



IMPORTANT NOTICE REGARDING August 18, 2020 **Planning Commission Meeting**

This meeting is being conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19 pandemic. In accordance with Executive Order N-29-20, the public may only view the meeting online and not in the Commission Chamber.

Submission of Public Comments: For those wishing to make public comments at the August 18, 2020 Commission meeting, please submit your comments via email to be read aloud at the meeting by the City Planner. Email comments must be submitted to the City Planner at jlucchesi@mtshastaca.gov. Email comments on matters on the agenda must be submitted by 4:00 P.M. Pacific Time on the day of the meeting. All email comments shall be subject to the same rules as would otherwise govern speaker comments at the Commission meeting.

Reading of Public Comments: The City Planner shall read all email comments, provided that the reading shall not exceed three (3) minutes, or such other time as the Commission may provide, consistent with the time limit for speakers at a Commission meeting. The email comments submitted shall become part of the record of the Commission meeting.

Comments made in the chat will not be read during public comment.

Mt. Shasta Regular Planning Commission Meeting Agenda

Tuesday, August 18, 2020; 6:00 p.m.

Please note that this meeting is being agendized to allow Commissioners, Staff, and the public to participate in this meeting via ZOOM, pursuant to the Governor’s Executive Order N-29-20. Members of the public may remotely listen to and participate in the meeting via the information below:

Please click the link below to join the meeting:

<https://us02web.zoom.us/j/87148959048>

Or iPhone one-tap :

US: +12532158782,,87148959048# or +13462487799,,87148959048#

Page	STANDING AGENDA ITEMS
	1. Call to Order and Flag Salute
	2. Roll call
	<p>3. Public Comment: This time is set aside for residents to address the Planning Commission on matters listed on items not included on the Regular Agenda. If your comments concern an agenda item noted on the regular agenda, please address the Commission 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. Commission 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 Commission, please provide a minimum of seven (8) copies to the note taker.</p>
Pg 3	<p>4. Meeting Minutes a. Approval of Regular Planning Commission Meeting Minutes for July 21, 2020</p>
Pg 7	<p>5. Short-term Rental Ordinance Background: The City of Mt. Shasta like most cities have a growing short-term rental (STR) market that caters to tourism. This item will present a draft for a short-term rental ordinance. Commission Action: Motion to approve proposed ordinance for City Council consideration.</p>
Pg 18	<p>6. Drone Regulations Background: Drones are unmanned aerial vehicles that are used for a number of recreational and commercial purposes. This item explores the current regulations surrounding drones in the Mt. Shasta area and explores possible city regulation options Commission Action: Give Direction</p>

	<p>7. Planning Applications during COVID19</p> <p>Background: This item will discuss the ongoing administration of planning application during COVID19 to ensure business success and compliance with City Codes and processes.</p> <p>Commission Action: Give Direction</p>
	<p>8. Commission and Staff Comment</p>
	<p>9. Future Agenda Items – Future items are topics brought to the Planning Commission from a public petition, city staff, Planning Commission member(s), and City Council for review and action. All dates refer to first introductions to the Planning Commission and can be altered due to time and priority level. Items that are bolded correlate with the General Plan Revision Process</p> <ul style="list-style-type: none"> a. Golden Eagle Charter School Parcel Map, Conditional Use Permit, and Architectural Design – 9/22/2020 *Special Meeting b. General Plan Land Use Element Draft – 10/20/2020 c. City-Wide Planting List – 10/20/2020
	<p>10. Adjourn – Next meeting scheduled for Tuesday, September 22, 2020 at 6:00pm **This is a Special Meeting</p> <p>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., Mt. Shasta, CA at the same time the public records are distributed or made available to the members of the legislative body. Agenda related writings or documents provided to a majority of the legislative body after distribution of the Agenda packet will be available for public review within a separate binder at City Hall at the same time as they are made available to the members of the legislative body.</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, persons requiring accommodations for a disability at a public meeting should notify the Deputy City Clerk at least 48 hours prior to the meeting at (530) 926-7510 in order to allow the City sufficient time to make reasonable arrangements to accommodate participation in this meeting.</p>

Any writings or documents provided to a majority of the Planning Commission after distribution of the meeting Agenda Packet regarding any open session item on this agenda will be made available for public inspection during normal business hours within the binder entitled “Agenda Packet for Front Counter” located at City Hall at the desk on the right-hand side inside the front door.

Projects heard at this Planning Commission meeting may be subject to appeal. Please contact the Planning Department for information. Appeals must be submitted to the City Clerk’s office together with the appeal fee. If you challenge the environmental review of the project proposal in court, you may be limited to raising only those issues raised at the public hearing or in written correspondence delivered to the Planning Department on, or prior to, closing of the public comment period.

