSINESS WHICH TRANSPORTS GOODS FROM ONE POINT TO ANOTHER OFF-SITE, OR WHICH PROVIDES SERVICES AT OFF-SITE LOCATIONS, AND IN WHICH GOODS ARE NOT REGULARLY STORED ON LOT.

ARTICLE V
Supplementary Regulations

§ 175-28.8 RESIDENTIAL BASED TRUCKING AND SERVICE BUSINESSES.

- A. PERMITTED. RESIDENTIAL BASED TRUCKING AND SERVICE BUSINESSES, AS DEFINED IN ARTICLE I OF THIS CHAPTER ARE PERMITTED SUBJECT TO THE TERMS, CONDITIONS, CRITERIA, AND PROCESSES SET FORTH IN THIS § 175-28.8, UPON THE GRANT OF A SPECIAL USE EXCEPTION GRANTED PURSUANT ARTICLE XVI OF THIS CHAPTER.**
- B. RESIDENCY REQUIREMENT. A RESIDENTIAL BASE TRUCKING OR SERVICE BUSINESS SHALL BE PERMITTED ON A RESIDENTIAL LOT LOCATED IN THE R-RURAL ZONING DISTRICT ONLY IF AND ONLY FOR SO LONG AS THE MAJORITY OWNER OF THE BUSINESS, OR A MEMBER OF THE MAJORITY**

OWNER'S IMMEDIATE FAMILY WHO IS EMPLOYED IN THE BUSINESS ON A REGULAR, FULL-TIME BASIS, RESIDES ON THE RESIDENTIAL LOT.

- C. AN OFFICE OR SHOP MAY BE PERMITTED ON THE RESIDENTIAL LOT AS A PERMITTED ACCESSORY BUILDING, SUBJECT TO SUCH SIZE/AREA RESTRICTIONS AS MAY BE DETERMINED BY THE BOARD OF ZONING APPEALS GIVEN THE NATURE OF THE BUSINESS, THE SIZE OF THE LOT, THE NATURE OF USE OF THE SURROUNDING PROPERTIES, AND SUCH OTHER FACTORS AS THE BOARD OF ZONING APPEALS, IN ITS REASONABLE DISCRETION, SHALL DETERMINE APPROPRIATE OR NECESSARY WITH RESPECT ANY PARTICULAR APPLICATION.**

- D. NORMAL MAINTENANCE ACTIVITIES ASSOCIATED WITH THE BUSINESS SHALL BE PERMITTED ON-SITE PROVIDED THAT SUCH ACTIVITIES ARE PERFORMED OR CARRIED OUT IN AN ENCLOSED BUILDING OR AT A LOCATION ON THE SITE NOT VISIBLE FROM THE ROAD OR FROM ADJOINING PROPERTIES, AND THAT ALL SUCH MAINTENANCE IS PERFORMED IN CONFORMANCE WITH APPLICABLE FEDERAL, STATE, AND LOCAL LAW.**

- E. REQUIREMENTS – EXISTING BUSINESSES. THE FOLLOWING REQUIREMENTS, TERMS, AND CONDITIONS SHALL APPLY TO ALL EXISTING RESIDENTIAL TRUCKING OR SERVICE BUSINESS IN THE R-RURAL ZONING DISTRICT TO BE COVERED BY THIS § 175-28.8.E:**
 - (1) THE BUSINESS MUST HAVE EXISTED AND OPERATED AS AN ON-GOING BUSINESS AS OF DECEMBER 2, 2008.**

 - (2) THE BUSINESS MUST FILE AN APPLICATION FOR A SPECIAL USE EXCEPTION NOT LATER THAN THE DATE WHICH IS FIVE (5) MONTHS FROM THE EFFECTIVE DATE OF THE ORDINANCE PROVIDING FOR SUCH BUSINESSES IN THE R-RURAL ZONING DISTRICT.**

 - (3) THE BUSINESS MUST SUBMIT TOGETHER WITH THE APPLICATION DESCRIBED IN § 175-28.8.E(2) A PROFESSIONALLY PREPARED SITE PLAN SHOWING THE LOCATION OF THE BUSINESS USE ON THE PROPERTY INCLUDING THE FOLLOWING INFORMATION, AND NOTING WITH RESPECT TO THE SAME WHETHER THE ITEM DESCRIBED OR REPRESENTED IS CURRENTLY EXISTING OR PROPOSED:**
 - (A) THE BOUNDARIES OF THE LOT OR PARCEL**

