

Mt. Shasta City Council Regular Meeting Agenda

Monday, September 25, 2023, 5:30 p.m.

This meeting will be presented in a hybrid format and can be attended in two ways:
In-Person at the Mt. Shasta City Park Upper Lodge, 1315 Nixon Rd. Mt. Shasta, CA

OR

Online at the following link:

MountShasta.22Ave.tv

For the safety of our staff, the council, and public, we are no longer allowing members of the audience to carry large bags, backpacks, or other items outside of small personal items such as purses or satchels. Only service animals are allowed inside council chambers; nonservice pets are not allowed under any circumstances. Violators will be asked to remove the bag and/or animal, and refusal to do so will be cause for removal from the meeting.

“Our mission is to maintain the character of our “small town” community while striking an appropriate balance between economic development and preservation of our quality of life. We help create a dynamic and vital City by providing quality, cost-effective municipal services and by forming partnerships with residents and organizations in the constant pursuit of excellence.”

| Page | Item | STANDING AGENDA ITEMS |
|------|------|--|
| | 1. | Call to Order and Flag Salute |
| | 2. | Roll call |
| | 3. | Special Presentations: None |
| | 4. | Public Comment: This time is set aside for citizens to address the City Council on matters listed on the Consent Agenda as well as other items not included on the Regular Agenda. If your comments concern an agenda item noted on the regular agenda, please address the Council when that item is open for public comment. Each speaker is allocated three (3) minutes to speak. Speakers may not cede their time. Comments should be limited to matters within the jurisdiction of the City. Council discussion or action cannot be taken on items not listed on the agenda other than to receive comments. If you have documents to present to members of Council, please provide a minimum of seven (7) copies to the Deputy City Clerk. Email Comments may be submitted to the City Clerk’s Office (kjoyce@mtshastaca.gov). Items received no later than 12:00 pm on the day of the meeting will be provided to the City Council prior to the meeting. These items will NOT be read into the record. |
| | 5. | Council and Staff Comments |
| | 6. | Committee Updates: a) Downtown Enhancement Advisory Committee b) Library Tax Advisory Committee c) Beautification Committee d) Active Transportation Committee |

| | CITY COUNCIL BUSINESS |
|---------------|--|
| Page 4-15 | <p>7. Consent Agenda – The City Manager recommends approval of the following Consent Agenda items. All Resolutions and Ordinances on this agenda, or added hereto, shall be introduced or adopted, as applicable, by title only, and the full reading thereof is hereby waived.</p> <ul style="list-style-type: none">a. Approval of Minutes: September 11, 2023 Regular Meetingb. Resolution CCR-23-XX, Adopting a List of Projects to be Funded by SB1 |
| Page 16-42 | <p>8. First Reading of Ordinance amending chapters 18.08, 18.16, and 18.98 of the Land Development Code of the Mt. Shasta Municipal Code to comply with emergency shelter regulations in State law (Sections 65582 and 65583 of the California Government Code)</p> <p><u>Background:</u> In 2007 State housing element law, Government Code (Gov’t Code) Sections 65583 and 65589.5, were amended to add specificity as to how cities and counties are to regulate emergency shelters, including limiting the denial of emergency shelters by requiring specific findings. The California Department of Housing and Community Development (HCD) recently updated their housing element review procedures and will no longer certify housing elements of cities and counties that do not have zoning regulations for emergency shelters that comply with SB 2 (2007). Mt. Shasta is in the process of updating its housing element, with the draft housing element undergoing HCD review for compliance State law. This change in HCD housing element review procedures accelerates the importance of amending the emergency shelter provisions of the Land Development Code because the City’s housing element update cannot be found to be compliant with State housing law. Staff will present a proposed amendment to the Mt. Shasta Municipal Code in order to meet the requirements set forth by State law.</p> <p><u>Report By:</u> Todd Juhasz, City Manager and Michelle Nielsen, Planwest</p> <p><u>Recommended Council Action:</u> Motion to approve the first reading of CCO-23-XX by title only and move it to a second reading and adoption; and to make the required findings and adopt the amendments to the Mt. Shasta land Development Code.</p> |
| Page 43-45 | <p>9. Discussion and Possible Action: Consideration of a Proposed Tobacco Retailer Licensing Ordinance</p> <p><u>Background:</u> At the September 11th, August 28th, and the July 24th, 2023 Council meetings, presentations were made regarding a model ordinance that was prepared to assist California cities and counties interested in establishing or strengthening a local tobacco retailer licensing program (“TRL”) and further regulating the tobacco retail environment with the aim of adopting this ordinance within Mt Shasta. At the September 11th Council meeting, Council opted to table the item for further discussion when a full Council would be present.</p> <p><u>Report By:</u> Todd Juhasz, City Manager and Robert Gibson, Chief of Police</p> <p><u>Recommended Council Action:</u> Direct staff regarding the development of a tobacco retail licensing ordinance.</p> |

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| | CITY COUNCIL/STAFF REPORTING PERIOD |
|--|---|
| | 10. Reports Re: Outside Meetings: None |
| | <p>11. Future Agenda Items and Meetings (Appearing on the agenda within 60-90 days):</p> <ul style="list-style-type: none">a. Appoint Two Members of the Public to the Public Finance Authority – 10/9/2023b. Final Budget Numbers from Fiscal Year 2022/2023 – 10/9/2023c. Discussion and Possible Action: Staff Recommendations for Improved Snow Plowing Operations – 10/23/2023d. Discussion and Possible Action: McCloud Avenue Parking Prohibition – TBDe. Discussion and Possible Action regarding the Active Transportation Committee – TBDf. Approval of Funds to Complete a Survey of Washington Avenue – TBDg. Amendment of Parklet Ordinance - TBD <p>Future Agenda Items Over 90 Days:</p> <ul style="list-style-type: none">f. Discussion and Possible Action: Review of Chapter 13.95 Extraction and Exportation of Groundwater from the City of Mt. Shasta |
| | <p>12. Adjourn</p> <p>I, Kathryn Joyce, declare under penalty of perjury that this agenda has been posted at least 72 hours in advance at the Mt. Shasta City Hall, 305 N. Mt. Shasta Blvd, Mt. Shasta, CA, in the glass case and on the City website at www.mtshastaca.gov. Agendas and packets shall be made available at least 72 hours in advance of regular meetings and 24 hours in advance of special meetings on the City's web site. Any writings or documents pertaining to an open session item provided to a majority of the City Council less than 72 hours prior to the meeting shall be made available on the City's web site www.mtshastaca.gov. Availability of Public Records: All public records related to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at City Hall located at 305 North Mt. Shasta Blvd.</p> <p>The City of Mt. Shasta does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or provision of services. In compliance with the Americans with Disabilities Act, if you need special assistance, a disability-related modification or accommodation, agenda materials in an alternative format, or auxiliary aids to participate in this meeting, please contact the Office of the City Clerk at 530-326-7516 or kjoyce@mtshastaca.gov as soon as possible. Providing at least 72 hours' notice will help ensure that reasonable arrangements can be made.</p> |

Mt. Shasta City Council Regular Meeting DRAFT Minutes

Monday, September 11, 2023; 5:30 p.m.

City Park Upper Lodge 1315 Nixon Road, Mt. Shasta
Meeting allowed for virtual attendance via ZOOM

“Our mission is to maintain the character of our “small town” community while striking an appropriate balance between economic development and preservation of our quality of life. We help create a dynamic and vital City by providing quality, cost-effective municipal services and by forming partnerships with residents and organizations in the constant pursuit of excellence.”

STANDING AGENDA ITEMS

1. Call to Order and Flag Salute: At the hour of 5:30 p.m. Mayor Clure called the meeting to order and led the audience in the flag salute.

2. Roll Call:
Council Members Present: Redmond, Stackfleth, Stearns, Clure.
Council Members Absent: Collings

3. Special Presentations: None

4. Public Comment:
Raven Stevens – Comments thanking the Fire and Police Departments for actions taken during recent flooding.

5. Council and Staff Comments:
Todd Juhasz, City Manager – Comments related to the passing of former City Manager Bruce Pope; moment of silence held. Review of planning grant award for active transportation improvements and upgrades to Lake Street. Review of State Water Resources Control Board grant award for new water line improvements, hydrants, and meters. Review of upcoming drainage impact fee report, possible grant funding, fees. Review of ballot measure.
John Stackfleth, Councilmember – Comments about former City Manager Bruce Pope and his positive impacts on Mt. Shasta.

6. Committee Updates:.

- a) Downtown Enhancement Advisory Committee
- b) Library Tax Advisory Committee
- c) Beautification Committee
- d) Active Transportation Committee

Todd Juhasz, City Manager – Review of DEAC activities.

CITY COUNCIL BUSINESS

7. Consent Agenda:

COUNCIL ACTION: Approved the following Consent Agenda items. All Resolutions and Ordinances on this agenda, or added hereto, shall be introduced or adopted, as applicable, by title only, and the full reading thereof is hereby waived.

- a. Approval of Minutes: August 28, 2023 Regular Meeting
- b. Approval of Disbursements: Accounts Payable \$955,209.15: Total Gross Payroll and Taxes: For Period Ending 9/7/2023
- c. Second Reading of CCO-23-09 Amending Chapter 10.44 Restricted Parking: Eliminating Two-Hour Parking in Specific Locations
- d. Police Department Monthly Report, August 2023

Councilmember Stearns requested the removal of item c from the Consent Agenda for discussion.

MOTION TO APPROVE Items a, b, d: Stackfleth

SECOND: Stearns

AYES: Redmond, Stackfleth, Stearns, Clure

NOES: None

ABSENT: Collings

ABSTAIN: None

Item 7c, Second Reading of CCO-23-09 Amending Chapter 10.44 Restricted Parking: Eliminating Two-Hour Parking in Specific Locations

Councilmember Stearns requested discussion and public comment on the item.

Nancy Gandrau – Comments regarding the City Council's decision regarding parking restrictions and civil rights, comments expressing concern for lack of support for businesses.

Council discussion.

Councilmember Stearns made a motion to table the item and to take up an alternative City-wide approach; motion failed for lack of a second.