Mt. Shasta Regular Planning Commission Meeting Minutes

City Park Upper Lodge 1315 Nixon Rd.

Mt. Shasta Tuesday, July 21, 2020; 6:00 p.m.

Item	STANDING AGENDA ITEMS
1.	Call to Order and Flag Salute – Chair Findling called to order at 6:05PM
2.	Roll call Present: Chair Findling and Commissioners Beck, Saryon, McDowell, and Pardee Absent: Commissioners Higuera and Kirby
3.	Public Comment: None
4.	Meeting Minutes: Meeting Minutes for Regular Meeting June 16, 2020 COMMISSION ACTION: Motion to approve meeting minutes for June 16, 2020 MOTION: Commissioner Beck SECOND: Commissioner Pardee AYES: Chair Findling, Commissioners Saryon, Pardee, and Beck NOES: ABSTAIN: Commissioner McDowell ABSENT: Commissioner Higuera and Kirby
5.	Off Street Parking: Temporary Dining Areas City Staff: Presentation of Staff Report Clarifying questions Public Comment: Rick and Linda Chitwood: Comment read into the record by City Planner. In support of closing a block of Mt. Shasta Blvd. Gail Balzell: Public Comment read into the record by City Planner. In support of shutting down Mt. Shasta Boulevard for outdoor seating. Raven Stevens: Public Comment read into the record by City Planner. In support of temporary shut down of Mt. Shasta Blvd. to October 31 st . Brandy Caporaso: Public Comment read into the record by City Planner. Support for closure of North Mt. Shasta Blvd. Terez Maniatis: Public Comment read into the record by City Planner. Support for outdoor dining downtown. Heather Schwarzenberg: Public Comment read into the record by City Planner. Support for closing downtown section of Mt. Shasta Blvd.

Kim Centeno: Public Comment read into the record by City Planner. Support for closing Main Street for outdoor dining.

Linda Vivas: Public Comment read into the record by City Planner. In support of temporary closure of North Mt. Shasta Blvd. in the evenings.

Sunny Fletcher Dinger: Public Comment read into the record by City Planner. In support of closure of Mt. Shasta Blvd. for outdoor dining.

Juno Dawson: Public Comment read into the record by City Planner. In support of closing of Mt. Shasta Blvd. for outdoor dining.

Nicole Edwards: Public Comment read into the record by City Planner. In support for outdoor dining downtown.

Heinz Danzberger: Public Comment read into the record by City Planner. In support of outdoor dining and efforts to keep downtown vibrant.

Berry Deal: Public Comment read into the record by City Planner. In support of closing North Mt. Shasta Blvd.

Chantal Langenfeld: Public Comment read into the record by City Planner. In support of closing North Mt. Shasta Blvd. from Lake to Alma St.

Tanner Anthis: Public Comment read into the record by City Planner. In support of sidewalk seating.

Johanna Altorfer: In support of downtown outdoor dining.

Laurel Harkness: Comments regarding downtown outdoor dining, ways to keep costs low for businesses, and concerns around crowding and ensuring social distancing is met.

Public Comment Closed

Commissioner Josh Kirby joined the meeting at 6:53 PM

Discussion on temporary program becoming a permanent program, safety concerns with seating on streets, traffic issues with a full shut down of Mt. Shasta Blvd., and city assistance for equipment.

Request to investigate lowering Mt. Shasta Blvd. speed in the downtown.

COMMISSION ACTION: Motion to approve Class I California Environmental Quality Act (CEQA) Categorical Exemption for project

MOTION: Commissioner Pardee

SECOND: Commissioner Saryon

AYES: Chair Findling, Commissioners Saryon, McDowell, Kirby, Pardee, and Beck

NOES:

ABSTAIN:

ABSENT: Commissioner Higuera

COMMISSION ACTION: Motion to approve proposed guidelines as presented

MOTION: Commissioner Saryon

SECOND: Commissioner Pardee

AYES: Chair Findling, Commissioners Saryon, McDowell, Kirby, Pardee, and Beck

NOES:

ABSTAIN:

ABSENT: Commissioner Higuera

6. Cannabis Zoning Section 18.91.030 Amendment

City Staff: Presentation of Staff Report

No questions

Public Comment:

Peggy Risch: Public Comment read into the record by City Planner. Support for amendment and comment on California Environmental Quality Act (CEQA)

Public Comment: Closed

No Discussion

COMMISSION ACTION: Motion to approve proposed amendments to Section 18.91.030 as presented

MOTION: Commissioner Kirby

SECOND: Commissioner Beck

AYES: Chair Findling, Commissioners Saryon, McDowell, Kirby, Pardee, and Beck

NOES:

ABSTAIN:

ABSENT: Commissioner Higuera

7. Short-term Rental Ordinance

City Staff: Presentation of staff report.

