

REPORT TO THE SHASTA COUNTY PLANNING COMMISSION

<u>PROJECT IDENTIFICATION:</u> <u>REGULAR AGENDA</u>	MEETING DATE	AGENDA ITEM #
ZONE AMENDMENT 23-0001 LARGE WIND ENERGY SYSTEMS COUNTY-WIDE (ZONING TEXT AMENDMENT)	02/09/23	R6

RECOMMENDATION: That the Planning Commission:

1. Conduct a public hearing.
2. Close the public hearing.
3. Adopt a resolution recommending that the Shasta County Board of Supervisors: a) find that Zone Amendment 23-0001 is not subject to the California Environmental Quality Act (CEQA) for the reasons stated in Resolution 2023-007; b) adopt the recommended findings listed in Resolution 2023-007; and c) introduce, waive the reading of, and enact an ordinance to amend the Zoning Plan of the County of Shasta identified as Zone Amendment 23-0001.

BACKGROUND:

On July 12, 2022, the Board of Supervisors enacted Ordinance No. SCC 2022-04 amending the Shasta County Zoning Plan to regulate small and large wind energy systems within the unincorporated area of Shasta County, including the prohibition of large wind energy systems. On August 16, 2022, the Board of Supervisors adopted Resolution No. 2022-097, a resolution of intention to consider amendments to the Shasta County Zoning Plan in light of Assembly Bill (AB) 205 relative to the regulation of large wind energy systems and to direct the Department of Resource Management to study the matter, propose amendments to the Zoning Plan, and submit proposed amendments to the Planning Commission for their consideration and recommended action.

The California State Legislature approved AB 205, which was signed by the Governor on June 30, 2022, and took effect immediately. Among other provisions, AB 205 allows the developer of a wind and solar photovoltaic facility with a generating capacity of 50 megawatts or more to submit an application to the California Energy Commission (CEC) rather than to the local jurisdiction in which the project is located. When such an application is submitted to the CEC, the CEC has exclusive siting authority over such proposed facilities but must make certain findings in order to approve an application which does not conform with applicable local ordinances unless the CEC determines that the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity. In addition, the CEC shall not approve an application for such a facility in Shasta County unless the CEC finds that the construction or operation of the facility will have an overall net positive economic benefit to Shasta County and that the applicant has entered into one or more legally binding and enforceable agreements with, or that benefit, a coalition of one or more community based organizations, including local governmental entities.

The proposed amendments to the Zoning Plan address the authority granted to the CEC with respect to the certification of large wind energy systems through AB 205 which was enacted into law shortly after the Planning Commission recommended that the Board of Supervisors adopt Section 17.88.335 of the Zoning Plan in order to prohibit additional large wind energy systems from being developed within the unincorporated area of Shasta County. The proposed amendments address the ability of applicants to request certification of large wind energy systems by the CEC in connection with Shasta County's prohibition against such developments and to address the findings which must be made by the CEC in order to certify a large wind energy system. The proposed amendments would add a legislative finding that the construction or operation of large wind energy systems will not have an overall net positive economic benefit to the County and that the adverse impacts of large wind energy systems in the County identified

in the legislative findings outweigh any potential economic benefits to the County that may be available from such large wind energy systems.

Environmental Determination: Adoption of the ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines section 15060(c)(2) since it can be seen with certainty that this ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment.

ISSUES: No unusual issues have been identified with respect to this project. To date, no public comments have been received.

ALTERNATIVES: The following alternatives are available:

1. Recommend that the Board approve Zone Amendment 23-0001 with revisions.
2. Recommend that the Board deny Zone Amendment 23-0001.
3. Continue the public hearing to request additional information.

CONCLUSION:

Staff is of the opinion that the proposed ordinance supports the public necessity, health, safety, convenience and general welfare of the citizens of Shasta County.