 - (B) ALL STRUCTURES LOCATED OR TO BE LOCATED ON THE PROPERTY, INCLUDING, BUT NOT LIMITED TO:**

[1] THE RESIDENCE

- [2] ALL SHEDS, OUTBUILDINGS, PARKING AREAS (INCLUDING SURFACE TYPES), SCREENING, TREES, AND SHRUBBERY**
 - [3] ALL MAINTENANCE FACILITIES, INCLUDING SHOPS AND WORK AND REPAIR AREAS**
 - [4] ALL RECREATIONAL STRUCTURE OR FACILITIES INCLUDING, BUT NOT LIMITED TO, YOUTH RECREATION EQUIPMENT AND SWIMMING POOLS (WHETHER IN-GROUND OR ABOVE-GROUND).**
- (4) THE BUSINESS MUST SUBMIT A DUST CONTROL PLAN.**
 - (5) THE BUSINESS MUST CONSENT TO AN ANNUAL VISUAL INSPECTION BY THE DEPARTMENT OF PLANNING, CODES, & ENGINEERING.**
 - (6) THE BUSINESS MUST PROVIDE FOR, AND PRESENT ON THE PROFESSIONALLY PREPARED SITE PLAN, APPROPRIATE BUFFERING OR SCREENING, NATURAL OR MAN-MADE, TO SHIELD NEIGHBORING PROPERTIES. NATURAL SCREENING OR BUFFERING SHALL CONSIST OF EVERGREEN ITEMS. THE BOARD MAY MODIFY SUCH REQUIREMENTS IN DETERMINING WHETHER TO GRANT A SPECIAL USE EXCEPTION.**
 - (7) THE BUSINESS MUST SPECIFY ON THE APPLICATION THE THEN CURRENT NUMBER OF VEHICLES OWNED OR LEASED BY THE BUSINESS, WHICH NUMBER SHALL CONSTITUTE THE TOTAL NUMBER OF TRUCKS PERMITTED ON SITE. NO INCREASE IN THAT NUMBER OF VEHICLES SHALL BE PERMITTED EXCEPT BY APPLICATION FOR, AND THE GRANT OF, A SUPPLEMENTAL SPECIAL USE EXCEPTION.**
 - (8) THE BUSINESS MUST PROVIDE IN THE SITE PLAN THAT EXTERIOR LIGHTING IS DIRECTED TO THE INTERIOR OF THE PROPERTY ONLY. EXTERIOR LIGHTING SHALL BE ALLOWED ONLY TO THE EXTENT REQUIRED OR PERMITTED IN THE SPECIAL USE EXCEPTION GRANTED BY THE BOARD OF ZONING APPEALS.**
 - (9) THE BUSINESS MUST OBTAIN APPROVAL FROM THE CAROLINE COUNTY DEPARTMENT OF PUBLIC WORKS FOR ANY ENTRANCE FROM THE LOT OR PARCEL ONTO A COUNTY ROAD, WHICH ENTRANCE APPROVAL SHALL INCLUDE, BUT NOT BE LIMITED TO, TYPE OF MATERIAL, LENGTH, WIDTH, AND RELATED FACTORS TO INSURE THAT THE BUSINESS ENTRANCE WILL NOT DAMAGE OR OTHERWISE NEGATIVELY IMPACT THE COUNTY ROAD OR THE SAFETY OF THE PUBLIC TRAVELING THEREON.**

- F. REQUIREMENTS – NEW BUSINESS. ANY RESIDENTIAL TRUCKING OR SERVICE BUSINESS IN, OR DESIRING TO BE IN, THE R-RURAL ZONING DISTRICT BUT NOT QUALIFYING AS AN EXISTING BUSINESS PURSUANT TO § 175-28.8.E(1) ABOVE, MAY APPLY FOR A SPECIAL USE EXCEPTION SUBJECT TO THE FOLLOWING TERMS, CONDITIONS, AND CRITERIA:**
- (1) SUCH BUSINESS SHALL MEET ALL OF THE TERMS, CONDITIONS, AND CRITERIA SET FORTH IN § 175-28.8.E(2) THROUGH (9).**
 - (2) NO MORE THAN 5 TRUCKS AND 5 TRAILERS SHALL BE PERMITTED ON THE RESIDENTIAL LOT.**
 - (3) ALL PARKING AREAS ARE TO BE BUFFERED AND/OR ENCLOSED WITHIN A FENCED AREA SO AS NOT TO BE VISIBLE FROM ROADS AND ADJOINING PROPERTIES.**
 - (4) NOT MORE THAN ONE (1) ACRE SHALL BE PERMITTED FOR BUSINESS USE ON THE SITE.**
 - (5) ALL PROPERTY AREAS USED IN THE BUSINESS SHALL BE CONTIGUOUS AND NOT FRAGMENTED.**
 - (6) MINIMUM ZONING SETBACK FROM PROPERTY LINES SHALL BE ONE HUNDRED FIFTY (150) FEET UNLESS OTHERWISE DETERMINED BY THE BOARD OF ZONING APPEALS BASED UPON THE FOLLOWING FACTORS:**
 - (A) SIZE AND SHAPE OF THE PARCEL OR SITE**
 - (B) NATURE OF THE USES ON THE NEIGHBORING PROPERTIES**
 - (C) NATURE OF THE CONTEMPLATED BUSINESS, AND FACTORS RELATED THERETO, INCLUDING, BUT NOT LIMITED TO, TYPES OF VEHICLES TO BE OPERATED FROM THE SITE, HOURS OF OPERATION, ANTICIPATED NOISE LEVELS, NUMBER OF EMPLOYEES REPORTING TO THE SITE, AND ANY OTHER FACTOR DETERMINED BY THE BOARD OF ZONING APPEALS TO BE RELEVANT IN DETERMINING AN APPROPRIATE SET BACK.**
 - (7) LIGHT MAINTENANCE AND REPAIRS SHALL BE CONDUCTED WITHIN AN ENCLOSED AREA OR BUILDING SO AS NOT TO BE VISIBLE FROM ROADS OR NEIGHBORING PROPERTIES.**
 - (8) GOODS ON PREMISES SHALL BE PERMITTED ONLY ON A TEMPORARY BASIS AND MUST BE STORED WITHIN AN ENCLOSED AREA OR BUILDING SO AS NOT TO BE VISIBLE FROM ROADS OR NEIGHBORING PROPERTIES.**

