



PLANNING COMMISSION **Agenda**

520 E. Cascade Avenue - PO Box 39 - Sisters, Or 97759 | ph.: (541) 549-6022 | www.ci.sisters.or.us

THURSDAY, OCTOBER 5, 2023 – 4:00 P.M AGENDA

This Planning Commission meeting is accessible to the public in person in the City Council Chambers at 520 E. Cascade Avenue, Sisters, OR 97759 and via the following Zoom link:

<https://us02web.zoom.us/j/88660390991?pwd=TGICMEVKOFVqT0NRQzZkUUZBZTJmdz09>

Passcode: 555502

- I. **CALL TO ORDER / DETERMINATION OF QUORUM / ADOPTION OF AGENDA**
- II. **VISITOR COMMUNICATION:** This is time provided for individuals wishing to address the Planning Commission regarding issues not already on the agenda.
- III. **APPROVAL OF MINUTES** September 7, 2023 (Exhibit A)
- IV. **WORK SESSION**
 - A. Review of the Short-Term Rental Ordinance (Exhibit B)
- V. **STAFF AND COMMISSIONER COMMENTS**
- VI. **ADJOURN**

This agenda is also available via the Internet at www.ci.sisters.or.us. The meeting location is accessible to persons with disabilities. Requests for an interpreter for the hearing impaired or for other disability accommodations should be made at least 48 hours before the meeting by contacting Kerry Prosser, City Recorder at kprosser@ci.sisters.or.us



Planning Commission Minutes
Thursday, September 7, 2023 – 4:00 P.M.
City Hall Council Chambers, 520 E. Cascade Avenue, Sisters, OR 97759

Chairman: Jeff Seymour
Commissioners: Cris Converse, Jeremy Dickman, Sarah McDougall, Tom Ries
Absent: Art Blumenkron, Vikki Hickman
City Staff: Scott Woodford, Community Development Director, Matthew Martin, Principal Planner, Emme Shoup, Associate Planner
Visitor: John Barentine – Dark Skies Consulting, LLC
Recording Secretary: Carol Jenkins

I. WORK SESSION – 4:00 PM

A. Dark Skies Outdoor Lighting Ordinance Text Amendments (Exhibit A) - the revised updated Ordinance.

Dark Skies Lighting Development Code Amendment

Action Requested: Final direction from the Planning Commission on the proposed Development Code amendment to the Dark Skies ordinance for preparation of an eventual public hearing draft.

Background: Since the Planning Commission last discussed this on August 17, staff held a work session on this topic with the City Council on August 23, 2023, and are scheduled to have another in early October, possibly in November. Not all Councilors provided comments, but the following were offered:

1. Is Dark Sky Certification possible? There was interest on the part of some Councilors in pursuing certification for Sisters if the ordinance is close to qualifying. Need to determine how close we are. There must be a requirement for public lighting retrofit within five years to qualify.
2. Public lighting: how do towns work with ODOT? Most cases, ODOT have complete authority unless there is a separate agreement; some Councilors indicated that they might not support public lighting exemption.
3. String lights: not all Councilors commented, but those that did mentioned concern for the light trespass they create, and they encouraged timers for them, while another said they were not in support of regulating them.
4. Non-Conforming Lighting: Councilor indicated a continuing support for financial assistance to retrofit lighting, but wondered if there are other agencies that could assist too.

The Planning Commission held a work session on August 3, 2023, and provided some initial comments. Since that time, staff has been working with a consultant, Dark Skies Consulting, LLC, to review the previous draft of the ordinance and they have offered some thoughts on how to improve it to

incorporate best practices in the industry and to make it more efficient to administer. A revised draft is attached in Attachment A.

Purpose: The purpose of the Dark Skies Standards is to utilize responsible lighting practices. These looked good to the consultant.

Guiding Principles: It was noted that if this code amendment is adopted with this section in it that Sisters would be one of the first municipalities in the US to do so adding guiding principles on what is driving the ordinance itself.

Definitions: Downcast with lighting that is directed down to the ground and where the fixture shield is parallel with the ground level.

Fully Shielded: A fixture that allows no direct emission of light above a horizontal plane passing through the lowest light-emitting part of the fixture.

Glare: The sensation produced by luminance's within the visual field that are sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance or visibility.

Vice Chairman Converse stated that she does not feel that glare is definable and is almost subjective.

Mr. Barentine stated that is correct and there is not a definition that leads to a way to measure it in a way that is objective and because it is a human perception issue, we can describe it in words but is difficult to pin it down with a number. We are mindful that you cannot put a number on it, so when talking about a violation that it is within the prerogative of whoever is enforcing this to determine whether there is a concern that rises to the level of an infraction.

Luminance: The amount of light that passes through, is emitted, or reflected, from a particular area, and that falls within a given solid angle.

Applicability: Except as otherwise exempted by the SDC, the installation of outdoor lighting fixtures after the effective date of this ordinance is subject to the Dark Skies Standards, applicable provisions of the applicable Building Code and Electrical Code, and with Chapter 3.4 (Signs).

Requirements: All non-exempt outdoor lighting and illuminating devices shall meet the following requirements.

- Downcast – Lighting shall be downcast and directed downward toward the ground. Up-lighting is prohibited.
- Fully Shielded – Unless subject to an exception, all light fixtures shall be fully shielded and otherwise designed and installed to prevent light trespass and glare.
- Maximum Brightness – To prevent over-lighting, lighting shall not exceed the maximum lamp brightness.

Single Family Residential – No individual lighting fixture may exceed 850 lumens and the entire property may not exceed 4,000 lumens in total 6,000 lumens in total if the property contains an accessory dwelling.

Multi-Family Residential – No individual lighting fixture may exceed 850 lumens and the entire property may not exceed 20,000 lumens per net acre.

Mixed Use and Non-Residential – No individual lighting fixture may exceed 1,500 lumens and entire property may not exceed 25,000 lumens for the initial net acre plus 2,000 lumens for each additional net acre.

Net Acre: The portion of any land parcel that is developed, consisting of structures and/or hardscape. The net acreage of a parcel is the gross acreage of that parcel less any acres that are considered undeveloped.

Mr. Barentine stated that there are some questions about what exactly should or should not count, etc. He stated that if you have completely undeveloped land versus land that has been cleared but not improved, and then land that has been cleared and improved so that you have hardscape building envelopes on top of that. There is not a lot of uncertainty in how to implement it and municipalities seem to have that under control. The reason he suggests using the net acre here as opposed to gross acres is we want to try and focus the allowances for lighting toward the needs exists. The reasoning is if you have an undeveloped portion of a parcel where there is no human presence ever at night that should not give you credit toward lighting other parts of the property. What we are trying to prevent is people using vastly more lighting than they need to get the job done. By limiting their light allowance to the developed part of their land, we get better results than if we use the gross acreage.

~~Non-Use~~ Curfew – In all non-residential zones, all exterior lighting shall be extinguished either by 11 PM or within one (1) hour of the close of normal business hours, or at the conclusion of usual operations, whichever occurs later. Businesses whose normal business hours are twenty-four (24) hours per day are exempt from this provision.