PAUL A. HELLMAN

Director of Resource Management

PAH/trh/All Districts

Copies: Project File

Attachments: Board of Supervisors Resolution No. 2022-097 (Resolution of Intention)
Draft Resolution No. 2023-007
Draft Strikeout Ordinance
Draft Ordinance

RESOLUTION NO. 2022-097

**A RESOLUTION OF INTENTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SHASTA
TO CONSIDER AMENDMENTS TO THE SHASTA COUNTY ZONING PLAN IN
LIGHT OF ASSEMBLY BILL 205 RELATIVE TO
THE REGULATION OF LARGE WIND ENERGY SYSTEMS**

WHEREAS, the County of Shasta (County) has adopted a Zoning Plan identified as Title 17 (Zoning) of the Shasta County Code (SCC); and

WHEREAS, the County of Shasta may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, California Government Code section 65850 authorizes the County of Shasta to adopt ordinances that regulate the use of buildings, structures, and land and the intensity of land uses; and

WHEREAS, on June 28, 2022, the Board of Supervisors authorized Acting County Executive Officer Patrick Minturn to submit a letter of opposition to Assembly Bill (AB) 205 to the California State Legislature, which, among other provisions, proposed to remove local jurisdictional permitting authority for wind and solar photovoltaic facilities with a generating capacity of 50 megawatts or more and to establish the California Energy Commission as the permitting authority for such facilities; and

WHEREAS, despite the submittal of a letter of opposition on behalf of the Board of Supervisors, the California State Legislature approved AB 205, which was signed by the Governor on June 30, 2022, and took effect immediately; and

WHEREAS, on July 12, 2022, the Board of Supervisors enacted Ordinance No. SCC 2022-04 regulating small and large wind energy systems, including the prohibition of large wind energy systems in all zone districts of the unincorporated area of the County of Shasta; and

WHEREAS, the legislative findings contained in Ordinance No. SCC 2022-04 specify that the adverse impacts of large wind energy systems, particularly with respect to wildfire, aerial firefighting, aesthetics, biological resources, and historical, cultural, and tribal resources, are of significant concern to many residents of Shasta County as evidenced by the numerous public comments received between 2019 and 2021 regarding the proposed Fountain Wind Project; and

WHEREAS, the legislative findings contained in Ordinance No. SCC 2022-04 specify that the vast majority of the unincorporated area of Shasta County is designated as being in the High and Very High Fire Hazard Severity Zones as recommended by the California Department of Forestry and Fire Protection and that large wind energy systems are incompatible in the High and Very High Fire Hazard Severity Zones; and

WHEREAS, the legislative findings contained in Ordinance No. SCC 2022-04 specify that regulations are needed to protect the public health, safety, and welfare of residents from the adverse impacts of large wind energy systems; and

WHEREAS, in light of AB 205, amendments to the Shasta County Zoning Plan relative to the prohibition of large wind energy systems in Ordinance No. SCC 2022-04 should be considered in furtherance of the public necessity, convenience, and general welfare.

NOW THEREFORE, BE IT RESOLVED that the Shasta County Board of Supervisors, pursuant to section 17.92.080(B) of the Shasta County Code, hereby intends to consider amendments to the Shasta County Zoning Plan, in light of the provisions of AB 205, relative to the prohibition of large wind energy systems in Ordinance No. SCC 2022-04 and in furtherance of the public necessity, convenience, and general welfare.

BE IT FURTHER RESOLVED that the Shasta County Department of Resource Management is directed to study the matter, propose amendments to the Shasta County Zoning Plan, and submit any proposed amendments to the Shasta County Planning Commission, in accordance with section 17.92.080 of the Shasta County Code, for the Planning Commission's consideration and recommended action.

DULY PASSED AND ADOPTED this 16th day of August, 2022, by the Board of Supervisors of the County of Shasta, State of California, by the following vote:

AYES: Supervisors Jones, Baugh, Chimenti, Garman, and Rickert
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None



LES BAUGH, CHAIR
Board of Supervisors
County of Shasta
State of California

ATTEST:

PATRICK J. MINTURN
Acting Clerk of the Board of Supervisors

By: _____



Deputy

RESOLUTION NO. 2023-007

**A RESOLUTION OF THE SHASTA COUNTY PLANNING COMMISSION
RECOMMENDING THAT THE SHASTA COUNTY BOARD OF SUPERVISORS
APPROVE ZONE AMENDMENT 23-0001 AMENDING SECTION 17.88.335,
LARGE WIND ENERGY SYSTEMS, OF THE SHASTA COUNTY CODE
IN LIGHT OF ASSEMBLY BILL 205**

