

# Mt. Shasta Special Planning Commission Meeting Agenda

Tuesday, September 22, 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/86316452023>

Or Call by phone:

US: +1 346 248 7799 or +1 408 638 0968

Page	STANDING AGENDA ITEMS
	<b>1. Call to Order and Flag Salute</b>
	<b>2. Roll call</b>
	<b>3. Public Comment:</b> This time is set aside for residents to address the Planning Commission on matters listed on items <b>not</b> 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. <b>Each speaker is allocated three (3) minutes to speak.</b> 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.
Pg 3	<b>4. Meeting Minutes</b> a. Approval of Regular Planning Commission Meeting Minutes for August 18, 2020
Pg 6	<b>5. Public Mural Ordinance Amendment: Public Mural Definition</b> Background: The Public Mural Ordinance governs the permitting and regulations of public murals in Mt. Shasta. This item will review the definition of a public mural. Recommended Action: Motion to approve proposed amendment to the definition of a "public mural".
Pg 8	<b>6. Unmanned Aircraft (Drone) Ordinance</b> 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 Recommended Action: Motion to approved proposed Chapter 7.10 "Unmanned Aircraft (Drone)" Ordinance for City Council review.
	<b>7. Commission and Staff Comment</b>

	<p><b>8. Future Agenda Items</b> – 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. <b>Items that are bolded correlate with the General Plan Revision Process</b></p> <ul style="list-style-type: none"> <li>a. Golden Eagle Charter School Project Public Hearing – 10/6/2020</li> <li>b. City-Wide Planting List – 10/20/2020</li> <li>c. Short-term Rental Ordinance – 10/20/2020</li> </ul>
	<p><b>9. Adjourn – Next meeting scheduled for Tuesday, October 6, 2020 at 6PM</b>  <b>**This is a Special Meeting**</b></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, August 18, 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, Kirby, Higuera, and Pardee

**Absent:** Commissioners McDowell

**3. Public Comment:**

Johanna Altorfer: Comments on July 21, 2020 Meeting Minutes. Comments on Golden Eagle Project

**4. Meeting Minutes:**

Meeting Minutes for Regular Meeting July 21, 2020

Commissioner Saryon: Correction to clarify that Planning Commission discussed physical barriers for on-street dining areas.

COMMISSION ACTION: Motion to approve meeting minutes for July 21, 2020 with amendment.

MOTION: Commissioner Pardee

SECOND: Commissioner Beck

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

NOES:

ABSTAIN: Commissioner Higuera and Kirby

ABSENT: Commissioner McDowell

**5. Short-Term Rental Ordinance**

City Staff: Presentation of Staff Report

Clarifying questions related to license cap, prioritizing current license holders, and Accessory Dwelling Units.

**Public Comment:**

Jessie Zapffe: Comment read into the record by City Staff. Against capping Short-term Rental licenses and placing requirements on commercial Short-term Rentals.

Nathan Sivananda: Comment read into the record by City Staff. Against Short-term Rental requirements and limits. Comments regarding short-term rentals and long-term rentals.

Mt. Shasta Tomorrow: Comment read into the record by City Staff. Comments regarding CEQA.

Mark Pignoni: Comment read into the record by City Staff. Comments against short-term rental proposed regulations.

Randi and Laurie Furry: Comment read into the record by City Staff. Comments regarding short-term rental economic impact and recommendations for regulating short-term rentals.  
Adam Varcoe: Comment read into the record by City Staff. Against Short-term Rental requirements and limits.  
Peggy Risch: Comments against short-term rentals in residential neighborhoods and support short-term rentals in commercial.

**Public Comment Closed**

Commission discussion on difference between residential and commercial short-term rentals. Request for number of housing units in commercial area by housing unit type. Discussion on CEQA assessment. Discussion and request for findings for discretionary short-term rental licenses in residential areas.

Continued to October meeting.