Director Woodford stated that background came from support from the community and City Council to pursue International Dark Skies Certification for the community. You need to meet certain requirements and certain elements in the Code to be able to achieve that. The discussion with the Council was to see where we are with the ordinance – are we close and is it something that we can achieve because it would be a feather in the cap for the community and a good thing. The question is still what it takes to get there, and what impact that is going to have on the community. Curfew would be one of those requirements that we would need to have in the ordinance to achieve that.

Mr. Barentine stated that there is not a curfew requirement for residential or business, but there is a requirement for the publicly owned lighting that it is either dimmed or extinguished during the overnight hours or using active controls to limit the duration and timing of that light. There is not a strict curfew requirement, it is a best practice for non-residential uses, but it is not a requirement by Dark Skies International.

Director Woodford stated that this might be problematic for some of the business owners that we heard back from when we did some of the outreach. Some of the lodging properties have folks that check in at all times of the night, so they need to have that lighting available, signage, lighting to and from the units, etc. We heard from the Gas Station owners that they do turn their lights down at night but like to have a level of security lighting.

Mr. Barentine stated that businesses and gas stations would be considered 24-hour businesses if they are accessible to the public on a 24-hour basis. We are not asking hotel operators to shut off their parking lot lights during the overnight hours because people might be accessing businesses at those times.

Director Woodford added that he did contact one gas station owner that was not open 24-hours a day, but just likes to keep a minimum amount of security lighting so that if a police officer was going by, they could look in and see that nothing was going on.

Mr. Barentine stated that one way to satisfy everybody would be to have them put lighting like that on motion sensors, etc. In discussions with law enforcement over the years, he has been told that in many cases they prefer that because if they see that the light is on, they know that there is a human presence whereas ordinarily it would be off. A way to encourage that is if you say that your lighting is controlled by a motion sensor switch, then it is exempted from the curfew requirements. If it is activated because there are people present then that light is allowed to be on and is not subject to the curfew, but with the human presence in that area ceases then the light is supposed to shut itself off.

Director Woodford stated that the Landscape and Deck Lighting (E) is no longer in that section. We did not take it out of the Code, we just moved it to the Exemptions section.

Public Outdoor Lighting – Right now as written, public outdoor lighting associated with streets and right-of-way is exempt from the Dark Skies Standards. It does not mean that outdoor lighting fixtures on public property that are not in the right-of-way are not subject to that standard. As examples would be City Hall, and the Public Works Headquarters would still be required to be shielded as written.

Signage – Sign illumination must be extinguished completely one (1) hour after sunset (or at close of business for the property, whichever is later), and remain off until one (1) hour before sunrise (or opening of business for the property, whichever is earlier). We may want to add the provision that is in the Curfew that perhaps businesses that are open 24 hours would be exempt from that.

Prohibitions – Laser Source Lights, Search Lights, and Upward pointing light fixtures. All light fixtures must direct light down including illumination of signs, landscaping, flags (except the US flag), and other items.

Exemptions – Lighting that is exempt from the ordinance (H) – Non-conforming lighting, Airport operations, Decorative Lighting, Holiday Lighting (November 15 – February 15), String Lighting.

Mr. Barentine stated that this is going in a good direction from a Dark Skies standpoint. He stated that he does not see any serious problems to worry about.

Director Woodford stated that we have had multiple work sessions on the ordinance and have heard a lot of public comments regarding what is being proposed. It seems like for the most part, we have distilled it down to some major issues – Public Lighting Exemption, Maximum Safety for Transportation, Light trespass, Exemptions, Non-conforming lights be brought into conformance within a certain timeframe – 5 years with a 3-year extension if making some progress.

Staff has also provided some potential solutions to the remaining, unresolved issues: public lighting, non-conforming lighting, and string lights for the Planning Commission to consider. With your feedback on these items, along with continued Council feedback, staff will have the direction to prepare a final draft for consideration of approval at a public hearing in the near future.

Summary Points:

- Public Light Exemption: As written, public street lighting is exempt from the ordinance due to the need to maximize traffic safety and with respect to the costs to retrofit any non-conforming lights. Public comment has urged the city to not exempt these lights, as they feel it is important for the city to play its role when asking private property owners to comply. If the city were to apply for Dark Sky Certification, it would be required that non-compliant public lighting become compliant within five years. The staff is currently working on gathering more information on the topic that will be shared at the work session.
- Non-Conforming Lighting – This discussion has to do with how to bring lighting that is non-conforming, as of the effective date of this ordinance, into conformance. In the current ordinance, five years were allotted, but conformance was not achieved.

The options for the revised ordinance are:

- Add a new timeframe for when they must be brought into conformance – could set timeframe of anywhere between 1-2 years to 10 years. To achieve Dark Sky Certification, the ordinance would have to require such lighting be made conforming within 10 years. When thinking about this timeline, staff encourages the Commission to consider the burden on a small city staff to enforce it.
- Require non-conforming lighting be replaced with conforming lighting when the lights reach the end of their useful life (and not require a specific timeframe). Flagstaff, AZ uses this method in their ordinance.
- Either way a strong education campaign, coupled with financial incentives, will be important.
- Business Feedback: Planning Commission has directed staff to do outreach with the business community about the proposed ordinance and the costs of retrofitting the lighting. The staff has met with the owner of a hotel, restaurant, industrial building, and gas station and plans to visit with several other owners in the next week. Initial feedback is:
 - Strong support for the dark skies concept and the importance of nighttime skies.
 - Need for adequate lighting for visitor safety to hotels all night as check ins occur all times of night and for safety of visitors who are unfamiliar with area (city folks not comfortable in wooded, rural areas); therefore, curfews would not work well for them.
 - For gas station, owner indicated the need for adequate lighting for safety of buildings/facilities when closed at night; they are willing to reduce the amount of lighting after closing to what's required to provide visibility for police passing by to ensure no illegal activity and deter theft, etc.
 - Strong support for financial assistance to replace non-conforming lighting as this is a big cost to them.

- Support for longer time to bring non-conforming lights into conformance (5 years too short) or for a policy that requires they be upgraded when lights reach the end of their useful life and need to be replaced.
- Support a curfew for string lights, but maybe not banning them outright as they are popular.

Mr. Barentine stated that if there is any lighting in the city that is under the jurisdiction of a different level of government whether it is the State, ODOT, Federal through the FAA, etc., the consensus is that because you do not control that, there is not an expectation that you will control it at least on the part of the organization that makes the designations. For the lighting that is managed by ODOT, the fact that they might have different standards that do not adhere to the city, would not be a factor in deciding the merits of a Dark Sky community application. In his experience in a lot of cases, State Departments of Transportation try to be good neighbors, etc. In terms of costs that would be involved, until you have a good handle on the existing stock of lighting through an inventory or an audit and comparing what you have against - if this standard is what becomes law through the revision process it is hard to say what that might be.

Chairman Seymour asked Mr. Barentine if having this information at our disposal to make an educated decision is important.

Mr. Barentine stated that he does think it is important, and you can ballpark it, but if it turns out that the reality is much different than what your intuition suggests, getting numbers quite wildly from reality. The other thing in support of conducting a lighting inventory is that your Public Works might appreciate it since they may know as to where all the lighting is, but not know in detail. As far as once you have that information in hand moving forward, if you keep that database up to date it is great for making those replacements.

String Lighting – There is no clear consensus on how to regulate string lights both from the Commission and the Council – it is an unresolved issue. We learned that it might not be as big of an issue with the overall lighting pollution problem – they are a small contributor, but they can be an annoyance to the neighbors.