WHEREAS, the County of Shasta (County) has adopted a Zoning Plan identified as Title 17 (Zoning) of the Shasta County Code (SCC); and

WHEREAS, based on Board of Supervisors Resolution No. 2022-097, a resolution of intention to consider amendments to the Shasta County Zoning Plan in light of Assembly Bill 205 relative to the regulation of large wind energy systems, and to direct the Department of Resource Management to study the matter, propose amendments to the Zoning Plan, and submit proposed amendments to the Shasta County Planning Commission for their consideration and recommended action; and

WHEREAS, a duly noticed public hearing was held on February 9, 2023, at which time all interested persons were given an opportunity to comment and those comments were considered by the Planning Commission; and

WHEREAS, the Shasta County Planning Commission has considered public comments and a report from the Department of Resource Management.

NOW, THEREFORE BE IT RESOLVED, by the Shasta County Planning Commission that:

1. The foregoing recitals are true and correct.
2. The Planning Commission has independently reviewed and considered the proposed zone amendment, together with all public comments and a report from the Department of Resource Management.
3. Adoption of the ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines section 15060(c)(2) since it can be seen with certainty that this ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment.
4. The proposed Zone Amendment is consistent with the Shasta County General Plan on the basis that the ordinance prohibits a type of development that is incompatible in high risk fire hazard areas from locating in such areas (Objective FS-1), protects the natural scenery along scenic highways from new development which would diminish the aesthetic value of the scenic corridor (Objective SH-1), and guides development in a pattern that will respect the natural resource values of County lands and their contributions to the County's economic base and that will minimize land use conflicts between adjacent land uses (Objectives CO-3 & CO-4).
5. The Planning Commission recommends the proposed amendments to the Shasta County Zoning Plan identified as Zone Amendment 23-0001 for the purpose of addressing the ability of applicants to request certification of large wind energy systems by the California Energy Commission (CEC) in connection with Shasta County's prohibition against such developments and to address the findings which must be made by the CEC in order to certify a large wind energy system. Furthermore, the Planning Commission recommends the proposed

amendments for the purpose of adding a legislative finding that the construction or operation of large wind energy systems will not have an overall net positive economic benefit to the County and that the adverse impacts of large wind energy systems in the County identified in the legislative findings outweigh any potential economic benefits to the County that may be available from such large wind energy systems. The Planning Commission recognizes the need to address the authority granted to the CEC with respect to the certification of large wind energy systems pursuant to Chapter 6.2 of Division 15 of the Public Resources Code (Government Code sections 25545 *et seq*) enacted into law shortly after the Planning Commission recommended that the Board of Supervisors adopt SCC Section 17.88.335 in order to prohibit additional large wind energy systems from being developed within the unincorporated area of Shasta County.

6. The Planning Commission recommends that the Shasta County Board of Supervisors introduce, waive the reading of, and enact an ordinance amending the Zoning Plan of the County of Shasta, identified as Zone Amendment 23-0001, by amending SCC Section 17.88.335 in light of Assembly Bill 205, which authorizes applications for large wind energy systems to be submitted to the California Energy Commission (CEC) for review and approval, pursuant to Chapter 6.2 of Division 15 of the Public Resources Code (Government Code sections 25545 *et seq*). The proposed amendments consist of findings by the County of Shasta in connection with applications for large wind energy systems submitted to the CEC and duties to be performed by the Director of Resource Management in conjunction with applications for large wind energy systems filed with the CEC.

DULY PASSED AND ADOPTED this 9th day of February, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

JAMES CHAPIN, Chair
Planning Commission
County of Shasta, State of California

ATTEST:

PAUL A. HELLMAN, Secretary
Planning Commission
County of Shasta, State of California

STRIKEOUT VERSION OF ORDINANCE NO. SCC 2023-_____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SHASTA AMENDING SECTION 17.88.335,
LARGE WIND ENERGY SYSTEMS, OF THE SHASTA COUNTY CODE
IN LIGHT OF ASSEMBLY BILL 205**

The Board of Supervisors of the County of Shasta ordains as follows:

SECTION I.