**6. Drone Regulation**

City Staff: Presentation of Staff Report

Clarifying questions regarding drones flown over people at events, use in City, privacy, and safety.

**Public Comment:**

Johanna Altorfer: Concerns regarding drone usage and privacy.

**Public Comment: Closed**

Discussion and request for simple ordinance language for consideration.

**7. Planning Application During COVID19**

City Staff: Presentation on City process for planning applications during COVID19

**8. Commission and Staff Comments**

Commissioner Higuera: Question on weed abatement ordinance

Commissioner Pardee: Comments on Chantilly Pear plantings and planting list

Commissioner Saryon: Question on downtown closures and downtown outdoor dining.

City Staff: Update on reducing traffic speed in the downtown area. Discussion on County Active Transportation Program Planning grant for a county-wide Active Transportation Plan. Discussion on Parks District Master Planning process.

**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. 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

**10. Adjourn** – Adjourned at 8:32 PM

## Agenda Item # 5

### Staff Report

**Meeting Date:** September 22, 2020  
**To:** Planning Commission  
**From:** Planning Department  
**Subject:** Public Mural Definition

<b>X</b>	Regular
	Consent
	Closed
	Presentation

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#### **Recommended Action:**

**Motion to approve proposed definition amendment of “public mural” for City Council consideration.**

#### **Background:**

A review and amendment to the public mural ordinance was requested due to the recent Yaks project using all sides of their building for a public mural. The Planning Commission voiced general consensus at a previous meeting to review the definition and requested an amendment to prevent full structure murals.

#### **Environmental Review:**

The change in definition was environmentally review for compliance with the California Environmental Quality Act (CEQA) and is not subject to CEQA pursuant to Section 15060(c)(2) and 15060(c)(3) of the State CEQA Guidelines, because it will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not a “project”, as defined in Section 15378 of the State CEQA Guidelines.

#### **Recommendation Discussion:**

City Staff recommend amending Section 18.65.010 to read as follows:

##### **18.65.010 Purpose.**

The purpose of this chapter is to authorize the establishment of guidelines, procedures, and standards for the integration of public murals onto private and public structures. The visual and aesthetic quality of development has a significant impact on property values, the local economy, and vitality of the City. No person shall create, maintain, and put in place a public mural without first receiving a permit from the City as provided in this chapter. For the purposes of this chapter, “public mural” is defined as a piece of artwork painted or applied directly on a

wall, ceiling, or other permanent surface with a noncommercial message, **that is confined to one surface plane of a structure.**

The additional language has been reviewed by the City Attorney and would require future projects that wish to have multiple public murals to apply for each mural. One application may be used to apply for multiple murals, but each mural will be reviewed by the Planning Commission as separate items.

## Agenda Item # 6

### Staff Report

**Meeting Date:** September 22, 2020

**To:** Planning Commission

**From:** Planning Department

**Subject:** Proposed Chapter 7.10 Unmanned Aircraft Systems (Drones)

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<b>X</b>	Regular
	Consent
	Closed
	Presentation

### **Recommended Action:**

**Motion to approve proposed Chapter 7.10 “Unmanned Aircrafts (Drones)”**

### **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 engaged 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.

### **Environmental Review:**

The City of Mt. Shasta does not have any regulations or prohibitions related to drones to date. The development and implementation of this ordinance will result in the registration and limitation of drones in City Limits. The proposed ordinance was environmentally review for compliance with the California Environmental Quality Act (CEQA) and is not subject to CEQA pursuant to Section 15060(c)(2) and 15060(c)(3) of the State CEQA Guidelines, because it will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not a “project”, as defined in Section 15378 of the State CEQA Guidelines.

### **Recommended Discussion:**

Planning Commission requested a basic drone related ordinance at the regularly scheduled meeting August 18, 2020 to address future impacts of drones on the safety and security of residents and visitors. The proposed ordinance is a combination ordinance language from City of Palo Alto, Anaheim, and Federal requirements.