Clarifying questions

Public Comment:

Peggy Risch: Public Comment read into the record by City Planner. Against allowing short-term rentals in residential zones.

David McDowell: Question regarding Amnesty Process

Public Comment: Closed

Discussion regarding cap on short-term licenses, limits on number of days to rent short-term rentals per year, and purpose of the ordinance.

No formal action taken. Item moved to next meeting.

8. Commission and Staff Comments

Commissioner Pardee: Discussion on city tree projects. Request for future agenda item on tree plantings.

Commissioner Beck: Question on mask enforcement

Commissioner Saryon: Question on YAKS new building mural and how to get a larger trash can.

City Staff: Updates on City projects, Caltrans grant, and certification.

9. Future Agenda Items – Future items are topics brought to the Planning Commission from a public petition, city staff, Planning Commission member(s), and City Council for review and action. All dates refer to first introductions to the Planning Commission and can be altered due to time and priority level. **Items that are bolded correlate with the General Plan Revision Process**

- a. Drone Ordinance Discussion – 8/18/2020
- b. **Golden Eagle Charter School Parcel Map, Conditional Use Permit, and Architectural Design – 9/22/2020** *Special Meeting Date

10. Adjourn – Adjourned at 9:09 PM

Agenda Item # 7

Staff Report

Meeting Date: July 21, 2020
To: Planning Commission
From: Planning Department
Subject: Short-term Rental Ordinance

<input checked="" type="checkbox"/>	Regular
<input type="checkbox"/>	Consent
<input type="checkbox"/>	Closed
<input type="checkbox"/>	Presentation

Recommended Action:

Motion to approve proposed Short-term Rental Ordinance for City Council Consideration

Background:

Short-term rentals (STR), vacation rentals, and home sharing are all terms used to describe the rental of all or part of a residential dwelling unit for a duration of occupancy of less than 30 days. Common examples include renting a house or an apartment for a week or weekend for a short stay or for several weeks associated with business travel or longer vacations. Short-term rentals are most commonly offered and rented through online hosting platforms such as Airbnb, VRBO, and HomeAway. The short-term rental industry has experienced tremendous growth in the last five years. The City of Mt. Shasta has approximately 118 legal and illegal short-term rental units based on an online search of STR in the City Limits.

While short-term rentals may provide income to residents and broader lodging options than the existing hotel market, there may be significant downsides to these uses. The popularity and profitability of short-term rentals has spurred an industry where dwellings are bought and used exclusively for short-term rentals, removing housing stock that would otherwise be available for longer lease terms. A rotating series of renters in residential neighborhoods may create traffic, noise, parking, and safety concerns for neighborhoods.

Regulation History:

The City of Mt. Shasta has had minimal regulation on short-term rentals, beginning with the introduction of a zoning restriction in 2016. The City maintains one line of zoning code restricting STR in R1 zones (MSMC 18.16.040). STRs have increased since 2016 from 7 registered STRs to 52 registered STRs in 2019. City Staff have struggled to keep up with enforcement and safe

regulation of STR's. The City Staff have highlighted this item for Planning Commission discussion and possible regulation.

The City of Mt. Shasta does have a permitting and regulations for Bed and Breakfasts (BnB) (MSMC 18.21). The BnB's in the City operate under strict regulations with additional permitting steps and requirements. STR's do not have any prescribed operating requirements.

STR Locations by Zone

A summary of the total number of STR's in each was requested at the last Planning Commission meeting. The total amount per zone are as follows:

Zone Designation	# of STR
R1*	1
R1/B1	2
R2	9
R3	9
C1	14
C2	6
EC	0
*Grandfathered Unit	

Zoning and Lot Restrictions

The City of Mt. Shasta currently utilizes a zoning restriction (strict prohibition of STR in R1 Low Density Residential). The Planning Commission may continue this practice by explicitly prohibiting or requiring a Conditional Use Permit (CUP) for various zonings. Background research shows that zoning restrictions are not as common as maximum license caps and ownership restrictions.

Lot restrictions are when a minimum lot size is required for a STR. Siskiyou County recently required all STR in the City of Mt. Shasta Sphere of Influence to have a minimum lot size of 2.5 acres which coincides with the 2.5 acre septic system minimum requirement. Lot restrictions are usual seen only in county regulations for STR due to the common use of septic systems that can be overwhelmed by frequent visitors or other infrastructure. Cities do not typically have lot restrictions due to the availability of water and sewer infrastructure, but Planning Commission may explore this option for City regulations.

Short-term Rental Location/Ownership Restrictions

Many STR ordinances restrict STR's by requiring primary residence of the dwelling unit, require a local primary residence, or set a cap for the number of non-primary residences used for STR.