Section 17.88.335, “Large wind energy systems,” of the Shasta County Code is amended in its entirety as follows:

17.88.335 Large wind energy systems.

A. Legislative Findings.

The Board of Supervisors finds as follows:

1. California Government Code section 65850 authorizes the County of Shasta to adopt ordinances that regulate the use of buildings, structures, and land and the intensity of land uses.
2. Pursuant to Article XI, Section 7, of the California Constitution, the County of Shasta may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and general welfare of its citizens.
3. The adverse impacts of large wind energy systems, particularly with respect to wildfire, aerial firefighting, aesthetics, biological resources, and historical, cultural, and tribal resources, are of significant concern to many residents of Shasta County as evidenced by the numerous public comments received between 2019 and 2021 regarding the proposed Fountain Wind Project.
4. The vast majority of the unincorporated area of Shasta County is designated as being in the High and Very High Fire Hazard Severity Zones as recommended by the California Department of Forestry and Fire Protection. Large wind energy systems are incompatible in the High and Very High Fire Hazard Severity Zones.
5. In light of the foregoing concerns, the construction or operation of large wind energy systems will not have an overall net positive economic benefit to the County of Shasta. The foregoing concerns outweigh any potential economic benefits to the County that may be available from such large wind energy systems.

56. Regulations are needed to protect the public health, safety, and welfare of residents from the adverse impacts of large wind energy systems.

67. The Board of Supervisors enacts this section to prohibit large wind energy systems in furtherance of the public necessity, health, safety, convenience, and general welfare.

B. Definitions.

The following definition governs this section:

“Large wind energy system” means a wind energy conversion system that is not defined as a small wind energy system pursuant to subsection 17.88.035.A. of this chapter.

C. Prohibition.

Large wind energy systems are prohibited in all zone districts of the unincorporated area of the County of Shasta and no permit or approval of any type shall be issued therefor.

D. Applications for Large Wind Energy Systems Filed with the California Energy Commission.

1. In connection with applications for large wind energy systems submitted to the California Energy Commission for review and approval, pursuant to Chapter 6.2 of Division 15 of the Public Resources Code (Government Code sections 25545 et seq), the County of Shasta makes the following findings:

a. As recognized by relevant legal authorities, the California Energy Commission is to give great weight to the comments, opinions, ordinances, and standards of local governments. The concerns of counties and cities are not to be ignored or to be given secondary consideration. As representatives of the people who live in the immediate area of large wind energy systems, county and city government officers are to be listened to and respected.

b. In accordance with Public Resources Code sections 25525 and 25545.8, the California Energy Commission may not certify a facility contained in the application when it finds, pursuant to subdivision (d) of Public Resources Code Section 25523, that the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws, unless the commission determines that the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity. In making the determination, the commission shall consider the entire record of the proceeding, including, but not limited to, the impacts of the facility on the environment, consumer benefits, and electric system reliability. The commission may not make a finding in conflict with applicable federal law or

regulation. The basis for these findings shall be reduced to writing and submitted as part of the record pursuant to Public Resources Section 25523.

- c. The foregoing statutes reflect a legislative policy that local ordinances, laws and standards are to be given such weight as to prevent or substantially influence the construction of a proposed facility not in compliance therewith if there exists a more prudent and feasible means of achieving the public convenience and necessity than constructing the facility as proposed or on the site proposed.
 - d. Pursuant to Shasta County Code section 17.88.335(C), large wind energy systems are prohibited in all zone districts of the unincorporated area of the County of Shasta and no permit or approval of any type shall be issued therefor. There are more prudent and feasible means of achieving any possible public convenience and necessity than constructing large wind energy systems in the unincorporated area of the County of Shasta.
 - e. Pursuant to section 25545.9 of the Public Resources Code, the California Energy Commission shall not certify a site and related facility unless the commission finds that the construction or operation of the facility will have an overall net positive economic benefit to the County of Shasta. Pursuant to the findings in Shasta County Code section 17.88.335(A), large wind energy systems will not have an overall net positive economic benefit to the County of Shasta.
 - f. Pursuant to section 25545.10 of the Public Resources Code, the California Energy Commission shall not certify a site and related facility unless the commission finds that the applicant has entered into one or more legally binding and enforceable agreements with, or that benefit, a coalition of one or more community based organizations, including local governmental entities. No County officer, agency, or department is authorized to agree to any such community benefit agreement for large wind energy systems without the prior approval of the Board of Supervisors.
2. For each application for a large wind energy system within the unincorporated area of Shasta County filed with the California Energy Commission for review and approval, pursuant to Chapter 6.2 of Division 15 of the Public Resources Code (Government Code sections 25545 et seq), the Director of Resource Management shall perform the following duties:
- a. In consultation with all applicable Shasta County departments, Native American tribal governments, agencies, organizations, and groups, evaluate the economic impacts of the proposal and prepare and present a comment letter regarding the economic impacts of the proposal to the Board of Supervisors for their consideration.