- String Lights: Based on the work sessions held so far, there is no clear consensus on whether and how to regulate string lights or whether to ban them outright.

At the last work session, the city’s consultant mentioned other communities have banned them outright, some have curfews and limit their brightness and color. He also noted that the impact they have relative to the overall lighting pollution is much smaller than what comes from parking lots and streetlights. But they can be a big nuisance to neighbors. There are potential middle grounds on the issue (i.e., allow them, but with a curfew and restrictions on brightness, etc.).

According to research provided by our consultant, there are few municipalities that regulate string lighting. Most U.S. municipalities have no outdoor lighting policies at all, but many de facto prohibit them by requiring all lighting to be shielded. For those that do regulate them specifically, here are some examples:

Complete prohibition:

- Sedona, AZ: *“Permanent exposed string lighting is not permitted.”*

Permit string lighting with:

- A light trespass prohibition:
 - Terrell, TX: *“In a residential zone the property owner may use string lights or rope lights to decorate the residence as well as natural objects without a permit if no more than one footcandle is projected onto public streets or 0.03 footcandles onto adjacent residential property.”*
- A zoning limitation and/or curfew:
 - Lake Jackson, TX: *“String lights may only be used in outdoor patio areas. All string lights must be turned off when the eating establishment is closed.”*
- A restriction on the brightness of individual lamps
 - Middleburg Heights, OH (proposed): *“Outdoor string style lights shall have a maximum bulb wattage of one (1) watt.”* [Note that I would not recommend specifying anything in Watts. Use lumens instead.]

Regulate as “signs” in the sign code:

- Mt. Sterling, KY: *“407.3 Signs Prohibited: ... String light or any unshielded light that is visible by the public from a public street and is used in connection with commercial premises for commercial purposes, including attention-getting, other than Christmas decorations.”*
- Downey, CA: *“9614.02 Prohibited Signs: ... String lights, except in connection with permissible holiday decorations. Outlining of a building or structure with lights shall be construed as being string lighting.”*

To summarize, the options with string lights are:

- a) Ban them outright. But, what to do with existing ones? The string lights in existence at the time of the new ordinance would be required to come into conformance in a set timeframe or when they reach the end of their useful lives (see Non-Conforming Lighting discussion below).
- b) Allow them with no restrictions by exempting them in the ordinance.
- c) Allow them with restrictions such as curfews, and brightness and color limits - CCT)

Mr. Barentine stated that more municipalities are going to regulate these in the future as they become more popular. To make sure that people do not go overboard with the brightness or intensity of those lights – ideas might be a limit on the number of lumens of light per foot of string. There needs to be a number or point of reference that you can put in the code so that the plan review people will know what to judge this by and we think there are ways of doing this. We can come up with some language that will be understandable and will provide a meaningful limitation consistent with what the community wants.

Vice Chairman Converse asked Mr. Barentine what would be the best and easiest way to measure it.

Mr. Barentine stated that one of the communities has a restriction on what would be called light trespass so that the light cannot exceed some threshold at the property line. It is a good way to put a number on it, so you know whether a violation is taking place. There are very simple devices that will cost about \$20 on Amazon that measure the illuminants of the lights reaching the surface. Most of this information will come with the product packaging, or the data sheets that come with it. The US Department of Energy Regulations requires that the number of lumens and the color temperature of the light are printed directly on the package.

Director Woodford asked Mr. Barentine if these ordinances that we reference are directed primarily towards commercial properties or are there any communities that are also regulating the use of these lights in a private setting.

Mr. Barentine stated that those referenced earlier do not make a distinction in terms of the types of uses to which they apply except one referenced outdoor dining which is more of a commercial situation. There are cases with some municipalities that will completely exempt the regulations of string lighting if it is in a residential situation, but they will regulate them in commercial. You can tailor those regulations as much as you want according to the type of use of the property.

Commissioner McDougall asked about complaints being made to the city about string lights and is there anything currently being done to measure the complaints against, or is just people that are unhappy with lights in their windows, etc.

Director Woodford stated that it is challenging right now because we do not have anything that measures the lighting, and we can only enforce what we can see. If we are not invited onto the property, we cannot go and measure these things. We do have language that talks about low wattage, but it is not defined. That is what we have been using to somewhat regulate those kinds of lights right now – not enough to adequately regulate them.

Commissioner Dickman asked Mr. Barentine to the extent, for example in Sedona where they are prohibiting it outright, do you find that this is a popular restriction, or was there an outcry when this was passed.

Mr. Barentine stated that to be honest in most communities' outright prohibition would not be popular. Also, he's of the mind that complete exemption is probably not the way to go because you end up in these situations where people put so much up on their properties that it is an annoyance to the neighbors and that gets into nuisance complaints, etc. It is a different situation in a place like Sedona where they are an International Dark Skies community and no mention of string lighting in the guidelines for the designation program so whether you regulate it is immaterial as to whether the City would be eligible for that designation. In places where they have the designation or where the public is socialized more to the idea of Dark Skies – you find that there is less of a tolerance for certain kinds of lighting where string lights are viewed as purely aesthetic nature and not a practical use of outdoor lighting and more opposition to that. It is probably better to regulate than not and give people a reasonable opportunity because we do not have a reason to believe that string lighting is a significant contributor to light pollution.

Director Woodford stated that he wanted to touch on the non-conforming lighting where the existing code has a provision that says that we need to bring all the lighting into conformance within five (5) years. We need to consider if we are going to reset that number and what that number is. If we pursue Dark Skies Certification it is 10 years to meet that requirement which would be more achievable for a community our size. The other tool to potentially address that is waiting for the lights themselves to reach the end of their useful life, and for the lights to be changed at that point. It might be challenging to get the public to know that if their lights go out that they need to bring them into conformance. That would be a huge education campaign and not sure that we want to do lighting permits at the counter here at City Hall.

Mr. Barentine stated that he would add one bit of information that we are finding that new LED lighting is not lasting as long in field conditions than we originally thought, so whereas 10 years seems like a short amount of time compared to what people have in mind for the LED equipment which we are finding that new lighting products fail in the field after less than 10 years. If you are installing a new LED lighting product outdoors today, it will probably not make it to 10 years. A lot of this will be replaced before the 10-year period, and the real emphasis at that point is the education piece making sure that when these lights are replaced as they fail that they put in does comply with the code.

Chairman Seymour opened the public testimony portion of the hearing.

Rema Givot, 18557 McSwain Dr., Sisters, OR 97759

Ms. Givot wanted to thank staff and the Commission for coming back to this topic. Having lived in this community for over 30 years now, she thinks it is such an important resource that we are at a turning point. One thing that she would urge especially around the public lighting, it is important that the public lighting that Sisters has control over and held to the same standards. In thinking about the cost, if there are ways to do cheap retrofits for the time being that we do those, but thinks even if it is more expensive upfront, it is well worth the investment for the long term resource, and continue as it gets more and more rare to be able to see those stars and something that will become worth more and more to have that. The Cascade lights – it is not the dimness and if they can be shielded that is great, but ultimately the engineering of them has caused the light to be blocked underneath and that is the problem. The light needs to shine down and could be shielded. Also, on the string lighting, she agrees that giving the public guidelines around a curfew when they are done entertaining outside and the same thing with the businesses.

Ron Thorkelson, 14450 Mountain View Loop, Sisters, OR 97759

Mr. Thorkelson stated that he was recently at a meeting about the lighting issue and some of the texts about the proposed changes to the ordinance were on the screen and that helped him quite a bit because he heard almost nothing about what was discussed. He asked if we are still considering exempting public lighting from the revised ordinance – yes or no.

Director Woodford stated that as proposed, yes, it is still considered to be exempt at this point.

Mr. Thorkelson stated that he did notice on Tuesday evening that two to three lights on East Cascade appear to be partially shielded mainly on the top.

Jackson Dumanch, Public Works Coordinator stated that there are two crosswalk lights on East Cascade that have been shielded at the top to reduce the outward glare.

Mr. Thorkelson asked how that is going to be evaluated and does the city have a light meter, etc.

Mr. Dumanch stated that we do have a light meter to measure the illuminants at the crosswalk ground level and we are seeing if shielding the top portion can reduce outward glare while maintaining proper illuminants at the crosswalk level.

Mr. Thorkelson asked if he already knew that this was attempted back in 2015 by Paul Bertagna and other members of the club that went out and talk about what to do, and we suggested that it could be partially shielded. He stated they were excited about that and were not sure if it was the city of ODOT, fashioned some shielding, but the final analysis is that ODOT did not like it and it was scrapped. He stated that something needs to be done to better shield and direct the light downward on East Cascade. He stated that it was a great idea to bring on the Dark Skies Consultant, John Barentine, and it will be a big help.

Chairman Seymour asked the Commission if they wanted to make any comments, etc.

Commissioner Ries asked if ODOT requires us to put crosswalk lights in the downtown commercial area where the highway goes through. He asked if the city has requirements for street lighting within the city when a new development comes in and that they do not require them to put streetlights at crosswalks.

Director Woodford stated that he does believe that they have standards for minimum and maximum luminants, but it appears that we are on the low side. Yes, it is his understanding in general and pedestrian lighting is not something that we require with new subdivisions. In general, we try to keep it darker than lighter.

Vice Chairman Converse stated that as far as string lighting goes, she is in strongly in favor of having them allowed, but have a curfew, a brightness, and a color limit.

Commissioner Dickman stated that he totally agrees with Vice Chairman Converse on that one and that banning string lights would be a bad idea because people like them too much, but past 10-11 pm to turn them off.

Chairman Seymour stated that if we require a limit on the unit of measure how is that enforced. He stated that with respect to inventory of the public lighting because the city is the biggest light pollution that we have. It would be in everyone's best interest to take an inventory of what we are looking at and what it is going to take to get it into compliance. We need to have common sense about this and look it at and make a good decision or recommendation. He stated that he is not ready to push anything through until we know all the facts.

Commission McDougall stated that her concern is that having some standard so that if there is a problem caused there is a way to resolve it.

Director Woodford asked the Commission if there was a consensus for string lighting at this point. He stated that he heard that we want them to be allowed, but having a curfew, brightness, and color restrictions.

Commissioner Dickman stated that he would especially like to see a curfew to shut the lights off at a certain time.

Chairman Seymour stated that he is on board with the curfew, but anything else it would take some additional selling for him to get on board. He stated that Commissioner McDougall's point is very fair and is open to being swayed otherwise.

Vice Chairman Converse stated that this gives some guidance when they are doing their lighting, but if the neighbors are leaving them on the curfew may help with that. The other things are useful for guiding and for enforcement, etc.

Commissioner McDougall stated that with the anything that is non-conforming will still have some kind of guideline around it and not like they need to go out and buy new lights, etc.

Vice Chairman Converse stated that she is talking both residential and commercial properties across the board.

Commissioner Dickman stated that he agrees and for that to go on the record.

Director Woodford stated that staff will bring something back and you will have the right to disagree or change your minds, but at least we have something that we know we can put forth in front of you.

Chairman Seymour stated that we do not need specific budget numbers for what this is going to cost and a specific timeframe, but a rough idea would be helpful for best case and worst-case scenarios, etc.

The Commissioners discussed the timeframe for replacing this type of lighting, etc.

Next Steps:

After this, there will be one more work session with the City Council, then we will follow up with a Planning Commission public hearing for consideration of approval in October and a hearing with the City Council in November.

II. CALL TO ORDER / DETERMINATION OF QUORUM / ADOPTION OF AGENDA

Chairman Seymour called the meeting to order at 5:30 pm. Commissioners present: Chairman Seymour, Vice Chairman Converse, Commissioner Dickman, Commissioner McDougall, Commissioner Ries. Absent: Commissioner Blumenkron, Commissioner Hickman. A quorum was established.

Chairman Seymour asked the Commission if they had any ex-parte contact, bias, or conflicts of interest and if they intended to participate in the hearing.

Commissioner Ries – None of those and plans to participate.

Commissioner Dickman – None of those and plans to participate.

Commissioner McDougall – None of those and plans to participate.

Vice Chairman Converse – None of those and plans to participate.

Chairman Seymour stated that he does believe he has a conflict and as a result of that he is going to recuse himself from the hearing, and Vice Chairman Converse will continue to conduct the hearing.

Vice Chairman Converse asked for a motion to adopt the agenda for September 7, 2023, as proposed.

Commissioner McDougall made a motion to approve the agenda for September 7, 2023, as proposed.

Vice Chairman Converse seconded. Motion passes.

III. VISITOR COMMUNICATION - None

IV. APPROVAL OF MINUTES – August 17, 2023

Vice Chairman Converse asked the Commission to make a motion to approve the minutes for August 17, 2023, as presented.

Commissioner Ries made a motion to approve the minutes for August 17, 2023, as presented.

Vice Chairman Converse seconded. Motion passes.

V. PUBLIC HEARING

1. PROJECT NAME: Appeal of File # TU 23-05 (Brunchies)
- FILE NUMBER: AP 23-02
- APPELLANT: Joseph Angel
- REQUEST: Appeal of administrative decision issued on July 28, 2023, for file no. TU 23-05, a Temporary Use Permit to allow for a mobile food unit to operate for a period not exceeding 180 days.
- LOCATION: 410 E. Cascade Ave., Sisters, OR 97759
- PROJECT AREA: 0.31 Acres
- ZONING: DOWNTOWN COMMERCIAL DISTRICT (DC)
- EXISTING SITE CONDITIONS: Recently converted buildings for use as lodging facilities.

Planner Shoup came forward and presented the staff report.

Introduction: On June 13, 2023, an application was filed for a Temporary Use Permit by Jacquelin Mansker and Jason DeHaan (Applicant) to allow for a mobile food unit to operate for a period not

exceeding 180 days at 410 E. Cascade Avenue in the Downtown Commercial District. The Community Development Department issued an administrative decision on July 28, 2023, determining the application met the applicable criteria.

On August 10, 2023, Joseph Angel (Appellant) submitted a timely appeal of the decision. Per Sisters Development Code (SDC) 4.1.800, an appeal of an administrative decision shall be reviewed by the Planning Commission.

Application Overview: Request – Brunchies mobile food unit, two picnic tables, Brunchies sign, and Refuse Area. All features associated with the temporary use permit operation are proposed outside of the 126’ setback from Cascade Avenue.

TA 23-05: Administrative Decision: Approved with Conditions on July 28, 2023.

Summary: Staff confirmed all criteria per SDC 2.15.1900 Temporary Uses were met, including the 126’ temporary use setback from Cascade Avenue. Conditions of approval applied to ensure proper connection to water and sewer with a grease trap interceptor, available and orderly refuse receptacles, a sign permit, and ongoing compliance with the site plan.

Appeal Overview: Appellant – Joseph Angel, 450 and 490 E. Cascade Avenue.

Appeal Received: End-of-day on August 10, 2023. Request: Appeal to reverse the administrative decision for file no. TU 23-05.

Appellant’s Arguments: Initiation of Temporary Use, Consistency of Code Interpretation, Applicability of the Cascade Avenue Setback, Origin of the Cascade Avenue Setback Code Language, Accuracy of Setback Measurement, Standards for Food Disposal Areas, and Applicability of City and County Health and Sanitation Requirements.

Appellant Argument # 1 – Initiation of Temporary Use.

Appellant Statement: The notice of Administrative Decision was sent to the public on July 28, 2023. The facility, Brunchies, according to (the Brunchies) Website, was opened and operating starting in mid-June before the staff report was finalized.

Staff Response: The Brunchies mobile food unit was in operation prior to the Temporary Use permit. It lawfully operated with a transient merchant license.

Transient Merchants Licenses (TMLs) & Temporary Use Permits (TUPs) are different.

TMLs: Administered by the Finance Department. Limit transient operations for up to three (3) days at a time and up to six (6) separate occasions, not exceeding a cumulative 18 days.

TUPs: Administered by the Community Development Department. Limited to operations within a 180-day period. Subject to Section 2.15.1900 criteria.

- Both are subject to a 126’ setback from Cascade Avenue.

Appellant Argument # 2: Consistency of Code Interpretation.

Appellant Statement: Can the Code be interpreted to accommodate one owner, and not accommodate another neighbor in the same way? I own property at 450 and 490 E. Cascade Avenue. The decision as now approved materially affects my properties by the decision’s inaccurate interpretation of the City of Sisters Development Code.

Staff Response: The Sisters Development Code is interpreted by staff objectively. The setback requirement from East US Highway 20/OR-126/Cascade Avenue right-of-way affects different properties differently, especially where the right-of-way is on a curve like in this situation.

Appellant Argument # 3: Applicability of the Cascade Avenue Setback.

Appellant Statement: “The Code provides specific clarity that the measurement must be measured along East Cascade Avenue right of way... Three street descriptions are provided in the code language, not just one. The measurement as measured from the East Cascade Avenue means that site does not qualify... The staff’s decision to ignore the setback language outlined in the code, East Cascade Avenue (or any portion thereof) has a material effect on our adjoining property. The decision to ignore portions of the code language is in error and not allowed. No findings of fact address the rationale for ignoring language in the code for the buffer area”.

SDC 2.15.1900(C)(1)(f)(i):

f. Temporary uses are prohibited from locating and/or operating:

i. In, on, about, and/or within 126 feet of Cascade Avenue (or any portion thereof) between Pine Street and Locust Street.

For purposes of this subsection, “within 126-feet” means a straight line measurement in a radius extending for 126 feet or less in every direction as measured from any point on the boundaries of the portion of the East US Highway 20/OR-126/Cascade Avenue right-of-way commencing at the centerline of South Locust Street (at the intersection with East US Highway 20/OR-126) and continuing along East US Highway 20/OR-126, East Cascade Avenue, and West Cascade Avenue and ending at the centerline of Pine Street.

f. Temporary uses are prohibited from locating and/or operating:

i. In, on, about, and/or within 126 feet of Cascade Avenue (or any portion thereof), between Pine Street and Locust Street.

For purposes of this subsection, “within 126 feet” means a straight line measurement in a radius extending for 126 feet or less in every direction as measured from any point on the boundaries of the portion of the East US Highway 20/OR 126/Cascade Avenue right-of-way commencing at the centerline of South Locust Street (at the intersection with East US Highway 20/OR 126) and continuing along East US Highway 20/OR 126, East Cascade Avenue, and West Cascade Avenue and ending at the centerline of Pine Street.

Appellant Argument # 4: Origin of the Cascade Avenue Setback Code Language.

Appellant Statement: “We have been told in the past the purpose was very clear from City Council. That purpose was to create a buffer area to protect all three (3) of Cascades streets from food cart use. The City Council felt that the character of the downtown was a stake, and those temporary uses did not support the Western Design language and so the front half of the blocks along Cascade needed to off limits for Temporary Uses to maintain and preserve the character of Downtown. The finding of fact, however, does not mention Purpose History or the City Council decision that led to this special code clarification language being added to the code. We do not know why this history was omitted by staff”.

Ordinance 464: Adopted November 2015, “Transient Merchants shall not locate within 100 feet of Cascade Avenue”.

Ordinance 501: Adopted January 2020, the “126’ setback” code language was established for transient merchants.

Ordinance 522: Adopted May 2022, same language from ORD 501 established for temporary uses.

Appellant Argument # 5: Accuracy of Setback Measurement

Appellant Statement: “The staff’s exhibit E’s accuracy is impossible to determine as there are no measured dimensions. We assume it was done on a computer. But the report does not say if or

how the measurement was verified on the ground, to check accuracy for that measurement in the finding of fact”.

Staff Response: It is the staff’s understanding that the 126’ setback was created to reflect the lot depths of properties along the Cascade downtown corridor (114 feet) plus the platted alleys (12 feet). The intent was to limit the visibility of temporary and transient uses from the highway corridor going through downtown Sisters.

Appellant Argument # 5: Accuracy of Setback Measurement

Staff Response: The 126’ setback language is difficult to apply when the right-of-way boundaries are irregular with curves and breaks. Staff’s basis of measurement for the 126’ setback on 410 E. Cascade Avenue is made from using known points and curves along the described “East US Highway 20/OR-126/Cascade Avenue right-of-way”.

Appellant Argument # 6 & # 7: (6) Standards for Food Disposal Areas, (7) Applicability of City and County health and sanitation requirements.

Staff Response: Applicable health and sanitation requirements have been met.

- Food Disposal Areas: Conditioned per Administrative Decision for TU 23-05.
- ADA Standards: Not applicable to Mobile Food Units.
- Restroom Facilities: Required to be available within 500 feet of the operation. With the new restroom use agreement, bathrooms are available to both employees and patrons on the premises.

Staff Recommendation:

Affirm the administrative decision approving file no. TU 23-05 as conditioned.

Next Steps:

1. Affirm the Administrative Decision of file no. TU 23-05.
2. Modify the Administrative Decision of file no. TU 23-05, subject to conditions of approval, as amended; or
3. Reverse the Administrative Decision of file no. TU 23-05 and deny the request.

Pursuant to the applicable chapters found in the Sisters Development Code (SDC), this Appeal shall be subject to review by the Planning Commission who may remand, affirm, reverse, or modify a determination or requirement of the decision that is under review.

Exhibit A contains a detailed analysis of the applicable standards, conclusionary findings specific to the Appeal request, and response by staff to the appellant’s arguments. Exhibit B includes the appeal application materials, as submitted by the appellant. Exhibit C includes the administrative decision for file no. TU 23-05, application materials, public comments, and de novo evidence received during appeal review, as required by SDC 4.1.800.

Staff Recommendation: Affirm the Administrative Decision of file no. TU 23-05 for the Approval with Conditions. Based on the information and findings contained in this staff report, staff concludes that the requested Temporary Use Permit satisfies the approval criteria and recommends that the Planning Commission approve the request with the Conditions as contained in Exhibit C.

Vice Chairman Converse asked the appellant to come forward and present their report.

Joseph Angel, 6454 N. Greeley Ave., Portland, OR 97217

Mr. Angel gave the Commissioners a handout regarding the staff's interpretation of the code concerning Cascade Avenue, and the most precise statement concerning the vision City Council had for Cascade Avenue. He stated that he is not against Brunchies, not against the developer, but he is against not having a consistent policy. He stated that Temporary Uses are prohibited from locating and/or operating (f) – (i) in, on, about, and/or within 126' of Cascade Avenue (or any portion thereof between Pine Street and Locust Street. He presented the map he made himself and compared it to Planner Shoup and explained his findings.

Mr. Angel discussed the differences between a Transient Merchant and Temporary Use permits and how they operate. He acknowledged the policy goals and language that he provided where he addressed the City Council three (3) times in 2015, 2020, and 2022 which Planner Shoup laid out all the history of the food carts. Temporary Uses are prohibited from locating, and/or operating in/on/about, and/or within 126' of Cascade Avenue (or any portion thereof) between Pine Street and Locust Street. This is the purpose statement as provided by the City Council, and put into the code, so that all of us would understand their vision. He stated that he wants to see this merchant survive and prosper, but not on Cascade Avenue unless the City Council wants to change the language in the code. Comma, East Cascade Avenue, or any portion thereof cannot be ignored.

Commissioner Dickman stated that he wanted clarification from Mr. Angel on the code section being clear to him, and that it should apply to any area of East Cascade Avenue. He asked Mr. Angel what he thinks about the code section specifying South Locust and not North Locust.

Mr. Angel stated that East Cascade Avenue between Pine Street and Locust Street. The answer to that is from the very beginning in 2015, the words were Cascade Avenue and not about the highway - that was when it first happened. The blue tape on Cascade Avenue is the consistent wording every single year that the code was acted on by the City Council. Yes, they did add the stuff about Highway 20, but what they were trying to protect, and originally there was no statue there and Cascade Avenue and the Highway all led together with safety problems and that is why they put the statue there and turned the road so that it would have a stop sign, but during that period when City Council was talking about it, they were talking about all of Cascade Avenue and it does say between Pine Street and Locust Street.

Commissioner Dickman asked Mr. Angel if he agrees that it says South Locust on the code section as it is written now.

Mr. Angel stated that (i.) says in, on, about, and/or within 126' of Cascade Avenue (or any portion thereof between Pine Street and Locust Street. He stated that he cannot understand how you can read that any other way - it is Cascade Avenue between Pine and Locust. The north/south Locust Street has another north/south street at Pine, and that statement is a purpose statement is what they are protecting.

Commissioner Ries asked Mr. Angel if it is his understanding in the part of yellow that it is written in stone. The next sentence is a long history of code writing sentence and in the code.

Mr. Angel stated that yes, it is the longest sentence he has ever seen in his life. He stated that it is not articulately done, but he is not going to call some city attorney, etc. It needs to be read as “comma”, East Cascade Avenue and West Cascade Avenue. That comma says it all.

Vice Chairman Converse opened the public testimony portion of the hearing.

Cheryl Heitzhausen, 673 E. Green Ridge Ave., Sisters, OR 97759

Ms. Heitzhausen stated that she has been a resident in Sisters for 25 years and would never consider the offshoot as part of Cascade Avenue. Also, in driving through town from Bend headed west, she would never have even noticed Brunchies as being part of Cascade Avenue. If someone asked her where Brunchies is located – she would never say it is on the main drag – to her, it is not. She wanted to clarify that as part of being a resident that she would never consider this offshoot as part of the highway. She asked if it is customary when somebody appeals a staff decision to cease operations of a business – this has shut down income for 60 days for these folks. They have a family, and she does not understand how there is no ruling yet, yet they ceased operations, but granted a Temporary Use permit for them to operate. In her opinion, they should be able to operate until there is a ruling otherwise.

Rebecca Touvall, 982 E. Timber Pine Dr., Sisters, OR 97759

Ms. Touvall stated that Brunchies has beautified a part of this town and agrees with Ms. Heitzhausen in saying that she would not even consider that as part of the main street and would not even know to go there if driving through town. Being a long-time resident since 1997, that part of town has not been a pretty part of town. They have put a lot of work into that site and feels like that should be considered as well because they are actual residents of this town. For Mr. Angel, this has probably upped the property value of his businesses and that should be considered as well.

Brad Earl, 977 E. Black Butte Ave., Sisters, OR 97759

Mr. Earl stated that he did not know this hearing started early so he did not get to hear this gentleman’s gripe about these poor folks trying to do what they want to do. He said that he agrees with both women that have spoken. No. 1 – he does not feel it is part of Cascade either, No. 2 – he does not know why they were shut down when they had a Transient Merchants permit to operate until a final one was given. The appeal came and he is not sure why they were denied the timeframe that it was. He stated that he finds it extraordinary and wished that he would have heard the gripe about it because he would have had some rebuttal. It is a sorry state of affairs to treat a new business this way, and for the gentleman that has an issue with it unless he owns Wakefield Inn that the property is on – he said that he does not know what his issue is.

Dale McCallough, 977 E. Black Butte Ave., Sisters, OR 97759

Ms. McCallough stated that she wished she could say that she has lived here for 20 years, but we are part of the new people that have come to town and have been here for two years. We are very proud to be part of this community and can see all the potential. We know that change is going to happen, and some people are resistant to that, some people are not, but we want that change to be good and positive change and manage that well to maintain the culture of the

community. Again, she believes that these people have operated in good faith, agrees that this does not seem like the main drag, it is set back, and we want to beautify our city the best we can and make improvements where we can. Unless there was some risk to people's safety, health, etc., she sees no reason for objection and would like to see if the appellant has some recommendations on how to help these people succeed and move forward because that is who we are as a community.

Jason DeHaan and Jacqueline Mansker – Owners of Brunchies, 265 S. Timber Creek Dr., Sisters, OR 97759

Mr. DeHaan stated that they are the owners of Brunchies. He stated that he has built everything by hand, put everything into what they are doing, and he feels like they are not like any other food cart – we provide an experience, we put care into everything we are doing, and trying to follow the rules to a tee and will continue to do so.

Ms. Mansker stated that she has lived here since 1995, went to school here from 5th grade to 12th grade. My family has owned businesses here and it has been a dream of mine to own a business here in Sisters. We have put everything we have into this, and we have learned a lot. We have enjoyed working with the city, learning how to be a part of it on the business side, it has been very hard to get shut down during the summer months, and it has been devastating to us. She wanted to thank everyone for coming to support them and is grateful to be a part of this community.

Vice Chairman Converse closed the public testimony portion of the hearing.

Vice Chairman Converse asked for the deliberation of the Planning Commission.

Commissioner McDougall stated that she is in favor of Affirming the staff's decision. In looking at the map, she believes that Council's goals would have been to follow the pathway through town when someone would be driving mapping out the corridor measuring 126-feet. She understands that previous iterations may have said Cascade Avenue, but suspects that may have been used in more of a slang – and it was clarified further as each iteration came through. She agrees that it was worded strangely and can see where the comma(s) were to clarify that there are two (2) parts to Cascade – east and west that would have been after the slash. She stated that she does see where it is a point to point that we are following – and the 2nd point would have been south Locust Street.