COUNCIL ACTION: Adopt CCO-23-09, Amending Chapter 10.44 Restricted Parking: Eliminating Two-Hour Parking in Specific Locations

MOTION TO APPROVE: Stackfleth

SECOND: Redmond

AYES: Redmond, Stackfleth, Stearns, Clure

NOES: None

ABSENT: Collings

ABSTAIN: None

8. Enhanced Infrastructure Financing District (EIFD) Resolution of Intention: A resolution of the City Council of the City of Mt Shasta Declaring its Intention to Establish an Enhanced Infrastructure Finance District

Todd Juhasz, City Manager – Review of staff report and proposed Resolution of Intention, purpose of the EIFD, possible partnership with the County.

Joe Dieguez, Kosmont – Review of district, mechanism to bring in money. Review of boundaries, potential for grant dollars. Review of next steps.

Todd Juhasz, City Manager – Review of EIFD and tax increment finance.

Clarifying questions from Council.

No public comment.

COUNCIL ACTION: Approve CCR-23-26, A Resolution Of The City Council Of The City Of Mount Shasta Declaring Its Intention To Establish The Mount Shasta Enhanced Infrastructure Financing District To Finance The Construction, Repair, Acquisition, And/Or Maintenance Of Capital Improvements And Facilities, Including The

Acquisition And/Or Remediation Of Land For Such Improvements And Facilities; Establishing A Public Financing Authority; And Authorizing Certain Other Actions Related Thereto

WHEREAS, SB 628, effective as of January 1, 2015, allows a city or county to create a separate government entity known as an “Enhanced Infrastructure Financing District” (EIFD) within a defined area to finance certain infrastructure projects with community-wide benefits; and

WHEREAS, pursuant to Chapter 2.99 of Part 1 of Division 2 of Title 5 of the California Government Code (commencing with Section 53398.50) (the “EIFD Law”), the City Council of the City of Mount Shasta (“Council”) is authorized to initiate the process to establish an EIFD; and,

WHEREAS, EIFDs are financed through tax increment generated from the growth in property taxes collected from within a designated district boundary. There are no new taxes or impacts to the property owner within an established EIFD; and,

WHEREAS, EIFD tax increment may be used to pay for a variety of public facilities and other projects authorized by the EIFD Law within the established EIFD boundaries or outside of the established EIFD boundaries if there is a tangible connection to the work of the EIFD, including but not limited to infrastructure such as roads, utilities, streetscapes, parks and public recreation, or other community facilities. Funding may also be used to facilitate public-private activities by enticing development with infrastructure development and expansion, including new industrial-manufacturing facility construction and repair, and brownfields remediation. Affordable housing, including affordable senior housing, is also an eligible activity; and,

WHEREAS, the City, supported by the Siskiyou County Economic Development Council (SEDC), was awarded a grant from the United States Economic Development Administration (EDA) for EIFD feasibility study technical advisory services. The City then retained Kosmont & Associates, Inc. DBA Kosmont Companies through a competitive procurement process as the consultant to provide the necessary technical analysis and advisory; and,

WHEREAS, on September 12, 2022, City Council expressed preliminary interest and direction for City staff during a City Council Meeting to move forward with initial EIFD formation activities, including discussion with the County of Siskiyou regarding potential partnership in the EIFD; and,

WHEREAS, the prerequisites set forth in Government Code Section 53398.54 have been complied with prior to the City initiating the creation of or participating in the governance of the EIFD, and the City will provide the required certification to the California Department of Finance (“DOF”) in accordance with the EIFD Law; and,

WHEREAS, the proposed boundaries of the Mount Shasta EIFD are identified on Exhibit A entitled “Proposed Mount Shasta EIFD Boundary”, a copy which is on file in the office of the City Clerk; and,

WHEREAS, the EIFD will be governed by a Public Financing Authority (“PFA”) board which will be responsible for implementing the Infrastructure Financing Plan for the EIFD (“IFP”), and the PFA is required to be established by the City Council at the same time that the Council adopts its intention to form the proposed EIFD; and,

WHEREAS, this action is exempt from the California Environmental Quality Act (“CEQA”) as an action solely related to financing and is not in-and-of itself a “project” (pursuant to CEQA Guidelines Section 15378) since it does not result in a physical change in the environment because the City has not committed itself to fund any specific projects through the EIFD. However, future actions (such as the funding and/or approval of infrastructure improvements using funding from the EIFD) will be subject to environmental review in accordance with CEQA.

NOW, THEREFORE, the Mount Shasta City Council does hereby find, determine, conclude, and resolve as follows:

Section 1. The City Council of the City of Mount Shasta proposes and intends to cause the establishment of an EIFD under the provisions of the EIFD Law.

Section 2. The name proposed for the EIFD shall be the “Mount Shasta Enhanced Infrastructure Financing District.”

Section 3. The proposed boundaries of the EIFD are as shown on Exhibit A attached hereto, which are preliminarily approved and on file in the office of the City Clerk and incorporated herein by reference.

Section 4. The types of public facilities and development proposed to be financed or assisted by the EIFD pursuant to the EIFD Law are those listed on Exhibit B, attached hereto and incorporated herein by reference.

Section 5. The City Council hereby finds that the EIFD is necessary for the area within the boundaries of the EIFD and the City. The City Council's stated goals for the EIFD are to create a means by which to assist in the provision of public facilities or other specified projects of communitywide significance that provide significant benefits to, promote economic development of, and enhance quality of life within, the boundaries of the EIFD or the surrounding community.

Section 6. The City Council hereby declares that, pursuant to the EIFD Law and if approved by resolution pursuant to Government Code Section 53398.68, incremental property tax revenue from the City of Mount Shasta and some or all other affected taxing entities within the EIFD may be used to finance the activities described in Section 4 and listed on Exhibit B. The incremental property tax financing will be described in an IFP to be prepared for approval by the PFA, the City Council, and the legislative bodies of all participating taxing entities under EIFD Law.

Section 7. The City or County of Siskiyou may allocate tax revenues derived from local sales and use taxes imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) or transactions and use taxes imposed in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code) to the EIFD pursuant to Government Code Section 53398.75.5, if applicable. The City Council does not intend to contribute sales and use taxes or transactions and use taxes to the EIFD.

Section 8. The City Council hereby establishes the "Public Financing Authority of the Mount Shasta Enhanced Infrastructure Financing District" to serve as the governing board of the EIFD:

- A. The PFA membership shall be comprised initially of three members of the City Council appointed by the City Council and two public members selected by the City Council. Members shall serve at the pleasure of the City Council, as the case may be, and shall serve until their successor assumes office.
- B. The City Council further declares that, pursuant to Government Code Section 53398.51.1, should another taxing entity agree to participate as a taxing entity, then the PFA membership shall be modified in accordance with Government Code Section 53398.51.1. For example, if the County of Siskiyou ("County") agrees to participate as a taxing entity and the participating taxing entities consist of the City and the County, then the PFA membership shall be modified to be two members of the City Council, one member of the County Board of Supervisors ("Board of Supervisors"), and two public members jointly selected by the City Council and the Board of Supervisors. Members shall serve at the pleasure of their respective appointing legislative bodies and shall serve until their successor assumes office.
- C. The legislative body of each participating taxing entity may appoint one of its members to be an alternate member of the PFA board who may serve and vote in place of a member who is absent or disqualifies themselves from participating in a meeting of the PFA.
- D. The members are subject to compliance with the EIFD Law and all applicable ethics laws, including Article 2.4 (commencing with Section 53234) of Chapter 2 of the Government Code.
- E. The City Council, and the governing bodies of any other participating entities shall comply with Government Code Section 54974.

Section 8. The City Council hereby sets the time and place for a public hearing of the PFA, the proposed EIFD and IFP, to be held on February 12th, 2024, at 5:30 p.m., or as soon thereafter as the matter may be heard, at City Hall Council Chambers, City Park Upper Lodge, 1315 Nixon Road, Mt. Shasta, California.

Section 9. Pursuant to Government Code Section 53398.60, the City Clerk is hereby directed to mail a copy of this Resolution to the PFA and each owner of land (as defined in the EIFD Law), or alternatively with respect to the owners of land may mail a single-page notice of intention identified in Government Code Section 53398.60(b), within the EIFD and to each affected taxing entity (as defined in the EIFD Law). In addition, the City

Clerk is hereby directed to cause notice of the public hearing to be published not less than once a week for four successive weeks in a newspaper of general circulation published in the City. The notice shall state that the EIFD will be used to finance public works, briefly describe the facilities, briefly describe the proposed financial arrangements, including the proposed commitment of incremental tax revenue, describe the boundaries of the proposed EIFD and state the day, hour, and place, when and where any persons having any objections to the proposed IFP, or the regularity of any of the prior proceedings, may appear before the PFA and object to the adoption of the proposed IFP.

Section 10. As the City did not have a Redevelopment Agency, EIFD formation prerequisites involving a Successor Agency Finding of Completion from the DOF do not apply.

Section 11. As the City did not have a Redevelopment Agency, EIFD prerequisites involving certification to the DOF and to the PFA that no former Redevelopment Agency assets have been or will be used to benefit any efforts of the EIFD do not apply. The City Clerk is authorized and directed on behalf of the City to provide or make this clarification to the DOF within 10 days after the City Council's action to participate in the EIFD pursuant to Government Code Section 53398.68 or the City Council's action to form the EIFD pursuant to Government Code Section 53398.69, by delivery of a copy of the appropriate Resolution or signing a separate certification, if and as required by the DOF.

Section 12. As the City did not have a Redevelopment Agency, EIFD prerequisites regarding State Controller reviews of asset transfers and corresponding State Controller's findings do not apply.

Section 13. This Resolution in no way obligates the PFA to establish any EIFD.

Section 14. If any section, subsection, phrase or clause of this Resolution is for any reason found to be invalid, such section, subsection, phrase or clause shall be severed from, and shall not affect the validity of, all remaining portions of this Resolution that can be given effect without the severed portion.

Section 15. This Resolution shall take effect immediately upon its adoption.

Section 16. The City Manager, or designee, are hereby authorized and directed to take all actions necessary or advisable to give effect to the transactions contemplated by this Resolution.