- b. When directed by the Board of Supervisors, submit a comment letter regarding the economic impacts of the proposal to the California Energy Commission and on such other impacts as may be directed by the Board of Supervisors.
- c. In his/her capacity as the Shasta County Environmental Review Officer, review all environmental documents prepared for the proposal by the California Energy Commission in accordance with the California Environmental Quality Act and submit written comments to the commission when warranted and appropriate.
- d. In accordance with Public Resources Code section 25519, the Director of Resource Management shall review the application and submit comments on, among other things, the design of the facility, architectural and aesthetic features of the facility, access to highways, landscaping and grading, public use of lands in the area of the facility, and other appropriate aspects of the design, construction, or operation of the proposed site and related facility. The Director of Resource Management shall also provide the California Energy Commission copies of all relevant laws, ordinances, and regulations promulgated or administered by the County of Shasta.
- e. The Director of Resource Management shall also review the application and provide comments for conformance with the requirements of Public Resources Code section 25527 and whether the proposed site will impact any of the following areas:
 - i. State, regional, county and city parks; wilderness, scenic or natural reserves; areas for wildlife protection, recreation, historic preservation; or natural preservation areas located in the County of Shasta.
 - ii. Estuaries in an essentially natural and undeveloped state located within the County of Shasta.

Pursuant to Public Resources Code section 25527, in considering applications for certification, the California Energy Commission shall give the greatest consideration to the need for protecting areas of critical environmental concern, including, but not limited to, unique and irreplaceable scientific, scenic, and educational wildlife habitats; unique historical, archaeological, and cultural sites; lands of hazardous concern; and areas under consideration by the state or the United States for wilderness, or wildlife and game reserves.
- f. In accordance with Public Resources Code section 25538, the Director of Resource Management shall request a fee from the California Energy Commission to reimburse the County of Shasta for the actual and added costs of the review by the County of Shasta and such other fees as may authorized under that statute and other applicable laws.

SECTION II.

The County finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines section 15060(c)(2) since it can be seen with certainty that this ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment.

SECTION III.

If any section, subsection, sentence, clause, phrase, or provision of this ordinance or its application to any person or circumstance is held invalid for any reason, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause, phrase, or provision thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or provisions be declared unconstitutional or invalid.

SECTION IV.

All former ordinances and resolutions, or parts thereof, conflicting or inconsistent with the provisions of this ordinance are hereby superseded by this ordinance. The adoption of this ordinance shall not in any manner affect any action or prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, be construed as a waiver of any license, fee, or penalty required by or resulting from any such ordinance, or affect the validity of any bond (or cash deposit in lieu thereof) required to be posted, filed, or deposited pursuant to such ordinance.

SECTION V.

This ordinance shall take effect and be in full force and effect 30 days after its passage. The Clerk shall cause this ordinance to be published as required by law.

DULY PASSED AND ADOPTED this XX day of XXXX, 2023, by the Board of Supervisors of the County of Shasta, State of California, by the following vote:

AYES: X
NOES: X
ABSENT: X
ABSTAIN: X
RECUSE: X

PATRICK JONES, CHAIR
Board of Supervisors
County of Shasta
State of California

ATTEST:

MARY WILLIAMS
Acting Clerk of the Board of Supervisors

By: _____
Deputy

ORDINANCE NO. SCC 2023-_____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SHASTA AMENDING SECTION 17.88.335,
LARGE WIND ENERGY SYSTEMS, OF THE SHASTA COUNTY CODE
IN LIGHT OF ASSEMBLY BILL 205**

The Board of Supervisors of the County of Shasta ordains as follows:

SECTION I.