Based on the discussion from the June Planning Commission meeting, both primary and non-primary residence were kept in the ordinance. The City of Sandpoint requirement that the owner of non-primary residence live within 20 miles was kept. Planning Commission will need to determine whether they wish to allow non-primary residences and if so, how many would each individual be allowed to own. The current 2 total is from the Redwood City ordinance and can be amended.

Maximum Number of Licenses

The Planning Commission has a number of options for capping STR licenses. The favorable option from the June Regular Planning Commission was a cap determined by the total number of housing units.

The current housing element listed the total number of housing units at 1637. Planning Commission indicated that a cap of 1% may be too low for a total of 17 licenses. Other cap amounts are:

- 1.5% = 25 licenses
- 2% cap = 33 licenses
- 2.5% cap = 41 licenses
- 3% cap = 49 licenses

City Staff do not recommend setting the percentage cap higher than 3% due to the number exceeding the current number of licenses. City Staff recommend a 1.5% cap for a total of 25 licenses.

Rental Day Restrictions

It is common to see Cities and Counties place a cap on the total number of days that a STR can be rented per calendar year. This regulation is commonly paired with ownership restrictions. The number of days in a calendar year that an STR can be available is flexible; with most cities choosing a maximum of 120 or 180 days per calendar year. Planning Commission may choose to include this recommendation for all or conditional STR's within the City.

The Planning Commission was split on the appropriate amount of days and requested the division between primary and non-primary at the June Regular meeting. The commercially zoned STR's have a limit of 120 day for a primary residence without a host, no limit for if the host is present, and 180 days for non-primary residences. The residentially zoned STR's have a limit of 60 days without a host, no limit with a host, and 90 day limit for non-primary residence.

Amnesty Period and Grandfathering

An amnesty period is when a nonconforming use is given time to come into compliance or cease the nonconforming use. Grandfathering is when a nonconforming use is allowed to continue

without coming into total compliance with a new ordinance. In terms of STR, amnesty periods are more commonly used to ensure STR's come into compliance with new regulations and operating procedures. The amnesty period option also ensures that the total number of STR's is reduced (in most cases) to allow for new long-term rentals or new housing stock for long-term residents to become available.

The Planning Commission voiced some concern over a one year amnesty period in the proposed ordinance. The one year amnesty period has been increased to 18 months. The period could be increased but should not exceed 2 years.

General Plan Connection:

The proposed ordinance is consistent with the General Plan as it protects existing residential neighborhoods from encroachment of incompatible commercial activities while protecting the existing supply of housing.

Environmental Review:

The proposed Chapter creation is not considered a project under the California Environmental Quality Act (CEQA) Guidelines Section § 15378 due to the activity not resulting in a direct or reasonably foreseeable indirect physical change in the environment. Alternatively, the chapter creation is exempt from CEQA as it can be seen with certainty that there is no possibility for causing a significant effect on the environment Section § 15061(b)(3). The action will not cause a direct or reasonably foreseeable indirect change in the environment, as the use of short-term rental would be limited to existing primary residences and no additional structures or construction is required to comply with the regulations. The amendment provides for regulations to limit traffic, parking and noise impacts through the prohibition on special events, restricts the occurrence of unhosted rentals, preserves residential character by providing a local contact person to respond to complaints, and requires use of on-site parking.

Fiscal Impact:

The City's Finance Department is the chief department permitting and enforcing STR regulations. The Finance Department are typically the first point of contact with STR owners and operators. The Finance Department does not currently recover costs associated with Transient Occupancy Tax (TOT, also known as the hotel tax) collection, recording keeping, and enforcement. The total TOT collected per STR has decreased in the past 3 years. We predict this reduce in per STR tax collection due to improper reporting and the saturation of the STR market. The reduction in the number of STR's operating in the City would not significantly impact the total TOT tax revenue collected.

The implementation of a permitting process similar to the BnB regulations would allow City Staff to recover costs associated with managing and enforcing STR regulations. Cost recovery does not reduce expenditures or generate new revenue but puts the cost of doing business onto the business, thus freeing up general tax revenues for other projects and services.

Information was presented by members of the public at the June Regular Planning Commission meeting that the City receives or could receive ~\$300, 000 in TOT tax from STR. The Finance Director evaluated the email information and determined that the assessment was incorrect. A majority of the STR's referenced are located in Siskiyou County and not City Limits. The Finance Director confirmed that the share of STR is 4% of the annual TOT revenue. The Finance Department experiences frequent problems in receiving reports timely and everything related to collecting from STR's take a disproportionate share of staff time related to all TOT collections the math related to "beds in heads" ignore the average amount collected from traditional rooms compared to average amounts collected from STR's.