The propose ordinance defines essential terms to ensure the ordinance is understandable and legally covers the type of unmanned aircrafts and their uses. The ordinance requires all drones to register with the City; unless they weigh less than 0.55 pounds. The 0.55 pounds exemption is set by Federal aviation regulations. This would allow for children’s toys or small recreational drones to be operated without a license. These drone would still be subject to the proposed operating standards. Finally, the proposed ordinance sets operational standards and regulations for uses of drones and prohibited areas.

### **Attachments:**

#### **I. Proposed Chapter 7.10 “Unmanned Aircrafts (Drones)”**

## **Chapter 7.10 Unmanned Aircrafts (Drones)**

### **7.10.010 Purpose**

### **7.10.020 Definitions**

### **7.10.030 License and Registration**

### **7.10.040 Operation Standards**

### **7.10.050 Special Events**

### **7.10.060 Enforcement**

### **7.10.010 Purpose**

The purpose of this ordinance is to regulate unmanned aircrafts to ensure the security, privacy, and safety of the residents and visitors of the City of Mt. Shasta.

### **7.10.020 Definitions**

The following words and phrases, as used in this chapter, are defined as follows:

“Unmanned Aircraft” or “UA” shall mean an aircraft, including, but not limited to, an aircraft commonly known as a “drone”, that is operated without the possibility of direct human intervention from within or on the aircraft.

“Unmanned Aircraft System” or “UAS” shall mean an Unmanned Aircraft and associated elements, including, but not limited to, any communication links and components that control the Unmanned Aircraft.

“Civil UAS” shall mean an Unmanned Aircraft or Unmanned Aircraft System operated by any person for any purposes other than strictly hobby or recreational purposes, including, but not limited to, commercial purposes or in furtherance of, or incidental to, any business or media service or agency.

“Commercial Purposes” shall mean a use or purpose related to commerce and the production of revenue or income.

“Model Aircraft” shall mean an Unmanned Aircraft or Unmanned Aircraft System operated by any person strictly for hobby or recreational purposes.

“Operate” shall mean to pilot, steer, direct, fly, guide, or manage an Unmanned Aircraft or Unmanned Aircraft System through the air remotely. The term “operate” includes, without limitation, managing or initiating an electronic control system that pilots, steers, directs, flies, or manages an Unmanned Aircraft or Unmanned Aircraft System.

“Person” shall mean a human or non-human entity that is treated as a person for limited legal purposes.

“Public UAS” shall mean an Unmanned Aircraft or Unmanned Aircraft System operated by any public agency for government related purposes.

### **7.10.030 License and Registration**

- A. It is unlawful to operate a Public, Model, or Civil Aircraft without a valid City Business license and/or registration.
- B. Model Aircraft are exempt from the license or registration requirement if the Model Aircraft weighs 0.55 pounds or less.
- C. All Unmanned Aircraft and UAS operators shall annually provide the City of Mt. Shasta proof of Federal registration and compliance with Federal Aviation standards.

### **7.10.040 Operation Standards**

A. Unless otherwise authorized by Federal law, the following shall apply to the operation of all Model, Civil, or Public Aircraft within the City of Mt. Shasta:

1. It is unlawful to operate an Unmanned Aircraft in a manner that interferes with police or fire operations including, but not limited to, efforts to control, contain, or extinguish a fire. It is unlawful to operate an Unmanned Aircraft within 500 feet measured horizontally of an active police or fire investigation, including a crime scene, traffic collision, or fire incident, or over or within 1,000 feet measured horizontally of a wildfire incident or operations; unless special written permission is granted from the Fire or Police Chief of the City of Mt. Shasta.
2. It is unlawful to operate an Unmanned Aircraft within 1,000 feet measured horizontally of or into a fireworks production.
3. It is unlawful to operate any Model Aircraft carrying or quipped with anything other than a camera, video camera, or related image or audio capturing equipment.
4. It is unlawful to hover in place over private property without first obtaining permission from the property owner and/or the property tenant.
5. It is unlawful to take pictures or videos or record sounds of individuals, homes, businesses, or property that are in an enclosed area from public view such as fenced backyards or the interior of any structure unless written expressed permission is obtained from the individual, property owner(s), property manager(s), or tenant(s) thereof.
6. It is unlawful to operate an Unmanned Aircraft or UAS around or within park properties without the written permission of the Mt. Shasta Parks and Recreation Director.