Section 17.88.335, “Large wind energy systems,” of the Shasta County Code is amended in its entirety as follows:

17.88.335 Large wind energy systems.

A. Legislative Findings.

The Board of Supervisors finds as follows:

1. California Government Code section 65850 authorizes the County of Shasta to adopt ordinances that regulate the use of buildings, structures, and land and the intensity of land uses.
2. Pursuant to Article XI, Section 7, of the California Constitution, the County of Shasta may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and general welfare of its citizens.
3. The adverse impacts of large wind energy systems, particularly with respect to wildfire, aerial firefighting, aesthetics, biological resources, and historical, cultural, and tribal resources, are of significant concern to many residents of Shasta County as evidenced by the numerous public comments received between 2019 and 2021 regarding the proposed Fountain Wind Project.
4. The vast majority of the unincorporated area of Shasta County is designated as being in the High and Very High Fire Hazard Severity Zones as recommended by the California Department of Forestry and Fire Protection. Large wind energy systems are incompatible in the High and Very High Fire Hazard Severity Zones.
5. In light of the foregoing concerns, the construction or operation of large wind energy systems will not have an overall net positive economic benefit to the County of Shasta. The foregoing concerns outweigh any potential economic benefits to the County that may be available from such large wind energy systems.

6. Regulations are needed to protect the public health, safety, and welfare of residents from the adverse impacts of large wind energy systems.
7. The Board of Supervisors enacts this section to prohibit large wind energy systems in furtherance of the public necessity, health, safety, convenience, and general welfare.

B. Definitions.

The following definition governs this section:

“Large wind energy system” means a wind energy conversion system that is not defined as a small wind energy system pursuant to subsection 17.88.035.A. of this chapter.

C. Prohibition.

Large wind energy systems are prohibited in all zone districts of the unincorporated area of the County of Shasta and no permit or approval of any type shall be issued therefor.

D. Applications for Large Wind Energy Systems Filed with the California Energy Commission.

1. In connection with applications for large wind energy systems submitted to the California Energy Commission for review and approval, pursuant to Chapter 6.2 of Division 15 of the Public Resources Code (Government Code sections 25545 *et seq*), the County of Shasta makes the following findings:
 - a. As recognized by relevant legal authorities, the California Energy Commission is to give great weight to the comments, opinions, ordinances, and standards of local governments. The concerns of counties and cities are not to be ignored or to be given secondary consideration. As representatives of the people who live in the immediate area of large wind energy systems, county and city government officers are to be listened to and respected.
 - b. In accordance with Public Resources Code sections 25525 and 25545.8, the California Energy Commission may not certify a facility contained in the application when it finds, pursuant to subdivision (d) of Public Resources Code Section 25523, that the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws, unless the commission determines that the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity. In making the determination, the commission shall consider the entire record of the proceeding, including, but not limited to, the impacts of the facility on the environment, consumer benefits, and electric system reliability. The commission may not make a finding in conflict with applicable federal law or

regulation. The basis for these findings shall be reduced to writing and submitted as part of the record pursuant to Public Resources Section 25523.

- c. The foregoing statutes reflect a legislative policy that local ordinances, laws and standards are to be given such weight as to prevent or substantially influence the construction of a proposed facility not in compliance therewith if there exists a more prudent and feasible means of achieving the public convenience and necessity than constructing the facility as proposed or on the site proposed.
 - d. Pursuant to Shasta County Code section 17.88.335(C), large wind energy systems are prohibited in all zone districts of the unincorporated area of the County of Shasta and no permit or approval of any type shall be issued therefor. There are more prudent and feasible means of achieving any possible public convenience and necessity than constructing large wind energy systems in the unincorporated area of the County of Shasta.
 - e. Pursuant to section 25545.9 of the Public Resources Code, the California Energy Commission shall not certify a site and related facility unless the commission finds that the construction or operation of the facility will have an overall net positive economic benefit to the County of Shasta. Pursuant to the findings in Shasta County Code section 17.88.335(A), large wind energy systems will not have an overall net positive economic benefit to the County of Shasta.
 - f. Pursuant to section 25545.10 of the Public Resources Code, the California Energy Commission shall not certify a site and related facility unless the commission finds that the applicant has entered into one or more legally binding and enforceable agreements with, or that benefit, a coalition of one or more community based organizations, including local governmental entities. No County officer, agency, or department is authorized to agree to any such community benefit agreement for large wind energy systems without the prior approval of the Board of Supervisors.
2. For each application for a large wind energy system within the unincorporated area of Shasta County filed with the California Energy Commission for review and approval, pursuant to Chapter 6.2 of Division 15 of the Public Resources Code (Government Code sections 25545 *et seq*), the Director of Resource Management shall perform the following duties:
- a. In consultation with all applicable Shasta County departments, Native American tribal governments, agencies, organizations, and groups, evaluate the economic impacts of the proposal and prepare and present a comment letter regarding the economic impacts of the proposal to the Board of Supervisors for their consideration.