Review of Public & Outside Agency Comment:

The City Staff have not pursued public comment directly related to regulating the STR market, but have received public input in other processes that indicates local support for more long-term rentals and less STR. The City's 2018 Visioning Survey, as part of the General Plan revision, showed 65% of respondents listing long-term housing as a critical issue for the City and 47% specifically listed Short-term rentals as a negative change they have observed in the City.

The 2014 Housing Element update for the City's General Plan included public workshops which collected information on housing issues and opportunities. Short-term or vacation rentals were listed as a concern.

The City has received two public comment letters in opposition to limiting the total number of licenses and a property owner's ability to operate a short-term and placing regulations on commercially zoned short-term rentals. The regulations opposed for commercially zoned short-term rentals are related to the annual limits on days which was removed by the Planning Commission at the July regular meeting.

Recommendation Discussion:

Planning Commission unanimously requested the creation of proposed language for more regulation on the STR industry. Attachment includes options for regulation related to previous discussion at the May 19, 2020 Regular Planning Commission meeting and ordinances from other cities.

A change that occurred outside of the June Planning Commission is the confirmation of the definition of a "Primary Residence". In consultation with the City Attorney it was determined that the best option for the definition is the longer more detailed option. The confirmation of a primary residence should include proof of residency like voter registration, tax statements, or driver's license. These documents are easy to obtain and file on record with the City. The City can also easily check the validity of these documents.

At the July 21, 2020 Planning Commission meeting, the Commission set a cap of 1.5% of housing units for the STR licenses. The Commission was not in consensus for the recommended cap percentage and tabled the item to allow for the two absent commissioners to weigh in on the discussion and give more time for deliberation. The Commission was in consensus on the removal

of the annual limit for commercially zoned STRs and allowing a maximum of two non-primary residence STR licenses.

City Staff request the commission to conclude deliberation and confirm the license cap percentage and ordinance language for City Council consideration.

Attachments:

I. Proposed Chapter 5.50 with Comments and Text Options

Chapter 5.50

Short-Term Rental Licensing and Standards

5.50.010 Purpose

The purpose of this Chapter is to allow limited short-term rental uses while preventing the loss of housing opportunities for residents, preserve residential character and establish operating standards to reduce potential noise, parking, traffic, property maintenance, and safety impacts to neighborhoods, and provide a registration process for the City to track and enforce these requirements as needed and ensure appropriate collection of taxes.

5.50.020 Definitions

For the purposes of this chapter, the follows definitions shall apply:

“Adjacent Properties” means the dwelling units located next to the dwelling unit in which the short-term rental is located.

“Host” means any person who is the owner of record of residential real property or any person who is a lessee of residential real property pursuant to a written agreement for the lease of such real property, who offers a dwelling unit, or portion thereof for short-term rental either through a hosting platform or individually as an operator.

“Hosting Platform” means a means through which a host may offer a dwelling unit, or portion thereof, for short-term rental. A hosting platform includes, but is not limited to, an internet-based platform that allows a host to advertise and potentially arrange for temporary occupation of the dwelling unit, or portion thereof, through a publicly searchable website, whether the short-term renter pays rent directly to the host or to the hosting platform.

“Primary Residence” means a dwelling unit where a person has been physically present, and that the person regards as home. A person may only have one primary residence at any given time. Evidence of a person’s primary residence includes, but is not limited to, documentation from income tax statements, voter registration, or a driver’s license. If a property has multiple dwelling units, including an accessory dwelling unit or apartment complex, each dwelling unit and accessory dwelling unit shall be considered a separate residence subject to the primary residence requirement.

“Short-Term Rental” means the use or possession of or the right to use or possess any room or rooms, or portions thereof in any dwelling unit for residing, sleeping, or lodging purposes for less than 30 consecutive calendar days, counting portions of days as full calendar days.

“Short-Term Renter” means a person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of less than 30 consecutive days, counting portions of calendar days as full calendar days.

5.50.030 Short-Term Rental License Requirement

A. Short-term rental uses shall be permitted in any primary residence subject to the requirements of this Chapter, including compliance with the operating standards, registration, Transient Occupancy Tax payments, and recordkeeping obligations. Except as provided for in this Chapter, all other short-term rental uses shall be prohibited.

B. Short-term rental uses shall be permitted in any residential use in C1 Downtown Commercial and C2 General Commercial. Short-term rental uses shall be considered a conditional use in Residential zones. All short-term rental uses are subject to the requirements of this Chapter, including compliance with operating standards, registration, Transient Occupancy Tax payments, and recordkeeping obligations. Except as provided for in this Chapter, all other short-term rental uses shall be prohibited.

C. A Short-term rental host may operate a maximum of two (2) non-primary residence short-term rentals.

5.50.040 Maximum Licenses

A city-wide cap of one and one-half (1.5) percent of total City housing units will be placed on the number of short-term rental registrations issued (First come first served). The total number of City Housing units shall be the total number of housing units reported in the most recent Housing Element.