Section 17. The City Clerk of the City of Mount Shasta shall certify as to the adoption of this Resolution.

MOTION TO APPROVE: Stackfleth

SECOND: Stearns

AYES: Redmond, Stackfleth, Stearns, Clure

NOES: None

ABSENT: Collings

ABSTAIN: None

Discussion regarding designation of Council Members to the Public Finance Authority.

COUNCIL ACTION: Appoint Mayor Clure and Councilmembers Stackfleth and Collings to the Public Finance Authority

MOTION TO APPROVE: Stearns

SECOND: Stackfleth

AYES: Redmond, Stackfleth, Stearns, Clure

NOES: None

ABSENT: Collings

ABSTAIN: None

COUNCIL ACTION: Continue the finding and placement of public participants to the PFA to the first City Council meeting in October, and to invite members of the public who may be interested to apply or express their interest.

MOTION TO APPROVE: Stackfleth

SECOND: Redmond

AYES: Redmond, Stackfleth, Stearns, Clure

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| <p>NOES: None ABSENT: Collings ABSTAIN: None</p> |
| <p>9. Discussion and Possible Action: Discussion on Whether to Extend Snow Removal Operations on Mt. Shasta Blvd</p> <p><u>Todd Juhasz, City Manager</u> – Review of the request to alter snowplowing on South Mt. Shasta Boulevard; comments regarding issues with sightlines, moving of snow berms, and additional cost.</p> <p><u>Ken Kellogg, Public Works Director</u> – Review of staff report, additional cost, and impact on safety. Review of accidents related to sightline issues. Review of history of plowing snow to the center of the street in the business district. Comments regarding the increase in staff time and possible increase in fees if snowplowing process is changed. Comments regarding existing equipment, and consideration of reduction in area where snow plowing is done to the center of the street.</p> <p>Clarifying questions from Council.</p> <p><u>Todd Anthis</u> – Comments opposed to current snow plowing process, comments regarding the prioritization of hotels. Concern about safety issues and the impact on businesses in the hospitality industry on South Mt. Shasta Boulevard.</p> <p><u>Brett Waite</u> – Comments regarding lack of on-street parking on South Mt. Shasta Boulevard, comments regarding current snowplowing process. In support of new snowplowing techniques, comments about consistency for everyone.</p> <p><u>Talia</u> – Comments regarding snowplowing operations on South Mt. Shasta Boulevard, request for more assistance from the City. Concerns regarding speeding and increased truck traffic.</p> <p><u>Austin, Humane Society</u> – Comments regarding snow removal on North Mt. Shasta Boulevard, reference to MOU with the City.</p> <p>Council discussion.</p> <p>COUNCIL ACTION: Direct staff to develop plans that change the way the City currently moves snow, and to let the City Council know the cost, utilizing whatever techniques necessary to remove snow as quickly as possible, and for staff to brainstorm with interested parties.</p> <p>MOTION TO APPROVE: Stackfleth</p> <p>SECOND: Clure</p> <p>AYES: Redmond, Stackfleth, Stearns, Clure</p> <p>NOES: None</p> <p>ABSENT: Collings</p> <p>ABSTAIN: None</p> |
| <p>10. Discussion and Possible Action: Consideration of an Ordinance Establishing a Minimum Floor Price Law (MFPL) to Help Decrease Tobacco Use</p> <p><u>Todd Juhasz, City Manager</u> – Review of previous discussion of model ordinance for tobacco regulation.</p> <p><u>Robert Gibson, Chief of Police</u> – Review of research of what other municipalities have done regarding various regulations.</p> <p>Clarifying questions from Council and discussion.</p> <p><u>Amanda Berryhill</u> – Comments about a minimum price floor policy, gave handout from Sebastopol ordinance, review of current State policies, tobacco retail license, local control.</p> <p>Council discussion.</p> <p>COUNCIL ACTION: Continue the item to a future date.</p> |
| <p>11. Reports on Outside Meetings: None</p> |

12. Future Agenda Items (Appearing on the agenda within 60-90 days):

COUNCIL ACTION: Reviewed items a through f. Item added: Appointments to the Public Finance Authority, Fiscal Year 2022/2023 Budget Actuals.

- a. Emergency Shelter Ordinance – 9/25/2023
- b. Discussion and Possible Action: McCloud Avenue Parking Prohibition – TBD
- c. Discussion and Possible Action regarding the Active Transportation Committee – TBD
- d. Approval of Funds to Complete a Survey of Washington Avenue – TBD
- e. Amendment of Parklet Ordinance - TBD

Future Agenda Items Over 90 Days:

- f. Discussion and Possible Action: Review of Chapter 13.95 Extraction and Exportation of Groundwater from the City of Mt. Shasta

13. Adjourn: There being no further business, the meeting was adjourned at 7:30 p.m.

Respectfully Submitted By: Kathryn M. Joyce, Administrative Assistant/Deputy City Clerk

City Council Agenda Item # 7c

Meeting Date: September 25, 2023

To: Mayor and City Council

From: Ken Kellogg, Public Works Director
Muriel Terrell, Finance Director

Subject: SB 1 Funding Requirements

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|----------|--------------------------|
| X | Regular Session |
| | Special Session |
| | Emergency Session |
| | Closed Session |

Recommendation:

Staff respectfully requests the City Council approve the proposed Resolution adopting a list of projects to be funded by Senate Bill 1 (SB 1) for FY 2023/24.

Background & Summary:

Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017), was passed by the Legislature and signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide. SB 1 increases several taxes and fees to raise over \$5 billion annually in new transportation revenues. Moreover, SB 1 makes adjustments for inflation every year so that the purchasing power of the revenues does not diminish as it has historically.

Beginning in November 2017, portions of SB 1 revenues are being deposited into the Road Maintenance and Rehabilitation Account (RMRA) and subsequently made available to eligible cities and counties, which must comply with RMRA funding requirements as determined by the California Transportation Commission (CTC).

SB 1 prioritizes this funding towards critical maintenance, rehabilitation, and safety improvements on state highways, local streets and roads, and bridges and to improve the state's trade corridors, transit, and active transportation facilities. As codified in the Streets and Highways Code (SHC), RMRA local streets and roads allocations must be used for projects that include, but are not limited to, the following:

- Road maintenance and rehabilitation
- Safety projects
- Railroad grade separations
- Traffic control devices

- Complete street components, “including active transportation purposes, pedestrian and bicycle safety projects, transit facilities, and drainage and storm-water capture projects in conjunction with any other allowable project.

As part of SB 1’s various accountability and transparency measures, the City will annually submit a proposed project list to the CTC and subsequently provide year end updates on the progress of previously proposed projects.

In order to meet SB 1’s eligibility and reporting requirements, the RMRA funding must be specifically differentiated from the Highway Users Tax Account (HUTA) funding. Each project utilizing RMRA funds is required to include the following information: project description, specific location, proposed schedule for its completion, and the estimated useful life.

Therefore, staff has prepared the necessary Resolution to meet program requirements. It is recommended that the City Council adopt the attached Resolution adopting a project list for SB1 funding.

Attachments:

1. Resolution CCR-23-XX

RESOLUTION CCR-23-XX

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MT. SHASTA
ADOPTING A LIST OF PROJECTS TO BE FUNDED BY
SB 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017**

WHEREAS, Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 in order to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB 1 includes accountability and transparency provisions that will ensure the residents of our City are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the City must adopt by resolution a list of projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement; and

WHEREAS, the City, will receive an estimated \$68,000 in RMRA funding in Fiscal Year 2023/24 from SB 1; and

WHEREAS, this is the sixth year in which the City is receiving SB1 funding and will enable the City to continue essential road maintenance and rehabilitation projects, safety improvements, repairing and replacing bridges, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB1, and

WHEREAS, the City has undergone a robust public outreach process to ensure public input into our community's priorities/the project list, and

WHEREAS, the City uses a Pavement Management System to develop project lists to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the community's priorities for transportation investment; and

WHEREAS, the funding from SB 1 will help the City maintain and rehabilitate our streets add active transportation infrastructure throughout the City and many similar projects into the future; and

WHEREAS, the 2020 California Statewide Local Streets and Roads Needs Assessment found that the City's streets and roads are in at risk to poor condition and this revenue will help us increase the overall quality of our road system and over the next decade will bring our streets and roads into a good condition; and

WHEREAS, the SB 1 project list and overall investment in our local streets and roads infrastructure will a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices will have significant positive co-benefits statewide.

NOW, THEREFORE IT IS HEREBY RESOLVED, ORDERED AND FOUND by the City Council of the City of Mt. Shasta as follows:

The following recitals are true and correct.

The following previous proposed and adopted projects may also utilize Fiscal Year 2023/24 Road Maintenance and Rehabilitation Account Revenues in addition to previous years revenue in their delivery. With the relisting of this project in the adopted fiscal year resolution, the City is reaffirming to the public and the State our intent to fund these projects with Road Maintenance and Rehabilitation Account revenues.

PROJECT TITLE: Chip Seal Street Maintenance and Repairs Expanded Area

PROJECT DESCRIPTION: Street resurfacing including, dig-outs, repair, paving overlay, crack seal and chip seal.

PROJECT LOCATION: Previously not specifically located, now, West Lake, Berry, High, Forest, Water, Sisson and Brush Streets. Project locations are within the City Limits of the City of Mt. Shasta.

SCHEDULE: Annual Street maintenance occurs from May through September of each year, Completion by the end of September based on the component being funded with RRMA funds.

ESTIMATED USEFUL LIFE: 5-10 years

PASSED AND ADOPTED by the City Council of the City of Mt. Shasta, State of California this 25th day of September 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

DATED: September 25, 2023

CITY OF MT. SHASTA

Tessa Clure, Mayor

ATTEST:

Kathryn Joyce, Deputy City Clerk

Agenda Item #8

Staff Report

Meeting Date: September 25, 2023

To: City Council

From: City Manager

Subject: First Reading: Ordinance amending chapters 18.08, 18.16, and 18.98 of the Land Development Code of the Mt. Shasta Municipal Code to comply with emergency shelter regulations in State law (Sections 65582 and 65583 of the California Government Code).