- b. When directed by the Board of Supervisors, submit a comment letter regarding the economic impacts of the proposal to the California Energy Commission and on such other impacts as may be directed by the Board of Supervisors.
- c. In his/her capacity as the Shasta County Environmental Review Officer, review all environmental documents prepared for the proposal by the California Energy Commission in accordance with the California Environmental Quality Act and submit written comments to the commission when warranted and appropriate.
- d. In accordance with Public Resources Code section 25519, the Director of Resource Management shall review the application and submit comments on, among other things, the design of the facility, architectural and aesthetic features of the facility, access to highways, landscaping and grading, public use of lands in the area of the facility, and other appropriate aspects of the design, construction, or operation of the proposed site and related facility. The Director of Resource Management shall also provide the California Energy Commission copies of all relevant laws, ordinances, and regulations promulgated or administered by the County of Shasta.
- e. The Director of Resource Management shall also review the application and provide comments for conformance with the requirements of Public Resources Code section 25527 and whether the proposed site will impact any of the following areas:
 - i. State, regional, county and city parks; wilderness, scenic or natural reserves; areas for wildlife protection, recreation, historic preservation; or natural preservation areas located in the County of Shasta.
 - ii. Estuaries in an essentially natural and undeveloped state located within the County of Shasta.

Pursuant to Public Resources Code section 25527, in considering applications for certification, the California Energy Commission shall give the greatest consideration to the need for protecting areas of critical environmental concern, including, but not limited to, unique and irreplaceable scientific, scenic, and educational wildlife habitats; unique historical, archaeological, and cultural sites; lands of hazardous concern; and areas under consideration by the state or the United States for wilderness, or wildlife and game reserves.

- f. In accordance with Public Resources Code section 25538, the Director of Resource Management shall request a fee from the California Energy Commission to reimburse the County of Shasta for the actual and added costs of the review by the County of Shasta and such other fees as may authorized under that statute and other applicable laws.

SECTION II.

The County finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines section 15060(c)(2) since it can be seen with certainty that this ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment.

SECTION III.

If any section, subsection, sentence, clause, phrase, or provision of this ordinance or its application to any person or circumstance is held invalid for any reason, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause, phrase, or provision thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or provisions be declared unconstitutional or invalid.

SECTION IV.

All former ordinances and resolutions, or parts thereof, conflicting or inconsistent with the provisions of this ordinance are hereby superseded by this ordinance. The adoption of this ordinance shall not in any manner affect any action or prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, be construed as a waiver of any license, fee, or penalty required by or resulting from any such ordinance, or affect the validity of any bond (or cash deposit in lieu thereof) required to be posted, filed, or deposited pursuant to such ordinance.

SECTION V.

This ordinance shall take effect and be in full force and effect 30 days after its passage. The Clerk shall cause this ordinance to be published as required by law.

DULY PASSED AND ADOPTED this XX day of XXXX, 2023, by the Board of Supervisors of the County of Shasta, State of California, by the following vote:

AYES: X
NOES: X
ABSENT: X
ABSTAIN: X
RECUSE: X

PATRICK JONES, CHAIR
Board of Supervisors
County of Shasta
State of California

ATTEST:

MARY WILLIAMS
Acting Clerk of the Board of Supervisors

By: _____
Deputy