5.50.050 Short-Term Rental License Permitting Process & Renewal

(A) Application. Prior to advertising or making available the short-term rental for renting, hosts shall register their residence as a short-term rental with the City. This registration shall be submitted on a form prepared by the City and shall include the name and contact information of the host, the address of the residence being used for short-term rental, the contact information for the local contact person, an acknowledgement of compliance with the requirements of the City's Municipal Codes, applicable health and safety standards, and other information as requested.

(B) Fee. The registration form shall be accompanied by a filing fee in an amount established by resolution of the City Council.

(C) Application Completeness. The submitted information shall be used to determine whether to register the short-term rental. The host will be notified if an application is incomplete. If the host fails to submit the required information or fees necessary to complete the application within thirty (30) calendar days after the notice of an incomplete application, the application shall expire and be deemed withdrawn.

(D) Decision. The City Manager or their designee shall be responsible for deciding short-term rental registration applications. After an application is deemed complete, registration shall be approved where:

1. The host demonstrates the ability to meet the requirements of this Chapter,
2. The subject residence is not the subject of an active compliance order or administrative citation from the City in the past 12 months, and

3. A short-term rental registration for the residence has not been denied or revoked in the prior 24-month period.

(E) Validity. An approved registration shall be valid and payable on a fiscal year basis. An approved registration shall be personal to the host and shall automatically expire upon sale or transfer of the dwelling unit. No registration may be assigned, transferred, or loaned to any other person.

(F) Annual Renewal. A registration may be renewed annually upon payment of registration renewal fees and all required transient occupancy tax remittance associated with short-term rental. The host shall submit such information concerning the short-term rental activity as may be required to enable the tax collector to verify the amount of tax paid. Failure to renew prior to the expiration date will result in expiration of the registration.

(G) Requirements No Exclusive. The issuance of a short-term rental registration shall not relieve any person of the obligation to comply with all other provisions of this code applicable to the use and occupancy of the property.

(H) Administrative Policy. The City Manager or their designee shall have the authority to develop administrative policies to implement the intent of this Chapter.

5.50.060 Appeal of Denial or Revocation of License

(A) Revocation of Registration. A short-term rental registration issued under the provisions of this Chapter may be revoked after notice and hearing as provided for in this Section, for any of the following reasons:

1. Fraud, misrepresentation, or false statements contained in the application;
2. Fraud, misrepresentation, or false statements made in the course of carrying on a short-term rental as regulated by this Chapter;
3. Any violation of any provision of this Chapter or of any provision of this code; or
4. Any violation of any provision of federal, state, or local laws.

(B) Revocation Hearing. Before revoking a short-term rental registration, the City Planner shall give the responsible host notice in writing of the proposed revocation and of the grounds thereunder, and also of the time and place at which the host will be given a reasonable opportunity to show cause why the registration should not be revoked. The notice may be served personally upon the host or may be certified ailed to the host at the last known address of at any address shown upon the application at least 10 days prior to the date of the hearing. Upon conclusion of the hearing the City Planner may, for the grounds set forth herein, revoke the registration.

(C) Appeal from Denial or Revocation of Registration. Any host whose application has been denied or registration has been revoked shall have the right to an administrative appeal before the City Manager or a designated hearing officer. An appeal shall be filed in writing on a form provided by the City stating the grounds therefor within 10 days of the decision. The City Manager

or designated hearing officer shall hold a hearing thereon within a reasonable time and the decision shall be final.

(D) Waiting Period. Any host whose registration has been denied or revoked shall be ineligible from applying for a new registration for a 24-month period.

(E) Records of Compliance. The host shall retain records documenting the compliance with these requirements for a period of three (3) years after each period of short-term rental, including but not limited to records showing payment of transient occupancy taxes by a hosting platform on behalf of a host. Upon reasonable notice, the host shall provide any such documentation to the City upon request for the purpose of inspection or audit to the City Manager of their designee.

5.50.070 Operational Standards, Restrictions, and Requirements

The following operating standards shall apply to all short-term rentals:

- (A) Legal Dwelling. Short-term rentals may only occur within legal dwelling units.
- (B) Limitation on Listings. Short-term rentals shall not have more than 1 listing for the same primary residence on the same days.
- (C) Local Contact Person. Hosts shall identify to all guests and all occupants of adjacent properties a local contact person to be available 24 hours per day, 7 days per week during the term of any unhosted stay. The designated local contact person shall:
 - 1. Respond within 30 minutes to complaints regarding the condition or operation of the dwelling unit or the conduct of guests; and
 - 2. Take remedial action to resolve such complaints
- (D) Parking. No additional parking shall be required for short-term rentals. Existing on-site parking spaces shall be made available to short-term renters.
- (E) Special Event. Weddings, corporate events, commercial functions, and any other similar events which have the potential to cause traffic, parking, noise, or other problems in the neighborhood are prohibited from occurring at the short-term rental property, as a component of short-term rental activities.
- (F) Each short term rental must pass a public safety inspection to validate emergency egress standards as well as operable and properly placed smoke alarms, fire extinguishers and CO detectors, as applicable
- (G) No recreational vehicle, travel trailer, tent or other temporary shelter may be used as a short term rental.