Staff Recommendation

Staff respectfully recommends that the City Council:

1. Open the public hearing;
2. Receive the staff report on the text amendments to Land Development Code for emergency shelters to comply with State law,
3. Receive and consider comments from the public, and
4. Motion to approve the first reading of CCO-23-XX by title only and move it to a second reading and adoption; and to make the required findings and adopt the amendments to the Mt. Shasta land Development Code.

Background

In 2007 State housing element law, Government Code (Gov't Code) Sections 65583 and 65589.5, were amended to add specificity as to how cities and counties are to regulate emergency shelters, including limiting the denial of emergency shelters by requiring specific findings.¹ Below are the highlights of the 2007 SB 2 amendments:

- Cities and counties shall identify at least one zone to permit emergency shelters without a conditional use permit or other discretionary action.
- Sufficient capacity must be identified to accommodate the need for emergency shelters and at least one year-round emergency shelter.
- Existing or proposed permit procedures, development and management standards must be objective and encourage and facilitate the development of or conversion to emergency shelters.²
- Emergency shelters shall only be subject to development and management standards that apply to residential or commercial uses within the same zone.
- Written and objective standards may be applied as specified in statute, including maximum number of beds, provision of onsite management, length of stay and security.

HCD's May 2008 technical assistance memo advises how local governments can comply with SB 2's

¹ These amendments are often referred to as SB 2 (2007).

² Objective standards are those that involve no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official. [Government Code Section 65589.5, subdivision (f)]

requirement that the zoning permits emergency shelters in a non-discretionary manner.³ The local government's zoning regulation, development standards and procedures for emergency shelters must include:

- Objective development standards that encourage and facilitate the approval of emergency shelters.
- Decision-making criteria such as standards that do not require discretionary judgment.
- Standards that do not render emergency shelters infeasible, and only address the use as an emergency shelter, not the perceived characteristics of potential occupants.

Requiring a variance, minor use permit, special use permit or any other discretionary process does not constitute a non-discretionary process. Local governments may apply non-discretionary design review standards, however.

In 2010 the City Council adopted Ordinance CCO-10-03 amending Mt. Shasta's Land Development Code, i.e., Title 18 of Mt. Shasta Municipal Code, to meet the requirements of SB 2 (2007). While Ordinance CCO-10-03 meets some of the requirements of State law, some provisions are inconsistent (discussed further below). Consequently, the housing elements for both the 2014-2019 and 2023-2031 planning periods (5th cycle and 6th cycle, respectively) identify the existing inconsistencies with State as a regulatory constraint and include programs that commit the City to zoning code updates to address the inconsistencies with State law.⁴ Although Program HO-2.5.2 was adopted at part of the City's 5th cycle housing element, the City has been unable to implement the Program and prepare the necessary amendments to the Land Development Code due to resource and staffing constraints.

The California Department of Housing and Community Development (HCD) recently updated their housing element review procedures and will no longer certify housing elements of cities and counties that do not have zoning regulations for emergency shelters that comply with SB 2 (2007).⁵ Mt. Shasta is in the process of updating its housing element, with the draft housing element undergoing HCD review for compliance State law (see step 4 of the Housing Element Update Process flowchart in Figure 1). This change in HCD housing element review procedures accelerates the importance of amending the emergency shelter provisions of the Land Development Code because the City's housing element update cannot be found to be compliant with State housing law. To offset the cost for preparing the amendments, in June 2023 the City Council adopted Resolution CCR-23-15 authorizing the reprogramming of HCD planning grant funds for the purpose of amending the Land Development Code.⁶

Analysis

There are no emergency shelters currently proposed, nor is an emergency shelter currently operating in the City of Mt. Shasta. The amendments to the Land Development Code propose to modify the following three chapters of the Land Development Code:

³ <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb-2-combined-update-mc-a11y.pdf>, accessed July 31, 2023.

⁴ For the City's 5th cycle housing element, Program HO-2.5.2, was adopted. The 6th cycle draft housing element proposes a similar program, Program HO-4.2.1, to address the State law inconsistencies.

⁵ <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/zoning-variety-of-housing-types>, accessed July 31, 2023.

⁶ Resolution CCR-23-15 of the Mt. Shasta City Council, regular meeting agenda of June 12, 2023. Agenda item # 8, pages 36-48. HCD approved the reprogramming of funding on June 22, 2023.

1. Definitions, Chapter 18.08
2. District Regulations, Chapter 18.16
3. Emergency Shelter regulations, Chapter 18.98

The amendments propose to update the definition of emergency shelter in chapter 18.08.352 to be consistent with Gov't Code Sections 65582 and 65583. Police Chief Gibson reviewed the draft amendments and commented about the definition's vagueness regarding how time is measured for the length of stay. Chief Gibson makes a good point and Planwest Partners researched this further. Unfortunately, this research did not yield further guidance clarifying how time may be measured. The document Local Zoning Best Practices for Shelter and Transitional and Supportive Housing (October 2017) does caution local governments about narrowing the definition as it may conflict with State law.⁷

The Mt. Shasta Land Development Code currently permits emergency shelters in the High Density Residential (R-3), Downtown Commercial (C-1), and General Commercial (C-2) zones. However, the present language of the Land Development Code only expressly states the allowance for emergency shelters for the R-3 zone, and this allowance can only be found in chapter 18.98. Emergency shelters are a permitted use in the C-1 and C-2 zones because all residential uses permitted in R-3 are also permitted in the C-1 and C-2, see 8.5(B) and 9.5(A) of chapter 18.16.020, respectively. The amendments propose to update the zoning district tables in chapter 18.16.020 for the R-3, C-1, and C-2 zones to enumerate emergency shelters as a permitted use. The proposed amendments ensures consistency with State law while also improving the transparency and usability of the Land Development Code for all users. The amendments do not propose to change or expand the zones where emergency shelters are a permitted use.

On August 15, 2023, the Mt. Shasta Planning Commission held a duly noticed public hearing to receive public testimony, provide direction and a recommendation to the City Council. No members of the public were present, in person or via Zoom, to provide testimony to the Planning Commission. Nor did the City receive written public comments on the draft emergency shelter ordinance. The Planning Commission discussed the matter and provided direction to City staff and the City's consultant, then unanimously recommended that the City Council make the required findings and adopt the amendments to the Mt. Shasta Land Development Code.

Table 1 below provides the Planning Commission's direction to City staff and the City's consultant for revisions, and a comment from staff when applicable. For each section that the PC had specific direction, a summary of the proposed revision is provided.

Attachments

- A) DRAFT Ordinance of the City of Mt. Shasta Amending Title 18 of the Mt. Shasta Municipal Code for the Regulation of Emergency Shelters
- B) The August 15, 2023 Planning Commission staff report

⁷ <https://homeless.lacounty.gov/wp-content/uploads/2019/02/Public-Counsel-SB-2-Best-Practices-Guide.pdf>, page 7.
Mt. Shasta City Council Regular Meeting September 25, 2023

Table 1

| Section Number(s) | Planning Commission Discussion and Direction | Staff Comment | Summary of Proposed Revision |
|-------------------------------|---|--|---|
| 18.08.352 and 18.98.010 | Include definition of "homeless"? | The PC's discussion concluded that adding a definition may be problematic as it could be discriminatory and be a barrier for people accessing services. | The Purpose language of 18.98.010 was amended to clarify that emergency shelters provide housing for people in need of shelter. |
| 18.98.030(B) | Add provision to increase length of stay to over 6 months | n/a | Language was added to 18.98.030(B) allowing operators to seek an approval to increase the length of stay of up to one (1) year at the discretion of the City Manager or their designee. |
| 18.98.030(C) | To the security requirements add installation of security cameras | n/a | The PC's recommendation is included as a security requirement in this section. |
| 18.98.030(A.5) | Clarify 60 bed limit vs. occupancy load, and how thresholds are applied | n/a | This section now specifies that the number of beds in an emergency shelter shall not exceed the occupant load as determined by the City's building official, and in no case shall not exceed 60 beds. |
| 18.98.030(D)(1) and 18.98.080 | Hours of operation that are struck through: revisit. Not too prescriptive but allow for quiet hours if allowable? | Revising section 18.98.080 to provide quiet hours may run afoul of the State law requirement that shelters are to be "...subject only to development and management standards that apply to residential or commercial development in the same zone." While the hours of operation for parklets are regulated, these do not apply broadly to other uses in the C-1 and C-2 zones. Permitted uses in the R-3 zone are not subject to restricted hours. It is Planwest's assessment that imposing quiet hours on emergency shelters would not be | Section 18.98.030(D)(1) requires shelters to establish specific hours for client intake and discharge and these hours must be posted. 18.98.080: it is recommended this section be deleted as indicated in Attachment 1. |

Table 1 (cont'd)

| Section Number(s) | Planning Commission Discussion and Direction | Staff Comment | Summary of Proposed Revision |
|-------------------------|---|--|--|
| | | consistent with State law. It is noted, like all other uses and activities in Mt. Shasta, emergency shelters must be maintained and operated as to not constitute a public nuisance. | |
| 18.98.030 | California Health & Safety Code § 50800 et seq. that is to be deleted: Review the source of standard and ascertain if it is appropriate to include in Physical Characteristics section. | Health & Safety Code § 50800 et seq. are the regulations governing the State's Emergency Housing and Assistance Program (EHAP), a funding program. The purpose of the EHAP is to provide capital for the construction and operation of shelters and other emergency housing. HSC § 50800 establishes eligible uses of EHAP funds, how funds are to be distributed, terms of the funding, etc. HSC § 50800 does not contain provisions or requirements that supplant or complement State or local building or fire codes. | Based on the research results, it is recommended this section be deleted as indicated in draft ordinance in Attachment A. |
| 18.98.040 | Remove 10% requirement for intake/waiting area in order to defer to operator | n/a | Section 18.98.040 in Attachment A has been revised in accordance with the PC's direction. |
| 18.08.352 and 18.98.050 | From the definition, add what services can the City require. | Emergency shelters provide minimal services by definition [Reference Gov't Code § 65582(H) and HSC § 50801]. Essentially, a shelter provides a safe place to be and adequate sanitation facilities. Night time shelters would provide bed and a meal. Many shelters rely on government funds to operate, and the funding source and associated agreements will spell out the services a shelter must provide to residents. | The definition in section 18.08.352 of Attachment A indicates that shelters provide temporary housing, food, and sanitation facilities. Section 18.08.352 lists the types of additional services that may be provided by a shelter at no cost to shelter residents. |
| 18.98.060(B) | n/a | The language of "The provider shall not discriminate in any services provided." may be confusing or problematic for shelters that | It is recommended this section be deleted as indicated in Attachment A. |