Commissioner Dickman stated that he totally agrees entirely with what Commission McDougall said and to Affirm staff's decision.

Commissioner Ries stated that he thinks it is interesting and that the code, the intent, and the meaning of the language years ago might have been different than what the code has changed into. He stated that he agrees to Affirm staff's decision.

Vice Chairman Converse stated that she remembers when this was all going on, and keeping people off Cascade Avenue because they were taking advantages when there were a lot of events – the Folk Festival and Quilt Show, etc. She agrees with everything the rest of the group is saying and if looking at the code which is what we are required to do – she agrees to Affirm the staff's decision.

Vice Chairman Converse asked for a motion to be made.

Commissioner Reis made a motion to support the staff's finding and their decision for TU 23-05 and to Affirm the staff's decision.

Commissioner Dickman seconded. Motion passes.

Vice Chairman Converse adjourned the hearing at 6:45 pm.

Respectfully submitted,

Carol Jenkins, Recording Secretary



PLANNING COMMISSION

Staff Report

Meeting Date: October 5, 2023
Type: Workshop
Subject: Evaluation of Short Term Rental Regulation

Staff: Martin
Dept: Community Development

Action Requested: Workshop to discuss status of Short-Term Rental Program and provide input on possible regulatory amendments.

Summary Points:

For the 2023-24 fiscal year, the City Council (Council) adopted several goals to accomplish in the coming year. One of those goals is to *“evaluate Short-Term Rental Code language to mitigate adverse impacts on the community.”* The Council identified this as a priority based on community input and Councilor concerns regarding the impacts of Short-Term Rentals (STRs). Specifically, the Council identified concerns with the availability of housing units for long-term occupancy and nuisances created by STRs.

On September 13, 2023¹, staff met with the Council for a workshop to present an overview of the STR program and seek input and direction from the Council regarding evaluation of potential changes to the program.

The purpose of this workshop is to provide the overview on the STR program, share the direction City Council provided, and receive input from the Planning Commission (Commission) regarding evaluation of potential changes to the program. This staff report includes the following information:

REGULATORY FRAMEWORK

- What is a Short Term Rental?
- Regulatory History
- Current Regulations

REGULATORY IMPACT

- Total Number of STR Units
- Code Compliance Complaints
- Revenue Generation

NEXT STEPS

- Regulatory Options to Consider
- City Council Direction

¹ 9/13/23 City Council Workshop: <https://www.ci.sisters.or.us/bc-citycouncil/page/city-council-workshop-and-regular-meeting-4>

REGULATORY FRAMEWORK

What is a Short Term Rental?

To begin, it is important to frame this discussion based on an understanding of what is an STR. Sisters Development Code defines “Short-term rental(s)” as:

The use of a dwelling unit (or a habitable portion of a dwelling unit) by any person or group of persons entitled to occupy the dwelling unit for rent for a period of less than thirty (30) consecutive days. Short-term rental(s) also means a vacation home rental approved under the regulations in effect through December 27, 2018, and owner-occupied short-term rentals. “Short-term rental(s)” does not mean bed and breakfast inns, hotels, and/or motels.

The Sisters Development Code defines a “Dwelling Unit” as:

Dwelling unit – A single unit, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation and that is lawfully connected to the City’s municipal water and sewage disposal systems unless exempt as provided by SMC [Sisters Municipal Code] 13.40.

Based on these complimentary definitions, an STR can be operated in a variety of dwelling types including, but not limited to, single-family dwellings, accessory dwelling units, duplex, triplex, and multi-family residential subject to the specific STR requirements discussed below.

Regulatory History

The regulatory approach for STRs has evolved considerably since 2010. Prior to 2010, there were no regulations in the Sisters Development Code specific to STRs. In 2010, Vacation Rentals were added as a specific use subject to approval of a Minor Conditional Use permit. In 2013, the program expand with specific use regulation for Vacation Rentals. Then in 2018, a fundamental change to the program was adopted and the foundation of the current regulatory framework for Vacation Rentals, now identified as STRs, were adopted. Staff notes amendments to the standards have been incorporated with the most recent being changes in 2020 that provided hardship exemptions primarily in response to impacts from the Covid-19 pandemic.

Current Regulations

Sisters Development Code Section 2.15.2700² provides specific land use review process and criteria for new and existing STR. In summary, the regulations require:

- A one-time land use permit is required for all STR properties. Commercial units (i.e., hotels and motels) are not considered STRs.

² SDC 2.15.2700: <https://www.codepublishing.com/OR/Sisters/#!/SistersDevCode02/SistersDevCode0215.html#2.15.2700>

- New STRs established on or after 12/31/18 cannot be located within 250 feet of an existing STR. This concentration setback is not applicable to condominiums and property located in the Commercial Districts.
- Land Use Permits for STRs established on or after 12/31/18 cannot be transferred to a new owner. Land Use Permits for existing STRs (STRs established prior to 12/28/18) are transferable to new property owners if the new property owner obtains an STR Operating License within 60 days of purchasing the property.
- Any short-term rental that was lawfully established prior to 2/1/13 may continue to operate as a legal non-conforming use as long as the use has not been abandoned and the owner obtains and maintains an operating license.

In addition, Sisters Municipal Code Section 5.05³ requires a general business license and Section 5.50⁴ requires an STR specific operator license. Unlike the land use approval, business and operator licenses are subject to annual renewal.

REGULATORY IMPACTS

Total Number of STR Units

Table 1 outlines the number of active STRs based on the time period and type of approval to which it was subject.

Table 1.

Establish	Type	# of Units
Prior to 2/2013	Pre-Existing/Nonconforming Vacation Rental	20
2/2013-12/2018	Vacation Rental	57
1/2019-Present	Short Term Rental	34 (2 new in 2023)
TOTAL		111

For context, as of June 30, 2023, the City of Sisters contains a total of 2,005 dwelling units. This total is based on the Sisters 2021 Housing Needs Analysis that calculated 1689 dwellings as of December 31, 2020, and an additional 316 units added between January 1, 2021, and June 30, 2023. Based on this total, approximately 5.5% of the existing housing stock is actively engaged in operation of an STR.

The Community Development Department maintains an STR webpage⁵ on the City website. Included is an interactive map (Figure 1) for the public to quickly determine where approved

³ SMC 5.05: <https://www.codepublishing.com/OR/Sisters/#!/Sisters05/Sisters0505.html#5.05>

⁴ SMC 5.50: <https://www.codepublishing.com/OR/Sisters/#!/Sisters05/Sisters0550.html#5.50>

⁵ City of Sisters STR Webpage: <https://www.ci.sisters.or.us/community-development/page/short-term-rental-program>

STRs are located and whether a prospective STR operator meets the 250-foot buffer requirement. For reference, Figure 1 identifies existing STRs in Blue, the 250-foot concentration setback in Yellow, and ineligible properties that are partially within the 250-foot concentration setback in Pink.

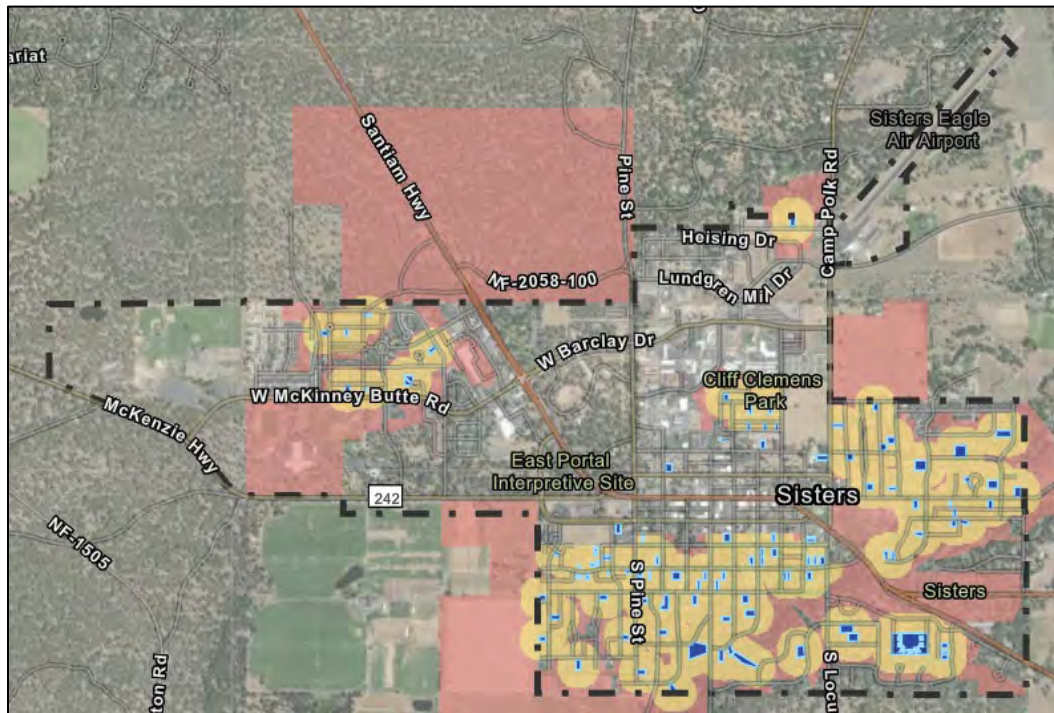


Figure 1. Map of STRs with 250-foot concentration setback
(Source: City of Sisters GIS Data Portal)

Code Compliance Complaints

Since 2020, Community Development Department staff has recorded a total of 10 complaints for 5 STR locations. Staff notes this figure does not include any STR related complaints to the Sheriff's Office. The nature of the identified complaints were generally directed at nuisances including noise, refuse, vehicle parking, loose animals. None of these identified complaints are known to be a consistent, ongoing issue. This limited number of complaints can be attributed to educating the homeowners and property management companies on the rules when applying for and operating an STR. Also, the ordinance requires that the STR owners notify the neighbors within 250 feet of who to contact in case of issues or place a sign visible outside the home with the same information. This creates accountability.

Revenue Generation

An STR in the City requires payment of fees and taxes associated with land use entitlement and ongoing operation of the business. City related fees and taxes associated with operation of an STRs include:

- **Land Use Application.** This is a one-time application fee for requests to establish a new STR.
- **STR Operator License.** This is an annual fee paid for each STR operated.

- **General Business License.** This is an annual fee paid for individuals or companies doing business in the city limits. Only one business license is required if multiple STRs are operated by an individual or company.
- **Transient Room Tax.** All STRs operators are required to remit a local Transient Room Tax (TRT) of 8.99% of their gross receipts to the City of Sisters monthly. Some STR operators utilize lodging intermediaries, such as Airbnb or VBRO, to reserve and collect their STR income. These intermediaries, by state law, remit TRT payments to the City on behalf of their STR operators. The operators in turn report the lodging intermediary remittance on their specific monthly TRT reporting form.

Table 2 identifies each of these costs and revenue sources based on the type, cost, and total collected.

Table 2.

Type	Fee/Tax	Total
Land Use Permit	\$500 (one time)	\$1,000 (2023 YTD)
STR Operator License	\$105/unit (annual)	\$12,600
General Business License	\$100 (annual)	\$8,980
Transient Room Tax	8.99% (monthly)	\$258,000 (FY 2022/23)

For context, the transient room tax remittance for STRs equates to approximately 23% of the total TRT collected by the City.

NEXT STEPS

Regulatory Options to Consider

Staff requested input and direction from the Council on what aspects of the STR regulations should be evaluated and considered for amendment. Table 3 includes the options Staff compiled for consideration.

Table 3.

Options	Description
Option 1: Increase Concentration Setback Requirement	Expand the concentration setback from 250 feet to limit the proximity of STRs to one another. This has a secondary impact resulting limiting the total number of STRs in the City.
Option 2: Change Concentration Setback Exceptions	Apply the concentration setback to dwelling units within a condominium and/or a Commercial Districts. Such properties are currently not subject to the concentration setback.

Option 3: Establish Maximum Number of STRs	There is currently no maximum number of STRs that can operate in the City. A maximum would explicitly limit the number of units regardless of proximity to other STRs.
Option 4: Prohibit in Specific Areas	A prohibition on STRs in particular areas of the City, such as future areas of annexation or particular zones, would limit impacts in those areas.
Option 5: Adjust Fees	Changes to land use application and license fees can serve as incentive or disincentive to establishing an STR and have a corresponding impact of revenue generation.
Option 6: Other	Other changes may be identified or emerge that warrant evaluation.

City Council Direction

The Council discussed the options listed above and provided direction to evaluate and analyze the impacts of the following:

- **Option 1: Increase Concentration Setback Requirement**
Instead of establishing a specified limit on STRs based on the total number or percentage of dwelling units, the Council is interested in evaluating expansion of the concentration limit to limit the number of STRs. The Council specified expansion of the concentration buffer from 250 to 500 feet to evaluate.
- **Option 2: Change Concentration Setback Exceptions**
With the additional options for establishing residential uses in the Downtown Commercial District that were adopted in 2022 under Ordinance No. 526, the Council is interested in evaluating modifying or eliminating the current exemption to the concentration limits for STRs in commercial districts. Further, the Council would like to evaluate the impacts of modifying or eliminating the exemption to the concentration limits for condominiums.
- **Option 4: Prohibit in Specific Areas**
There are currently no areas within the city limits where STRs are prohibited. The Council would like to consider prohibiting STRs in areas that are incorporated in the Urban Growth Boundary and annexed in the city limits in the future.
- **Option 6: Other**
Vacation rentals established prior to the adoption of the STR regulations in 2018 are transferrable to subsequent owners of the subject property, whereas STRs established after 2018 are not. The Council is interested in evaluating limiting or

eliminating this transferability. Evaluation of this option must consider potential legal implications associated with non-conforming uses and if such a change constitutes as “taking” of a property right.

Staff welcomes input from the Commission regarding these identified options and others to consider. Based on the input of the Council and Commission, staff will conduct a comprehensive evaluation of the identified options. This evaluation is intended to consider examples from other communities, stakeholder input, and data analysis. Staff will return to the Council for a subsequent workshop to report on the findings and seek additional direction. Staff will then report to the Commission with an update and, if directed by Council, initiate the text amendment process.