B. Unless authorized by Federal law, the following shall apply to the operation of any Model Aircraft or Civil UAS within the City of Mt. Shasta:

1. It is unlawful to operate a Model Aircraft or Civil UAS in a manner that interferes with a manned aircraft, and Model Aircraft or Civil UAS shall always give way to manned aircraft.
2. It is unlawful to operate a Model Aircraft or Civil UAS higher than 400 feet above ground level.

3. It is unlawful to operate a Model Aircraft or Civil UAS within the airspace above or within 5 miles of any airport without the prior express authorization of the airport control tower.
4. Model Aircraft and Civil UAS when operating outdoors, shall only fly during daylight hours, which are defined as between official sunrise and official sunset, local time.
5. It is unlawful to operate Model Aircraft or Civil UAS over moving vehicles or unprotected persons, or in any way which interferes with vehicle traffic, or across a street with more than two lanes.
6. It is unlawful to operate a Model Aircraft or Civil UAS less than 50 feet away measured horizontally from any individual other than the operator or the operator's helper(s).
7. It is unlawful to operate Model Aircraft or Civil UAS within 1,000 feet measured horizontally of or in the airspace above any water delivery facility, reservoir, storage tank, pump station, treatment or intake facility, or any electric generating facility, substation or control center, or any electric transmission or distribution facility, or within 100 feet of any overhead wire, cable, conveyor, or similar equipment for the distribution of electricity or power, upon or along any public way or utility easement within the city, without the facility or equipment owner's consent, and subject to any restrictions that the facility or equipment owner may place on such operation.
8. It is unlawful to operate a Model Aircraft or Civil UAS while the operator is under the influence of alcohol or drugs.
9. It is unlawful to operate a Model Aircraft or Civil UAS beyond the visual line of sight of the operator. The operator must use his or her own natural vision without enhancement other than by corrective lenses prescribed for the operator. Individuals other than the operator may not be used in lieu of the operator for maintaining visual line of sight. Visual line of sight means the operator has an unobstructed view of the Model Aircraft or Civil UAS. The use of vision-enhancing devices, such as binoculars, night vision goggles, infra-red or low-light cameras, powered vision magnifying devices, and goggles or other devices designed to provide a "first-person view" from the Model Aircraft or Civil UAS, do not constitute the visual line of sight of the operator. It is unlawful to operate a Model Aircraft or Civil UAS when the operator is on or in a moving vehicle.
10. It is unlawful to operate a Model Aircraft or Civil UAS in a manner that is reckless or careless and endangers the safety of other persons or their property. The standard for careless or reckless operation shall be the same as the standard set forth in federal statutes or regulations governing aeronautics including, but not limited to, Federal Aviation Rule 91.13.
11. It is unlawful to operate any Model Aircraft or Civil UAS in violation of any temporary flight restriction (TFR), Notice to Airmen (NOTAM), or any other flight restriction issued by the Federal Aviation Administration or any other federal or state statute or regulation governing aeronautics.

### **7.10.050 Special Events**

All Unmanned Aircraft or Unmanned Aircraft Systems shall receive written permission from the City of Mt. Shasta to operate within 100 feet of a Special Event, as defined in Section 7.30.020 of the Mt. Shasta Municipal Code.

### **7.10.060 Enforcement**

Violation of this chapter or any of its sections shall constitute an infraction, and shall follow code enforcement procedures and penalties set forth in Chapter 1.03 MSMC.