Table 1 (cont'd)

| Section Number(s) | Planning Commission Discussion and Direction | Staff Comment | Summary of Proposed Revision |
|-------------------|--|--|---|
| | | <p>serve specific populations, e.g., women only domestic violence, youth shelters that are age restricted to young adults, veterans-only shelters. To retain this type of language, it is recommended that the City attorney be consulted to prepare language that is appropriate.</p> <p>As part of reviewing other California cities regulations for emergency shelter regulations of other California jurisdictions, the City's consultants did not encounter this type of language in the land use regulations for emergency shelters.</p> <p>Absence of the language would not relieve a shelter provider from fair housing and reasonable accommodation as these laws apply.</p> | |
| 18.98.060(C) | n/a | <p>The language of</p> <p>“The provider shall not require participation by residents in any religious or philosophical ritual, service, meeting or rite as a condition of eligibility.”</p> <p>may unduly restrict the Constitutional rights of a church that is operating an emergency shelter as part of its religious mission, especially if the church is not receiving government funding for the shelter construction and/or operate the shelter, and/or the shelter is not on government property. To retain this type of language, it is recommended that the City attorney be consulted to prepare language that is appropriate.</p> | It is recommended this section be deleted as indicated in Attachment A. |

ORDINANCE CCO-23-XX

**AN ORDINANCE OF THE CITY OF MT. SHASTA
AMENDING TITLE 18 OF THE MT. SHASTA MUNICIPAL CODE
FOR THE REGULATION OF EMERGENCY SHELTERS**

WHEREAS, Senate Bill 2 (SB 2) became law on January 1, 2008 and Assembly Bill 2339 (AB 2339) became law on January 1, 2023, amending Section 65583 of the California Government Code mandating certain approaches to the local regulation of emergency shelter for persons experiencing homelessness; and

WHEREAS, State Housing Element law requires local planning and zoning regulations facilitate emergency shelters, and in particular, SB 2 requires all cities and counties to provide at least one zone in which emergency shelters can be located without discretionary approval from the local government; and

WHEREAS, the City of Mt. Shasta's adopted Housing Element for the period of 2014-2019 has a program, HO-2.5.2, that calls for amending the zoning code to ensure consistency with State and law and internal consistency related to regulations for specific residential uses, including...emergency shelters; and

WHEREAS, it is the intent of the City to implement federal and state housing laws and policies contained in the City of Mt. Shasta's General Plan, including the Housing Element, in a manner that is consistent with applicable laws, including affirmatively furthering fair housing, and the City of Mt. Shasta seeks to be in compliance with the State of California mandated regulations for the local regulation of emergency shelter for persons experiencing homelessness; and

WHEREAS, on August 18, 2023, the Planning Commission of the City of Mt. Shasta held a duly noticed public hearing as prescribed by law to consider the proposed zoning text amendments. After consideration of all applicable staff reports and all public testimony and evidence presented at the public hearing, the PC recommended that the City Council adopt the proposed amendments to chapters 18.08, 18.16, and 18.98 of Title 18 of the Mt. Shasta Municipal Code, also cited as the Land Development Code; and

WHEREAS, on _____, 2023, the City Council of the City of Mt. Shasta held a duly noticed public hearing as prescribed by law to consider the proposed text amendments to the Land Development Code, and heard testimony regarding the proposed amendments. After consideration of all applicable staff reports and all public testimony and evidence presented at the public hearing; and

WHEREAS, the City Council does hereby make the following findings regarding the amendments to chapters 18.08, 18.16, and 18.98 of the Land Development Code as set forth in this ordinance; and

WHEREAS, the City Council finds and determines the adoption of this Ordinance is exempt from the California Environmental Quality Act (CEQA) per the State CEQA Guidelines Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The proposed zoning text amendments will not have an impact on the environment because they do not directly facilitate new development, or changes in the type and intensity of land use.

WHEREAS, the proposed amendments are consistent with the Mt. Shasta General Plan; and

WHEREAS, the proposed amendments are internally consistent with other applicable provisions of the Mt. Shasta Land Development Code; and

WHEREAS, the City Council has determined that the public health, safety and welfare of the residents of the City will be promoted and improved through compliance with State law regarding the regulation of emergency shelters; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY MT. SHASTA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Municipal Code Amendments

That chapters 18.08, 18.16, and 18.98 of Title 18 of the Mt. Shasta Municipal Code (MSMC) are hereby amended with language that is added denoted by underline, and language that is removed denoted by ~~striketrough~~. Usage of four ellipses, , indicates entire paragraphs have been omitted because the language in the omitted paragraphs is not being amended.

Chapter 18.08

DEFINITIONS

. . . .

18.08.352 Emergency shelter.

"Emergency shelter" means temporary housing with minimal supportive services for persons experiencing homelessness, which ~~that~~ is limited to occupancy of ~~up to six (6) months or less,~~ and is operated by a government agency or private non-profit organization. Emergency shelters may be in the form of dormitory or congregate housing, or individual shelters. Operations may be seasonal or year-round and client services may be offered, including but not limited to, counseling, medical evaluation, and job/life skills training, in addition to food, and sanitation facilities, which may include showers, pursuant to paragraph (h) of Government Code Section 65582. Emergency shelters shall include interim housing interventions including but not limited to a navigation center, bridge housing, and respite or recuperative care. No individual or household may be denied housing and shelter because of inability to pay. ~~Emergency shelters are intended to be used by homeless persons, victims of domestic violence, persons requiring temporary housing, and other individuals and households made temporarily homeless due to natural disasters (e.g., fires, earthquakes, etc.)~~

. . . .

Chapter 18.16

DISTRICT REGULATIONS

. . . .

18.16.020 Establishment of regulations.

. . . .

Table 7 – High Density Residential (R-3)

. . . .

7.5 Permitted Uses

The following uses are permitted in the R-3 district upon issuance of a building permit, business license, or other required permit:

- A. Single-family dwelling (attached or detached), one per each 4,500 square feet of gross land area.
- B. Duplex, one two-unit structure per 6,000 square feet of lot area.
- C. Triplex, one three-unit structure per 8,000 square feet of lot area.
- D. Multiple-family dwellings (no more than four units), one unit per each 2,000 square feet of lot area.
- E. Model home, including a sales office.
- F. Professional office not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area.
- G. Supportive housing.
- H. Transitional housing.
- I. Emergency shelters.

. . . .

Table 8 – Downtown Commercial (C-1)

. . . .

8.5 Permitted Uses

The following uses are permitted in the C-1 district:

- A. A store, motel, office, bank, theater, restaurant or similar use, primarily conducted within a building, and not involving the use of significant amounts of hazardous substances, and not exceeding 10,000 square feet in floor area where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.
- B. Residential uses consistent with the R-3 zone district.
- C. Residential uses within a commercial building.
- D. Outdoor sales consistent with Chapter 18.23 MSMC.
- E. Emergency shelters.

Table 9 – General Commercial (C-2)

. . . .

9.5 Permitted Uses

The following uses are permitted in the C-2 district:

- A. All permitted uses in the C-1 zone.
- B. Retail business establishments within a building, conducting the following use: automobile body and paint shops, commercial recreation, creameries, dry cleaning plants, heavy equipment sales and service, laundry, locker plants, plumbing shops.
- C. Land uses which conform to the purpose of the district, and which in the judgment of the Planner are consistent with the purpose of the district.
- D. Emergency shelters.

. . . .

Chapter 18.98

EMERGENCY SHELTERS

18.98.010 Purpose.

The purpose of these standards is to ensure the development of emergency shelters does not adversely impact adjacent parcels or the surrounding neighborhood, and shall be developed in a manner which protects the health, safety, and general welfare of the nearby residents and businesses, while providing for the housing needs of people in need of shelter. The following performance standards shall apply to emergency shelters. ThisThe purpose of this section establishes is to establish standards for emergency shelters in order to comply with the requirements of State law under Cal. Gov't Code Sections 65582 and 65583: in order to provide for the housing needs of people in need of shelter.

18.98.020 Location of Emergency Shelters

Emergency shelters shall be a use permitted in the High Density Residential (R-3), Downtown Commercial (C-1), and General Commercial (C-2) zones without a conditional use or other discretionary permit and subject only to development and management standards that apply to residential or commercial development in the same zone.

18.98.030 Standards for emergency shelters.

~~In addition to the standards set forth in here and below, emergency shelters shall also be required to comply with the California Building Code and California Fire Code in effect at the time of building permit application. (Ord. CCO-10-03 § 3, 2010)~~ In addition to the development standards in the underlying zoning district, emergency shelters shall comply with the standards set forth in this section. In the event of conflict between these standards and the underlying zoning district regulations, the provisions of this section shall apply.

(A) Physical Characteristics.

- (1) Compliance with applicable California and local Uniform Housing Code and Building Code, and California Fire Code requirements in effect at the time of the building permit application.
- (2) Facilities shall provide exterior lighting on pedestrian pathways and parking lot areas on the property. Lighting shall be stationary, full cut-off downward facing hooded lighting and directed away from adjacent properties and public rights-of-way.
- (3) Facilities shall provide secure areas for residents' personal property. Outdoor storage facilities for residents' personal property shall not create a fire-life-safety hazard, be located outside yard setbacks, and shall be screen from public view by a decorative wall or fence.
- (4) Separation. An emergency shelter may be located no closer than three hundred (300) from another emergency shelter.
- (5) Maximum number of beds per facility shelter. The maximum number of beds in an emergency shelter shall not exceed the occupant load as determined by the City's building official, and in no case shall an emergency shelter shall have more than 60 beds per facility shelter.

