

DOCKETED	
Docket Number:	23-OPT-01
Project Title:	Fountain Wind Project
TN #:	248330-5
Document Title:	Text of Shasta County Wind Ban Ordinance
Description:	N/A
Filer:	Caitlin Barns
Organization:	Stantec Consulting Services, Inc.
Submitter Role:	Applicant Consultant
Submission Date:	1/5/2023 10:09:40 AM
Docketed Date:	1/5/2023

ORDINANCE NO. SCC 2022-04

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SHASTA
REGULATING SMALL AND LARGE WIND ENERGY SYSTEMS**

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

SECTION I.

Section 17.88.035, "Small wind energy systems," of the Shasta County Code is amended as follows:

Small wind energy systems may be permitted with either an approved administrative permit or use permit, subject to the following requirements.

A. The following definitions govern this section:

"Small wind energy system" means a wind energy conversion system consisting of a wind turbine(s), a tower(s), and associated control or conversion electronics which will be used to reduce on-site consumption of utility electricity obtained via the electric grid or to enable on-site generation of electricity in lieu of connecting to the electric grid.

"Tower height" means the height above grade of the fixed position of the tower, excluding the wind turbine.

- B. One wind turbine may be permitted with an approved administrative permit. Two or more wind turbines may be permitted with an approved use permit.
- C. With an approved administrative permit, tower heights of not more than sixty-five feet shall be allowed on parcels between one and five acres, and tower heights of not more than eighty feet shall be allowed on parcels greater than five acres, provided that the application includes evidence that the proposed height does not exceed the height recommended by the manufacturer or distributor of the system. Tower heights in excess of the aforementioned limits may be permitted with an approved use permit.
- D. Setbacks for the system tower from the property line shall be no less than the height of the system, provided that it also complies with any applicable fire setback requirements including, but not limited to, Section 4290 of the Public Resources Code as it may be amended from time to time.
- E. Decibel levels for the system shall not exceed the noise standards established in the Noise Element of the General Plan, except during short-term events such as utility outages and severe wind storms.

- F. The system shall comply with all applicable Federal Aviation Administration requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of Code of Federal Regulations regarding installations close to airports, and the State Aeronautics Act (Part 1 [commencing with Section 21001] of Division 9 of the Public Utilities Code) as those requirements may be amended from time to time.

- G. The applicant shall provide information demonstrating that the system will be used to reduce on-site consumption of electricity obtained via the electric grid or to enable on-site generation of electricity in lieu of connecting to the electric grid. The application shall include evidence, unless the applicant does not plan to connect the system to the electric grid, that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator.

- H. A small wind energy system shall not be allowed where otherwise prohibited by any of the following:
 - 1. A comprehensive land use plan and implementing regulations adopted by an airport land use commission pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Division 9 of Part 1 of the Public Utilities Code.
 - 2. The Alquist-Priolo Earthquake Fault Zoning Act, Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code.
 - 3. The county to protect the scenic appearance of the scenic highway corridor pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of Streets and Highways Code.
 - 4. The terms of a conservation easement entered into pursuant to the Open-space Easement Act of 1974, Chapter 6.6 (commencing with Section 51070) of Division 1 of Title 5 of the Government Code.
 - 5. The terms of an agricultural conservation easement entered into pursuant to the California Farmland Conservancy Program Act, Division 10.23 (commencing with Section 10200) of the Public Resources Code.
 - 6. The terms of a contract entered into pursuant to the Williamson Act, Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code.
 - 7. The listing of the proposed site in the National Register of Historic Places or the California Register of Historical Resources pursuant to Section 5024.1 of the Public Resources Code.

- I. In the event a small wind energy system is proposed to be sited in an agricultural area that may have aircraft operating at low altitudes, the county may take reasonable steps, concurrent with other notices issued pursuant to this subdivision, to notify aircraft pilots registered to operate in the county pursuant to Section 11921 of the Food and Agriculture Code as it may be amended from time to time.

SECTION II.

Section 17.88.100, "Public uses, public utilities, and high voltage electrical transmission and distribution projects," of the Shasta County Code is amended as follows:

- A. High voltage electrical transmission and distribution projects are permitted if a use permit is issued. Section 17.92.025 of this title governs those projects and sets forth various standards and requirements for applications, permit review, and related matters. In some cases, state and federal laws may regulate certain types or characteristics of these projects. This section shall be construed to provide the county with the maximum control consistent with such other laws.
- B. Public uses and public utilities, with the exception of large wind energy systems as defined in subsection 17.88.335.B. of this chapter, are permitted if a use permit is issued, except that public utility transmission lines, towers, distribution poles and lines, regardless of height, and gas pipelines, which are not associated with high voltage electrical transmission and distribution projects, are permitted uses.
- C. A use permit shall not be issued for a public use or utility or a high voltage electrical transmission and distribution project in a resource district unless findings are made that there is not a reasonable alternative site outside of a resource district, and the impacts from the project on the resource land have been reduced to the lowest reasonable level.
- D. Notwithstanding subsections A and B and C of this section and Section 17.94.040, minor additions or alterations to existing public utility facilities or high voltage electrical transmission and distribution projects, such as construction of small, unmanned buildings or addition of microwave dishes to an existing tower, are permitted uses, and shall not require amendment of a use permit.
- E. Notwithstanding subsections A and B and C of this section, small, new public utility facilities or small, new facilities associated with existing high voltage electrical transmission and distribution projects, such as unmanned telecommunication relay or booster stations, are permitted if an administrative permit is issued.

SECTION III.

Section 17.88.335, "Large wind energy systems," is added to the Shasta County Code 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. Regulations are needed to protect the public health, safety, and welfare of residents from the adverse impacts of large wind energy systems.
6. 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.

SECTION IV.

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 V.

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 VI.

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 VII.

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 12th day of July, 2022, by the Board of Supervisors of the County of Shasta, State of California, by the following vote:

AYES: Supervisors Baugh, Chimenti, Garman, Rickert, and Jones
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