The following standards shall apply to all short-term rentals in commercial zones:

- (A) Annual Limit. There is no annual limit for short-term rentals in commercial zones.
- (B) The number of guests will be limited to two guests per bedroom plus another two, for a maximum of ten guests per short-term rental with outdoor quiet hours in effect between 10:00 P.M. and 7:00 A.M.

The following standards shall apply to all short-term rentals in residential zones:

- (A) Annual Limit.

1. A primary residence may be occupied as a short-term rental for no more than [90] days per calendar year where no host is present. There shall be no limit on the number of days a primary residence may be occupied as a short-term rental where the host is present. For purposes of this Section, a host is considered present when they are on the premises at all times between the hours of 10:00 P.M. and 6:00 A.M.
 2. A non-primary residence may be occupied as a short-term rental for no more than [90] days per calendar year.
- (B) The number of guests will be limited to two guests per bedroom plus another two, for a maximum of six guests per short-term rental with outdoor quiet hours in effect between 8:00 P.M. and 8:00 A.M.

5.50.080 Transient Occupancy Tax

Transient Occupancy Tax (TOT) must be collected short-term rentals and paid to the City pursuant to Chapter 3.12 of the Mt. Shasta Municipal Code. Collection of transient occupancy taxes for short-term rentals shall be the responsibility of the host. The hosting platform shall collect TOT when they have signed a voluntary agreement (or equivalent) with the City.

5.50.090 Penalties and Enforcement

Violations. Penalties as provided for in Chapter 1.03 may be imposed for failure to comply with the provisions of the Chapter.

5.50.100 Amnesty Period for Existing Short-Term Rentals

Notwithstanding any other provision of law, short-term rentals operating on or before the enactment of this ordinance shall be considered existing, unpermitted uses. An amnesty period of eighteen (18) months after the effective date of this ordinance is being offered to allow these existing, unpermitted uses to be legalized by conforming to the requirements of this Chapter, including compliance with operating standards, registration, and recordkeeping obligations. Transient Occupancy Tax payments continue to be required at all times for short-term rentals and must be collected and paid during the amnesty period. Applications to bring an existing, unpermitted short-term rental use into compliance shall be made on or before one year after the effective date of this ordinance. Existing short-term rental uses that do not conform to the requirements of this Chapter shall cease operation within eighteen (18) months of the effective date of this ordinance and shall be prohibited from resuming unless and until the use conforms to the requirements of this Chapter.

Agenda Item # 6

Staff Report

Meeting Date: July 21, 2020
To: Planning Commission
From: Planning Department
Subject: Drone Regulations

X	Regular
	Consent
	Closed
	Presentation

Recommended Action:

Discussion and feedback regarding drone regulations

Background:

Drones are unmanned aircraft vehicles as known as unmanned aerial vehicles (UAV). Drones began as military technology that allowed for intelligence that have evolved to fit a multitude of uses in the civilian world. Drones have become essential in the film, security, monitoring and inspection, and transportation industries; so much so that there is now a drone economy.

The drone economy not only encompasses programs and policies around UAV but also autonomous vehicles and freight. The purpose of the drone economy is to get as many unmanned vehicles into circulation to remove the need for people in vehicles and increase productivity since drones do not function under the typical human work week. The drone economy does require some regulations to ensure safe and secure expansion of the use of drones.

Existing Regulations

Aerial operations are subject to the Federal Aviation Administration (FAA) regulations. The FAA registers drones and the pilots that control them. The FAA also sets regulations for all Federal airspace which includes the air space over military operations, Federal park and forest land, and coastal regions.

There are four distinct types of drone operating designations: Model Aircraft, Public Operators, Section 333 exemptions, and Part 107 Operators. The Part 107 operator regulations are the most common and easiest to obtain by a member of the public. The Part 107 requires the operator to be 16 years of age or older, operator must pass a commercial operator test, and register with the FAA. The Part 107 certification allows for a drone operator to fly a drone 400 feet in the air and to be within 400 of a structure for any purpose. While flying the drone the

operator must be within eyesight of the drone. Operators are still required to get FAA approval for flying within a restricted air space which includes near airports. No flights over people.

Beginning in 2019, the FAA does not allow privately operated drones to be used within 100 feet of critical infrastructure which includes power lines, wastewater treatment plants, and surface water supplies. This was to address the previous loopholes of the Part 107 permits which allowed for drone flight over these pieces of infrastructure.