- (9) NO SUCH BUSINESS SHALL BE GRANTED A SPECIAL USE EXCEPTION IN THE R-RURAL ZONING DISTRICT IF THE LOT OR SITE UPON WHICH THE BUSINESS INTENDS TO OPERATE IS LOCATED IN, ADJACENT TO, OR WITH FOUR HUNDRED (400) FEET OF A TDR RECEIVING AREA, AN R-1 ZONING DISTRICT, A MUNICIPAL BOUNDARY, OR AN APPROVED MAJOR SUBDIVISION.
- G. NON-TRANSFERABILITY. ANYTHING IN THE CODE OF PUBLIC LOCAL LAWS OF CAROLINE COUNTY TO THE CONTRARY NOTWITHSTANDING, A SPECIAL USE EXCEPTION GRANTED IN ACCORDANCE WITH THIS § 175-28.8 IS AND SHALL NOT BE TRANSFERABLE. A NEW OWNER MUST APPLY FOR AND BE GRANTED A SPECIAL USE EXCEPTION. IF GRANTED, ALL EXISTING CONDITIONS WILL CONVEY AND TRANSFER TO THE APPLICANT.
- H. SITE PLANS REQUIRED HEREUNDER MAY BE PREPARED BY A LICENSED OR CERTIFIED ARCHITECT, ENGINEER, LAND SURVEYOR, OR A LANDSCAPE ARCHITECT.
- I. AGRICULTURAL EXCLUSION. THESE PROVISIONS SHALL NOT APPLY TO TRUCKS AND VEHICLES USED PRIMARILY IN OR FOR AGRICULTURAL OPERATIONS AND ACTIVITIES CONDUCTED ON OR FROM AGRICULTURAL USE PROPERTIES. THIS EXCLUSION INCLUDES, BUT IS NOT LIMITED TO:
- (1) THE USE OF SUCH VEHICLES FOR MOVING OR HAULING OF AGRICULTURAL PRODUCTS OR ANIMALS GROWN OR RAISED ON THE SITE;
 - (2) THE ADDITIONAL USE OF SUCH VEHICLES FOR ASSISTING OTHER OFF-SITE AGRICULTURAL OPERATIONS IN THE MOVING OR HAULING OF AGRICULTURAL PRODUCTS OR ANIMALS; AND
 - (3) THE OCCASIONAL, LIMITED USE OF SUCH TRUCKS AND VEHICLES FOR LIMITED HAULING SERVICES FOR THE PROPERTY OWNER OR OTHERS OF NON-AGRICULTURAL PRODUCTS.

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. A NEW ITEM STYLED AS “RESIDENTIAL TRUCKING OR SERVICE BUSINESS” SHALL BE ADDED WITHIN THE “COMMERCIAL BUSINESS AND PERSONAL SERVICES” CATEGORY WITH USE ALLOWED AS “E” SPECIAL USE EXCEPTION UNDER THE PRIMARY ZONING DISTRICT COLUMN “R” ONLY, WITH A NOTATIONAL REFERENCE IN THE “ADDITIONAL REGULATIONS” COLUMN TO “SEE §§ 175-8 AND 175-28.8.”

B. A NEW ITEM STYLED AS “TRUCKING OR SERVICE BUSINESS” SHALL BE ADDED WITHIN THE “COMMERCIAL BUSINESS AND PERSONAL SERVICES” CATEGORY WITH USE ALLOWED AS “P” PERMITTED UNDER THE PRIMARY

ZONING DISTRICT COLUMNS HC, C-2, AND I-2, WITH A NOTATIONAL REFERENCE IN THE “ADDITIONAL REGULATIONS” COLUMN TO “SEE §§ 175-8.”

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**.

SECTION 5. This ordinance shall take effect ten (10) days after it is enacted.

ENACTED THIS _____ DAY OF MAY 2009.

ATTEST:

**COUNTY COMMISSIONERS OF
CAROLINE COUNTY, MARYLAND**

SARA B. VISINTAINER
EXECUTIVE ASSISTANT

JOHN W. COLE, PRESIDENT

ROGER L. LAYTON, VICE PRESIDENT

(SEAL)

JEFFERSON L. GHRIST, COMMISSIONER