(B) Limited Terms of Stay. The maximum term of staying at an emergency shelter is six (6) months. Shelter operators may apply to the City of Mt. Shasta for extended stays of up to one (1) year. The granting of any extension of stay is at the sole discretion of the City Manager or their designee.

(C) The agency or organization operating the emergency shelters shall provide on-site security for residents, visitors, and employees during all hours when the shelter is in operation. Security provisions shall include the installation of security cameras for the security of the building, residents, and staff.

(D) Emergency Shelter Management. The agency or organization operating the emergency shelter shall provide on-site management during all hours when the shelter is in operation.

(1) Hours. An emergency shelter must establish and maintain specific hours for client intake and discharge. These hours must be clearly displayed at the front or main entrance of the shelter at all times.

(E) Onsite parking. The emergency shelter shall provide on-site parking as determined by the Planning Director, or their designee, based on demonstrated need for onsite parking but not more than the parking required for other residential and commercial uses within the same zone.

18.98.040 Waiting and intake area.

If client intake occurs onsite, an enclosed or screened waiting and intake area must be provided on the property to prevent queuing in the public right-of-way. ~~The area must be at least ten (10) percent of the total square footage of the shelter~~ and be located outside of the yard setbacks.

~~18.98.030 Health and safety standards.~~

The shelter for the homeless must comply with all standards set forth in Cal. Health and Safety Code § 50800 et seq. (Ord. CCO-10-03 § 3, 2010)

~~18.98.040 Management plan.~~

~~Prior to commencing operation, the emergency shelter provider must have a written management plan, which shall be approved by the Planning Commission. The management plan must include, but is not limited to, provisions for staff training, resident identification process, neighborhood outreach, policies regarding pets, the timing and placement of outdoor activities, temporary storage of residents' personal belongings, safety and security, screening of residents to ensure compatibility with services provided at the facility, and training, counseling and social service programs for residents, as applicable. (Ord. CCO-10-03 § 3, 2010)~~

~~18.98.050 Occupancy load and bathroom facilities.~~

~~Each resident shall be provided a minimum of 50 gross square feet of personal living space per person, not including space for common areas. In no case shall occupancy exceed 60 residents at any one time. Bathing facilities shall be provided in quantity and location as required in the California Plumbing Code (Title 24, Part 5), and shall comply with the accessibility requirements of the California Building Code (Title 24, Part 2). (Ord. CCO-10-03 § 3, 2010)~~

~~18.98.060~~ 18.98.050 Common facilities and services.

(A) The emergency shelter ~~facility~~ residents may provide one or more of the following specific facilities and services for clients, including but not limited to:

(AA1) Commercial kitchen facilities designed and operated in compliance with the California Retail Food Code;

(BB2) Dining area;

(CC3) Laundry;

(DD4) Recreation room;

~~(E5) Support~~Supportive services, consistent with paragraph (h) of Government Code Section 65582, ~~(e.g., training, counseling);~~ services to obtain permanent housing and income, case management, medical and mental health care, substance abuse treatment, and benefits advocacy.

~~(FF6)~~ Child care facilities. (Ord. CCO-10-03 § 3, 2010)

(B) Facilities and services that may be provided to assist shelter residents shall be provided at no cost to all residents of a provider's shelter.

~~18.98.070 Lighting.~~

~~Adequate external lighting shall be provided for security purposes. The lighting shall be stationary, full cut-off downward facing hooded lighting and directed away from adjacent properties and public rights-of-way, and of an intensity compatible with the neighborhood. (Ord. CCO-10-03 § 3, 2010)~~

~~18.98.080 Outdoor activities.~~

~~Outdoor activities, such as recreation, eating, and staging for drop-off, intake, and pick-up, may be conducted at the facility. Conducting such activities either at a back entrance or inner courtyard is encouraged. For the purposes of noise abatement in residential districts, outdoor activities may only be conducted between the hours of 8:00 a.m. to 10:00 p.m.~~

~~18.98.090 Shelter location, and concentration of uses.~~

~~Emergency shelters must be sited within the R-3 zone. No more than one emergency shelter is permitted within a radius of 1,000 feet from another emergency shelter.~~

~~18.98.100 Design standards.~~

~~To assure that new and renovated buildings are compatible with the existing character and scale of the surrounding commercial environment, new and infill buildings must be consistent with the Mt. Shasta Architectural Design Guidelines. (Ord. CCO-10-03 § 3, 2010)~~

~~18.98.110~~60 Emergency Shelter provider.

~~The agency or organization operating the shelter shall comply with the following requirements:~~

~~(A) Temporary shelter shall be available to residents for no more than 60 days. Extensions up to a total stay of 180 days may be provided if no alternative housing is available.~~

~~(BA) Staff and services shall may be provided to assist residents to obtain permanent shelter and income. If such Such services shall be are available, they shall be provided at no cost to all residents of a provider's shelter or shelters.~~

~~(CB) The provider shall not discriminate in any services provided.~~

~~(DC) The provider shall not require participation by residents in any religious or philosophical ritual, service, meeting or rite as a condition of eligibility. (Ord. CCO-10-03 § 3, 2010)~~

Agenda Item # 5

Staff Report

Meeting Date: August 15, 2023

To: Planning Commission

From: Todd Juhasz, City Manager

Subject: Recommendation of an ordinance amending chapters 18.08, 18.16, and 18.98 of the Mt. Shasta Municipal Code (MSMC) to comply with emergency shelter regulations in State law (Sections 65582 and 65583 of the California Government Code).

Project Summary: Review and provide comments and recommendations to the City Council on the 2023-2031 Draft Housing Element Update to reflect new legislation, development trends, and City goals and programs.

Location: The High Density Residential (R-3), Downtown Commercial (C-1), and General Commercial (C-2) zones

Background

In 2007 State housing element law, Government Code (Gov't Code) Sections 65583 and 65589.5, were amended to add specificity as to how cities and counties are to regulate emergency shelters, including limiting the denial of emergency shelters by requiring specific findings.¹ Below are the highlights of the 2007 SB 2 amendments:

- Cities and counties shall identify at least one zone to permit emergency shelters without a conditional use permit or other discretionary action.
- Sufficient capacity must be identified to accommodate the need for emergency shelters and at least one year-round emergency shelter.
- Existing or proposed permit procedures, development and management standards must be objective and encourage and facilitate the development of or conversion to emergency shelters.²
- Emergency shelters shall only be subject to development and management standards that apply to residential or commercial uses within the same zone.
- Written and objective standards may be applied as specified in statute, including maximum number of beds, provision of onsite management, length of stay and security.

HCD's May 2008 technical assistance memo advises how local governments can comply with SB 2's

¹ These amendments are often referred to as SB 2 (2007).

² Objective standards are those that involve no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official. [Government Code Section 65589.5, subdivision (f)]

requirement that the zoning permits emergency shelters in a non-discretionary manner.³ The local government's zoning regulation, development standards and procedures for emergency shelters must include:

- Objective development standards that encourage and facilitate the approval of emergency shelters.
- Decision-making criteria such as standards that do not require discretionary judgment.
- Standards that do not render emergency shelters infeasible, and only address the use as an emergency shelter, not the perceived characteristics of potential occupants.

Requiring a variance, minor use permit, special use permit or any other discretionary process does not constitute a non-discretionary process. Local governments may apply non-discretionary design review standards, however.

In 2010 the City Council adopted Ordinance CCO-10-03 amending Mt. Shasta's Land Development Code, i.e., Title 18 of Mt. Shasta Municipal Code, to meet the requirements of SB 2 (2007). While Ordinance CCO-10-03 meets some of the requirements of State law, some provisions are inconsistent (discussed further below). Consequently, the housing elements for both the 2014-2019 and 2023-2031 planning periods (5th cycle and 6th cycle, respectively) identify the existing inconsistencies with State as a regulatory constraint and include programs that commit the City to zoning code updates to address the inconsistencies with State law.⁴ Although Program HO-2.5.2 was adopted at part of the City's 5th cycle housing element, the City has been unable to implement the Program and prepare the necessary amendments to the Land Development Code due to resource and staffing constraints.

The California Department of Housing and Community Development (HCD) recently updated their housing element review procedures and will no longer certify housing elements of cities and counties that do not have zoning regulations for emergency shelters that comply with SB 2 (2007).⁵ Mt. Shasta is in the process of updating its housing element, with the draft housing element undergoing HCD review for compliance State law (see step 4 of the Housing Element Update Process flowchart in Figure 1). This change in HCD housing element review procedures accelerates the importance of amending the emergency shelter provisions of the Land Development Code because the City's housing element update cannot be found to be compliant with State housing law. To offset the cost for preparing the amendments, in June 2023 the City Council adopted Resolution CCR-23-15 authorizing the reprogramming of HCD planning grant funds for the purpose of amending the Land Development Code.⁶

³ <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb-2-combined-update-mc-a11y.pdf>, accessed July 31, 2023.

⁴ For the City's 5th cycle housing element, Program HO-2.5.2, was adopted. The 6th cycle draft housing element proposes a similar program, Program HO-4.2.1, to address the State law inconsistencies.

⁵ <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/zoning-variety-of-housing-types>, accessed July 31, 2023.

⁶ Resolution CCR-23-15 of the Mt. Shasta City Council, regular meeting agenda of June 12, 2023. Agenda item # 8, pages 36-48. HCD approved the reprogramming of funding on June 22, 2023.

Figure 1: Housing Element Update Process



Analysis

There are no emergency shelters currently proposed, nor is an emergency shelter currently operating in the City of Mt. Shasta. The amendments to the Land Development Code propose to modify the following three chapters of the Land Development Code:

1. Definitions, Chapter 18.08
2. District Regulations, Chapter 18.16
3. Emergency Shelter regulations, Chapter 18.98

The amendments propose to update the definition of emergency shelter in chapter 18.08.352 to be consistent with Gov't Code Sections 65582 and 65583. Police Chief Gibson reviewed the draft amendments and commented about the definition's vagueness regarding how time is measured for the length of stay. Chief Gibson makes a good point and Planwest Partners researched this further. Unfortunately, this research did not yield further guidance clarifying how time may be measured. The document Local Zoning Best Practices for Shelter and Transitional and Supportive Housing (October 2017) does caution local governments about narrowing the definition as it may conflict with State law.⁷

The Mt. Shasta Land Development Code currently permits emergency shelters in the High Density Residential (R-3), Downtown Commercial (C-1), and General Commercial (C-2) zones. However, the present language of the Land Development Code only expressly states the allowance for emergency shelters for the R-3 zone, and this allowance can only be found in chapter 18.98. Emergency shelters are a permitted use in the C-1 and C-2 zones because all residential uses permitted in R-3 are also permitted in the C-1 and C-2, see 8.5(B) and 9.5(A) of chapter 18.16.020, respectively. The amendments propose to update the zoning district tables in chapter 18.16.020 for the R-3, C-1, and C-2 zones to enumerate emergency shelters as a permitted use. The proposed amendment ensures consistency with State law while also improving the transparency and usability of the Land Development Code for all users. The amendments do not propose to change or expand the zones where

⁷ <https://homeless.lacounty.gov/wp-content/uploads/2019/02/Public-Counsel-SB-2-Best-Practices-Guide.pdf>, page 7.

emergency shelters are a permitted use.

The amendments proposed to remove the existing language regarding for consistency with the Mt. Shasta Architectural Guidelines. While new and renovated buildings for other residential and commercial uses in the R-3, C-1, and C-2 zones may be subject to the design review, the Architectural Guidelines as currently adopted do not contain objective standards and do not provide a ministerial approval pathway for emergency shelters. The amendments propose to strike this language in order for the City to meet the legal requirement that the zoning regulations permit emergency shelters in a non-discretionary manner. It may be possible to reinsert a similar requirement in the future should the City establish objective design standards and provide a ministerial approval pathway for emergency shelters.

The amendments propose to revise some of the physical standards to be consistent with State law limits on local zoning regulations and provide standards that are objective. Like other residential and commercial uses in the R-3, C-1, and C-2 zones, emergency shelters must meet the site development and lot design standards of the applicable zone. The amendments propose to decrease the existing 1,000 foot minimum separation requirement to 300 feet to be consistent with Gov't Code Section 65583(a)(4)(B).

An emergency shelter must also meet California and local building and fire code requirements. Like other residential and commercial uses and structures, a building's occupancy load is dictated by the building's use and size, and other physical features. The amendments propose to retain the existing limit bed limit of 60 beds per emergency shelter facility. If the occupancy standards of the building and fire code dictate a smaller number of beds, the limits of those codes shall prevail. Should the building and fire code permit more than 60 beds, the more restrictive zoning standard shall prevail.

Onsite parking shall be determined by the city manager, or their designee, based on a shelter's demonstrated need (e.g., number of employees onsite employees during peak shift) but no more than the parking required for other residential or commercial uses in the same zone, consistent with Gov't Code Section 65583(a)(4)(B). The Planning Commission could direct the staff to prepare an onsite parking standard with greater specificity than currently drafted.

Additionally, chapter 18.98 is proposed to be amended to include requirements:

- That shelter operators provide onsite security and onsite management during hours of operation.
- Exterior lighting be installed and the lighting be cut-off downward facing hooded lighting and directed away from adjacent properties and public rights-of-way.
- That shelters provide secure areas for person property of shelter residents.
- Shelters that perform client intake onsite are to provide an enclosed or screened waiting and intake area.

Staff Recommendation

Staff respectfully recommends that the Planning Commission:

1. Receive the staff report on the text amendments to Land Development Code for emergency shelters to comply with State law,
2. Receive and consider comments from the public, and
3. Provide staff direction and recommend that the City Council make the required findings and adopt the amendments to the Mt. Shasta land Development Code.

Attachments (I)

1. DRAFT An ordinance of the City of Mt. Shasta Amending Title 18 of the Mt. Shasta Municipal Code for the Regulation of Emergency Shelters

Attachment 1

DRAFT EMERGENCY SHELTER ORDINANCE

August 2, 2023

Language that is proposed to be added is denoted by underline.

Language that is proposed to be removed is denoted by ~~striketrough~~.

Usage of “. . .” indicates entire paragraphs that have been omitted because the language in the omitted paragraphs is not being amended.

ORDINANCE CCO-23-XX

**AN ORDINANCE OF THE CITY OF MT. SHASTA
AMENDING TITLE 18 OF THE MT. SHASTA MUNICIPAL CODE
FOR THE REGULATION OF EMERGENCY SHELTERS**

WHEREAS, Senate Bill 2 (SB 2) became law on January 1, 2008 and Assembly Bill 2339 (AB 2339) became law on January 1, 2023, amending Section 65583 of the California Government Code mandating certain approaches to the local regulation of emergency shelter for persons experiencing homelessness; and

WHEREAS, State Housing Element law requires local planning and zoning regulations facilitate emergency shelters, and in particular, SB 2 requires all cities and counties to provide at least one zone in which emergency shelters can be located without discretionary approval from the local government; and

WHEREAS, the City of Mt. Shasta's adopted Housing Element for the period of 2014-2019 has a program, HO-2.5.2, that calls for amending the zoning code to ensure consistency with State and law and internal consistency related to regulations for specific residential uses, including...emergency shelters; and

WHEREAS, it is the intent of the City to implement federal and state housing laws and policies contained in the City of Mt. Shasta's General Plan, including the Housing Element, in a manner that is consistent with applicable laws, including affirmatively furthering fair housing, and the City of Mt. Shasta seeks to be in compliance with the State of California mandated regulations for the local regulation of emergency shelter for persons experiencing homelessness; and

WHEREAS, on August 18, 2023, the Planning Commission of the City of Mt. Shasta held a duly noticed public hearing as prescribed by law to consider the proposed zoning text amendments. After consideration of all applicable staff reports and all public testimony and evidence presented at the public hearing, the PC recommended that the City Council adopt the proposed amendments to chapters 18.08, 18.16, and 18.98 of Title 18 of the Mt. Shasta Municipal Code, also cited as the Land Development Code; and

WHEREAS, on _____, 2023, the City Council of the City of Mt. Shasta held a duly noticed public hearing as prescribed by law to consider the proposed text amendments to the Land Development Code, and heard testimony regarding the proposed amendments. After consideration of all applicable staff reports and all public testimony and evidence presented at the public hearing; and

WHEREAS, the City Council does hereby make the following findings regarding the amendments to chapters 18.08, 18.16, and 18.98 of the Land Development Code as set forth in this ordinance; and

WHEREAS, the City Council finds and determines the adoption of this Ordinance is exempt from the California Environmental Quality Act (CEQA) per the State CEQA Guidelines Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The proposed zoning text amendments will not have an impact on the environment because they do not directly facilitate new development, or changes in the type and intensity of land use.

WHEREAS, the proposed amendments are consistent with the Mt. Shasta General Plan; and

WHEREAS, the proposed amendments are internally consistent with other applicable provisions of the Mt. Shasta Land Development Code; and

WHEREAS, the City Council has determined that the public health, safety and welfare of the residents of the City will be promoted and improved through compliance with State law regarding the regulation of emergency shelters; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY MT. SHASTA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Municipal Code Amendments

That chapters 18.08, 18.16, and 18.98 of Title 18 of the Mt. Shasta Municipal Code (MSMC) are hereby amended with language that is added denoted by underline, and language that is removed denoted by ~~striketrough~~. Usage of four ellipses, . . . , indicates entire paragraphs have been omitted because the language in the omitted paragraphs is not being amended.

Chapter 18.08

DEFINITIONS

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18.08.352 Emergency shelter.

“Emergency shelter” means temporary housing with minimal supportive services for persons experiencing homelessness, which is limited to occupancy of up to six (6) months or less, and is operated by a government agency or private non-profit organization. Emergency shelters may be in the form of dormitory or congregate housing, or individual shelters. Operations may be seasonal or year-round and client services may be offered, including but not limited to, counseling, medical evaluation, and job/life skills training in addition to food, and showers. Emergency shelters shall include interim housing interventions including but not limited to a navigation center, bridge housing, and respite or recuperative care. No individual or household may be denied housing and shelter because of inability to pay. Emergency shelters are intended to be used by homeless persons, victims of domestic violence, persons requiring temporary housing, and other individuals and households made temporarily homeless due to natural disasters (e.g., fires, earthquakes, etc.)

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Chapter 18.16

DISTRICT REGULATIONS

. . . .

18.16.020 Establishment of regulations.

. . . .

Table 7 – High Density Residential (R-3)

. . . .

7.5 Permitted Uses

The following uses are permitted in the R-3 district upon issuance of a building permit, business license, or other required permit:

- A. Single-family dwelling (attached or detached), one per each 4,500 square feet of gross land area.
- B. Duplex, one two-unit structure per 6,000 square feet of lot area.
- C. Triplex, one three-unit structure per 8,000 square feet of lot area.
- D. Multiple-family dwellings (no more than four units), one unit per each 2,000 square feet of lot area.
- E. Model home, including a sales office.
- F. Professional office not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area.
- G. Supportive housing.
- H. Transitional housing.
- I. Emergency shelters.

. . . .

Table 8 – Downtown Commercial (C-1)

. . . .

8.5 Permitted Uses

The following uses are permitted in the C-1 district:

- A. A store, motel, office, bank, theater, restaurant or similar use, primarily conducted within a building, and not involving the use of significant amounts of hazardous substances, and not exceeding 10,000 square feet in floor area where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.
- B. Residential uses consistent with the R-3 zone district.

- C. Residential uses within a commercial building.
- D. Outdoor sales consistent with Chapter 18.23 MSMC.
- E. Emergency shelters.

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Table 9 – General Commercial (C-2)

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9.5 Permitted Uses

The following uses are permitted in the C-2 district:

- A. All permitted uses in the C-1 zone.
- B. Retail business establishments within a building, conducting the following use: automobile body and paint shops, commercial recreation, creameries, dry cleaning plants, heavy equipment sales and service, laundry, locker plants, plumbing shops.
- C. Land uses which conform to the purpose of the district, and which in the judgment of the Planner are consistent with the purpose of the district.
- D. Emergency shelters.

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Chapter 18.98

EMERGENCY SHELTERS

18.98.010 Purpose.

~~The purpose of these standards is to ensure the development of emergency shelters does not adversely impact adjacent parcels or the surrounding neighborhood, and shall be developed in a manner which protects the health, safety, and general welfare of the nearby residents and businesses, while providing for the housing needs of people in need of shelter. The following performance standards shall apply to emergency shelters. This section establishes standards for emergency shelters in order to comply with the requirements of State law under Cal. Gov't Code Sections 65582 and 65583.~~

18.98.020 Location of Emergency Shelters

Emergency shelters shall be a use permitted in the High Density Residential (R-3), Downtown Commercial (C-1), and General Commercial (C-2) zones without a conditional use or other discretionary permit and subject only to development and management standards that apply to residential or commercial development in the same zone.

~~18.98.020~~18.98.030 Standards for emergency shelters.

~~In addition to the standards set forth in here and below, emergency shelters shall also be required to comply with the California Building Code and California Fire Code in effect at the time of building permit application. (Ord. CCO 10-03 § 3, 2010)~~ In addition to the development standards in the underlying zoning district, emergency shelters shall comply with the standards set forth in this section. In the event of conflict between these standards and the underlying zoning district regulations, the provisions of this section shall apply.

(A) Physical Characteristics.

- (1) Compliance with applicable California and local Uniform Housing Code and Building Code, and California Fire Code requirements in effect at the time of the building permit application.
- (2) Facilities shall provide exterior lighting on pedestrian pathways and parking lot areas on the property. Lighting shall be stationary, full cut-off downward facing hooded lighting and directed away from adjacent properties and public rights-of-way.
- (3) Facilities shall provide secure areas for residents' personal property. Outdoor storage facilities for residents' personal property shall be located outside yard setbacks and shall be screen from public view by a decorative wall or fence.
- (4) Separation. An emergency shelter may be located no closer than three hundred (300) from another emergency shelter.
- (5) Maximum number of beds per facility. Emergency shelters shall not have more than 60 beds per facility.

(B) Limited Terms of Stay. The maximum term of staying at an emergency shelter is six (6) months.

(C) The agency or organization operating the emergency shelters shall provide on-site security for residents, visitors, and employees during all hours when the shelter is in operation.

(D) Emergency Shelter Management. The agency or organization operating the emergency shelter shall provide on-site management during all hours when the shelter is in operation.

(E) Onsite parking. The emergency shelter shall provide on-site parking as determined by the Planning Director, or their designee, based on demonstrated need for onsite parking but not more than the parking required for other residential and commercial uses within the same zone.

18.98.040 Waiting and intake area.

If client intake occurs onsite, an enclosed or screened waiting and intake area must be provided on the property to prevent queuing in the public right-of-way. The area must be at least ten (10) percent of the total square footage of the shelter and be located outside of the yard setbacks.

18.98.030 Health and safety standards.

~~The shelter for the homeless must comply with all standards set forth in Cal. Health and Safety Code § 50800 et seq. (Ord. CCO 10-03 § 3, 2010)~~

18.98.040 Management plan.

~~Prior to commencing operation, the emergency shelter provider must have a written management plan, which shall be approved by the Planning Commission. The management plan must include, but is not limited to, provisions for staff training, resident identification process, neighborhood outreach, policies regarding pets, the timing and placement of outdoor activities, temporary storage of residents' personal belongings, safety and security, screening of residents to ensure compatibility with services provided at the facility, and training, counseling and social service programs for residents, as applicable. (Ord. CCO 10-03 § 3, 2010)~~

18.98.050 Occupancy load and bathroom facilities.

~~Each resident shall be provided a minimum of 50 gross square feet of personal living space per person, not including space for common areas. In no case shall occupancy exceed 60 residents at any one time. Bathing facilities shall be provided in quantity and location as required in the California Plumbing Code (Title 24, Part 5), and shall comply with the accessibility requirements of the California Building Code (Title 24, Part 2). (Ord. CCO 10-03 § 3, 2010)~~

18.98.060050 Common facilities and services.

The emergency shelter facility may provide one or more of the following specific facilities and services for clients, including but not limited to:

(A) Commercial kitchen facilities designed and operated in compliance with the California Retail Food Code;

(B) Dining area;

- (C) Laundry;
- (D) Recreation room;
- (E) Support services (e.g., training, counseling);
- (F) Child care facilities. (Ord. CCO-10-03 § 3, 2010)

~~18.98.070 Lighting.~~

~~Adequate external lighting shall be provided for security purposes. The lighting shall be stationary, full cut-off downward facing hooded lighting and directed away from adjacent properties and public rights-of-way, and of an intensity compatible with the neighborhood. (Ord. CCO-10-03 § 3, 2010)~~

~~18.98.080 Outdoor activities.~~

~~Outdoor activities, such as recreation, eating, and staging for drop-off, intake, and pick-up, may be conducted at the facility. Conducting such activities either at a back entrance or inner courtyard is encouraged. For the purposes of noise abatement in residential districts, outdoor activities may only be conducted between the hours of 8:00 a.m. to 10:00 p.m.~~

~~18.98.090 Shelter location, and concentration of uses.~~

~~Emergency shelters must be sited within the R-3 zone. No more than one emergency shelter is permitted within a radius of 1,000 feet from another emergency shelter.~~

~~18.98.100 Design standards.~~

~~To assure that new and renovated buildings are compatible with the existing character and scale of the surrounding commercial environment, new and infill buildings must be consistent with the Mt. Shasta Architectural Design Guidelines. (Ord. CCO-10-03 § 3, 2010)~~

~~18.98.110~~060 Emergency Shelter provider.

The agency or organization operating the shelter shall comply with the following requirements:

~~(A) Temporary shelter shall be available to residents for no more than 60 days. Extensions up to a total stay of 180 days may be provided if no alternative housing is available.~~

~~(B)~~ (A) Staff and services ~~shall~~ may be provided to assist residents to obtain permanent shelter and income. ~~If such~~ Such services ~~shall be~~ are available, they shall be provided at no cost to all residents of a provider's shelter or shelters.

~~(C)~~ (B) The provider shall not discriminate in any services provided.

~~(D)~~ (C) The provider shall not require participation by residents in any religious or philosophical ritual, service, meeting or rite as a condition of eligibility. (Ord. CCO-10-03 § 3, 2010)

. . . .

Agenda Item # 9

Staff Report

Meeting Date: September 25th, 2023

To: City Council

From: City Manager

Subject: Proposed Tobacco Retailer License Ordinance

| | |
|----------|--------------|
| X | Regular |
| | Consent |
| | Closed |
| | Presentation |

Recommended Action:

Direct staff to prepare a Comprehensive Tobacco Retailer Licensing Ordinance for Mt Shasta with recommended changes.

Recap of the Discussion at the August 28th Council meeting:

At the August 28th Council meeting, the discussion was focused on whether the City should be interfering with local retailers by adopting a price floor for the sale of tobacco product. Though there was some reluctance to interfere with local retailers, there appeared to be some interest related to potentially adopting the Ordinance with some elements that were included in the model ordinance. These elements included the potential ban on the sale of flavored tobacco, a ban on tobacco coupons, and a ban on the provision of free samples.

Summary:

At the August 28th and the July 24th, 2023 Council meetings, presentations were made regarding a model ordinance that was prepared to assist California cities and counties interested in establishing or strengthening a local tobacco retailer licensing program ("TRL") and further regulating the tobacco retail environment with the aim of adopting this ordinance within Mt Shasta.

Communities adopt TRL laws to ensure compliance for the purposes of reducing youth access to tobacco products, limiting the negative public health impacts associated with tobacco use, and in order to enforce local, state, and federal tobacco control laws.

The model ordinance was originally developed by ChangeLab Solutions, a non-partisan nonprofit organization that uses law and policy to advance health equity. The ordinance, written in 2018, was revised further by the Public Health Law Center in 2020. The ordinance further regulates the sale of tobacco products by retailers in cities/counties. It builds upon core provisions such as requiring a local tobacco retailer license by incorporating several policy options. It also reflects changes to state and federal tobacco control laws such as Tobacco 21 and the FDA's Deeming Rule that expands the FDA's regulatory authority over all tobacco products. The model ordinance

is based on an independent and objective analysis of the relevant law, evidence, and available data. Council should consider aspects of the ordinance that are appropriate for the community.

What is not clear from the model ordinance is who has jurisdiction when conducting compliance checks. Determining this aspect of the ordinance, should Council decide to seek adoption, will require further study.

The core provisions of the model ordinance include:

Tobacco Retail License Requirements

- License required for all tobacco retailing
- Non-transferable license
- Fees fully cover the cost of enforcement and administration
- Applicable to one fixed location
- Age verification required for all transactions
- No pharmacy licenses for tobacco sales

Density Limitations

- Population density: allowable licenses limited by population
- Proximity to other retailers: minimum distance from any “youth-friendly facility or location (e.g.school, park, community center)

Prohibitions

- Smoking-including e-cigarette use-is prohibited inside and within 25 feet of a licensed retailer
- All flavored tobacco products, including menthol, prohibited for sale
- On-site sales with the final customer only/no deliveries
- Self-service displays are prohibited

Packaging and Labeling

- Retailers may only sell products that 1)are in the manufacturer’s original packaging, 2) conform to all federal labeling requirements, and 3) conform to all child-resistant packaging and requirements
- Prices clearly marked
- Minimum quantity for cigarettes and little cigars of 20
- Minimum quantity for non-single purchase cigars of 6

Pricing

- No tobacco products should be sold below an established minimum price

- No coupons or discounts honored
- No free samples of promotions

Penalties

- Seeling tobacco products without a license shall result in tiered penalties, including fines and license suspensions
- Violations are a public nuisance
- Options for civil or criminal legal action against retailers

Definitions

- Comprehensive definition of tobacco products including electronic smoking devices, nicotine, products, heated products, other plant products, natural and synthetic products, and components or accessories

License Revocation

- License revoked after a minimum number of violations in a defined period
- Enforcement only against employers/licensees

Compliance

- Enforcement conducted by a civil local government agency (e.g. code enforcement department)
- Multiple inspections annually
- Underage decoy operations annually

Miscellaneous

- Include detailed findings and purpose section
- No purchase, use, possession (PUP) penalties