Constitutional Issues

There are two constitutional issues with drones. The First and Fourth Amendment of the Constitution apply in the use and regulation of drones. The First Amendment protects the ability to film and take pictures with drones. Regulations cannot infringe on this first amendment right for residents. The Fourth Amendment safeguards resident's privacy and prevents excessive government intrusion using drones. These amendments have to be considered carefully when creating local drone regulations; specifically, regulations must protect the constitutional right of the public to photograph anything visible from a public vantage point.

The Fourth amendment guarantees privacy to private residents and private property. Drones pose an issue to privacy that other means do not. For example, drones can be silent enabling surveillance without notice and maneuver into places that larger aircrafts can't. The additional technologies like thermal imaging, facial recognition, and frequency readers pose additional concerns for people. There are several Supreme Court cases which do not allow for this type of thing to happen but only in terms of the government using these things on the public; not necessarily private parties. This is where local and state regulation steps in to cover these issues.

State Regulations

There are three main state laws that govern drones; AB 1680, AB 856, & SB 807. Two of the three laws allow first responders and public safety workers immunity if a drone is damaged during a disaster or safety event. The other law prohibits entering the airspace of an individual in order to capture an image or recording of that individual engaging in a private, personal or familial activity without permission. Outside of these three laws, there are no other state regulations in consideration with drones.

State Parks

Drones are currently allowed in State Parks, State Beaches, State Historic Parks, State Recreational Areas, and State Vehicular Recreation Areas except where prohibited by a District Superintendent's posted order. Posted orders may prohibit drones for numerous reasons, including protection of threatened species; threats to cultural and natural resources; high fire danger; public safety; recreational conflicts; impacts upon visitor experience privacy; and park

unit classification. Therefore, drone users should always check with their local State Park District for any specific posted orders. Even absent a posted order on drones, it is within the discretion of park staff to contact drone operators when drones threaten visitors, property, wildlife, or privacy. If a drone operator continues to fly in a dangerous or reckless manner, they may be asked to stop flying and remove the drone from park boundaries.

Local Regulations

There are five core areas that should be addressed in local drone regulations; land use, trespassing, public safety, records retention, and hunting. Land use is the consideration of the use and take-off/land in certain zones. Local governments can prohibit, conditionally allow, or allow drone use and the sizing of those drones in certain zones or areas. For example, the City of Yorba Linda city ordinance bans drone takeoffs and landings outside of a drone pilot's visual line of sight; within 25 feet of another individual, excepting the drone pilot or drone pilot's designee; and on private property without the consent of the property owner.

Trespassing is concerned with the use of drones over and on private property and the type of equipment on the drone. Similar to the City of Yorba Linda, cities can determine what the limits are to use a drone on or over private property. The city may also limit the type of equipment on the drone such as video cameras or laser lighting. The City of Hermosa Beach ordinance also reinforces existing privacy laws, stating that no person shall operate a drone to record or transmit visual image or audio recording of any person or private property located in the City under circumstances in which the subject person or owner of the subject real property has a reasonable expectation of privacy.

Public Safety is concerned with limiting drone usage and removing liability of public safety workers. Drone usage around public safety workers that are actively engagement in a serious event can be prohibited to a certain distance. The local regulations can also remove liability of a safety worker that damages a drone while working. For example, City of San Francisco prohibits the use of drones within 100 feet of a burning building or fire safety equipment. If a drone is damaged or enters the area around the building the pilot is fined and assessed damages to workers or equipment.

Records Retention is more for public regulation on municipal records retention. how would the city retain records on aerial maps and how would the city ensure that the data collected does not violate privacy rights are two questions which can be answered through local regulation. The time limit for retention, if the records are public, and the data extent of the recording can all be specifically addressed in a local ordinance. Local regulations cannot control the record retention of private entities due to propriety information laws. Best practices and recommendations lean toward destroying recording as soon as possible to not violate privacy rights.

Hunting and fishing with the use of a drone can be regulated by local regulations. There is an ability for cities to regulate drones where drone cannot harass wildlife or persons in anyway which covers hunting and fishing concerns. It is Federally illegal to install firearms on drones for any purpose.

General Plan Connection:

The 2007 General Plan does not offer any specific goals, policies, and implementation measures related to drones.

Recommended Discussion:

City Staff request the Planning Commission to discuss the follow points and questions related to local drone regulation:

- Does the City need a local ordinance to regulate or limit drone usage in City Limits?
- Are there specific uses of drones that could benefit the City?
- Are there specific privacy concerns that isn't covered by Federal and Sate regulations?
- Does the City need to create an internal policy or oridnance to regulate its own drone usage?

Attachments: