



Town of Mesilla, New Mexico

THE PLANNING, ZONING AND HISTORICAL APPROPRIATENESS COMMISSION
(PZHAC) PUBLIC HEARING AT THE MESILLA TOWN HALL,
2231 AVENIDA DE MESILLA.
MONDAY-OCTOBER 21, 2024, AT 5:00 PM

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL AND DETERMINATION OF A QUORUM
- 3.

SHORT-TERM RENTAL (STR) ORDINANCE

A short-term rental ordinance is being proposed for adoption into our municipal code. Ordinance will serve to improve short-term rental regulations, online platforms and Lodger's Tax accountability.

4. ADJOURNMENT
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THE PLANNING, ZONING AND HISTORICAL APPROPRIATENESS COMMISSION
(PZHAC) REGULAR MEETING AT THE MESILLA TOWN HALL,
2231 AVENIDA DE MESILLA.
MONDAY-OCTOBER 21, 2024, FOLLOWING AFTER HEARING
APPROXIMATELY 6PM.

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL AND DETERMINATION OF A QUORUM
3. CHANGES / APPROVAL OF AGENDA
4. PUBLIC INPUT

The public is invited to address the commission regarding items listed on the agenda as allowed by the chair. You can also email your comments to clerktreasurer@mesillanm.gov at least seventy-two (72) hours prior to the meeting.

5. APPROVAL OF CONSENT AGENDA

**Note: Items on the Consent Agenda, indicated by an asterisk (*), will be voted on with one motion unless a commissioner requests that a specific item be removed for discussion.*

- a. ***PZHAC MINUTES:** September 16, 2024, Regular Meeting Minutes
- b. ***PZHAC MINUTES:** September 30, 2024, Winery Proposal Minutes work session).
- c. ***BUSINESS LIC#1274** – 2488 Calle de Guadalupe, submitted by Silver Sol Massage Co. Requesting approval for a business license. ZONE: Historical Commercial (HC).
- d. ***BUSINESS LIC #1275** – 6460 Vista Valley Trail, Las Cruces NM 88007. Requesting approval for a business license to perform construction work in town.

6. ACTION AND CONSIDERATION

- a. **NEW PZHAC COMMISSIONER** – Introduce Kristina Alba, to fill vacant commission seat after Davie Salas resigning.
- b. **PZHAC VICE-CHAIR & SECRETARY** - vote for one of the commissioners to assume the responsibility of the commission’s vice-chairperson & one to be secretary.
- c. **SHORT-TERM RENTAL DRAFT ORDINANCE** – commission to discuss and vote on STR ordinance heard during hearing. Approval is for recommendation to the Board of Trustees.
- d. **PZHAC CASE #061823** – 2450 Calle de Principal, submitted by Feliz Armijo. Requesting approval to construct a 30’ x 36’ structure on the property for the purpose of operating 2 short-term rental units. This case decision by PZHAC appealed to BOT. BOT decision was to have case reheard by PZHAC and have full commission vote as to avoid having a 2-2 vote. ZONE: Historical Commercial (HC).
- e. **PZHAC CASE #061898** – 1996 Calle de Santiago, submitted by David Ray Rosales. Requesting approval to renovate front ornamental iron entrance gate. ZONE: Historical Commercial (HC).
- f. **PZHAC CASE #061899** – 2196 Calle del Norte, submitted by Fernando Caro. Requesting approval to install solar panels. ZONE: Historical Residential
- g. **PZHAC SIGN #061900** – 2488 Calle de Guadalupe, submitted by Silver Sol Massage Co. Requesting approval to place a custom sign at the entrance of her business. ZONE: Historical Commercial (HC).
- h. **PZHAC CASE #061901** – 2908 Snow Rd, submitted by Benjamin L Carter. Requesting approval to erect a 40’ x 60’ metal building on property. ZONE: RF
- i. **PZHAC CASE #061903** – 2812 Erminda St, submitted by Collin & Mindy Leary. Requesting approval to move the bathroom window up by two feet. ZONE: Historical Residential (HR).
- j. **PZHAC CASE #061904** – 2315 Calle Jon Guerra, submitted by Reynaldo Garcia. Requesting approval to construct a unattached garage on property. ZONE: Historical Residential (HR).
- k. **PZHAC CASE #061905** – 2060 Calle de Parian, submitted by Greene Street Holding NM LLC. Requesting approval of wall sign next to the front entrance of their business. ZONE: Historical Commercial (HC).
- l. **PZHAC SIGN #061906** – 2060 Calle de Parian, submitted by Greene Street Holding NM LLC. Requesting approval of a projection sign next to the front entrance. ZONE: Historical Commercial (HC).
- m. **PZHAC CASE #061910** – 1945 Calle Pacana, submitted by Patrick Michael Fitzgerald & Colleen Boyd. Requesting approval to construct their primary residence. ZONE: Historical Residential (HR).

7. COMMISSIONERS / STAFF COMMENTS

8. ADJOURNMENT

NOTICE

If you need any accommodation for a disability to enable you to fully participate in the hearing or meeting, please contact us on 524-3262 at least 48 hours prior to the meeting.

Posted on 10/18/2024 at the following locations: Town Hall - 2231 Avenida de Mesilla; Public Safety Building - 2670 Calle de Parian; Mesilla Community Center - 2251 Calle de Santiago; Shorty’s Food Mart - 2290 Avenida de Mesilla; and the U.S. Post Office – 22e. 53 Calle de Parian; Mesilla website <https://www.mesillanm.gov/minutes-agendas/>

TOWN OF MESILLA ORDINANCE 2024 – XX

AN ORDINANCE OF THE TOWN OF MESILLA TITLE 18.53 ZONING- SHORT-TERM RENTALS.

WHEREAS, the Board of Trustees of the Town of Mesilla desired a short-term rental (STR) ordinance to reflect rules and regulations in operating a STR; and

WHEREAS, the Board of Trustees of the Town of Mesilla has determined that these requirements are necessary to benefit the community and visitors in providing lodging facilities; and

WHEREAS, the Board of Trustees of the Town of Mesilla has determined these requirements are necessary to assist with town services and impacts on residential neighborhoods posed by STRs; and

WHEREAS, The Planning and Zoning Historical Appropriateness Commission and the Board of Trustees of the Town of Mesilla have conducted a duly advertised public hearing to consider this ordinance; and

WHEREAS, an Ad Hoc Committee of nine diverse members assisted in data collection, held discussions, and proposed recommendations for a STR ordinance to the Planning and Zoning Historic Appropriateness Commission/Board of Trustees.

NOW, THEREFORE, BE IT ORDAINED, the Board of Trustees of the Town of Mesilla hereby implements these regulations as follows:

A. PURPOSE

The Board of Trustees of the Town of Mesilla finds and declares as follows:

1. STRs provide a community benefit by expanding the number and type of lodging facilities available to visitors.
2. STRs are a residential, not commercial, use of the property under the Town of Mesilla Municipal Code (MTC).
3. The provisions of this section are necessary to regulate town services and impacts on residential neighborhoods posed by STRs.

B. APPLICABILITY OF REQUIREMENTS

This ordinance applies to all zoning districts within the Town of Mesilla. These requirements shall apply to dwelling units that are rented at some time during the year for a short duration that are not part of a commercial business enterprise such as hotels, motels, or commercial lodging.

C. TOTAL ALLOWABLE STR PERMITS

1. The total number of allowable STR permits with the Town of Mesilla shall be regulated as follows;

HISTORICAL RESIDENTIAL (HR)	200' MEASURED FROM PROPERTY LINE TO PROPERTY LINE
HISTORICAL COMMERCIAL (HC)	NO CAP LIMIT OR DISTANCE REQUIREMENT
COMMERCIAL (C)	NO CAP LIMIT OR DISTANCE REQUIREMENT
SINGLE-FAMILY RESIDENTIAL (R1)	200' MEASURED FROM PROPERTY LINE TO PROPERTY LINE
RESIDENTIAL AGRICULTURE (RA)	WITH SPECIAL USE PERMIT (SUP)
RURAL FARM (RF)	WITH SPECIAL USE PERMIT (SUP)

2. Existing short-term rentals that are currently permitted their location will not be affected by the distance requirement after the adoption of this section.

D. DEFINITIONS

For the purposes of this section, the following words and phrases shall have the meaning respectively ascribed to them by this subsection:

1. **Local Contact Person** means an owner, representative of the owner, or local property manager who lives in the Town of Mesilla or within proximity of the town limits such that they are available to respond within an hour or less to tenant and neighborhood questions or concerns and are authorized to respond to any violation of this ordinance and take remedial action.
2. **Managing Agency** means a person, firm or agency licensed with the New Mexico Real Estate Commission representing the owner of the dwelling unit or person/agency owning the dwelling unit.
3. **Operator** means the person who is proprietor of a dwelling unit, whether in the capacity of owner, lessee, sub-lessee, or mortgage in possession.
4. **Owner** means the legal owner of the property.
5. **Dwelling Unit** means a unit with a sleeping area, bathroom, and possibly kitchen for residential use.
6. **Payment** means the consideration charged, whether or not received, for the occupancy of space in a dwelling unit, valued in money, whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, property and services of any kind of nature, without reduction thereof whatsoever.
7. **Short-term Rental (STR)** means a dwelling unit or bedroom(s) within a dwelling unit including either single-family detached or multi-family attached unit, rented for the purpose of overnight lodging for a period not less than one night nor more than 29 consecutive days to the same person or persons.

8. **Hosting Platform** means an internet-based (online) platform that connects owners of STRs to potential renters by way of a website and in exchange for a service fee. Hosting platform agent shall not mean local contact person or managing agency or agent as defined in this section.

E. SHORT-TERM RENTAL (STR) PERMIT REQUIRED.

No owner of a dwelling unit shall rent the unit for a short term without having a current valid STR permit issued by the Town of Mesilla. STR permits are issued to the owner for a period of one year and are non-transferable.

1. Nothing contained within this section shall be construed to abridge the ability of bona fide neighborhood covenants and/or deed restrictions to be more restrictive than the regulations within this ordinance. Such covenants and deed restrictions shall not be enforceable by the Town of Mesilla but remain the responsibility of the property owners to ensure compliance within their applicable neighborhood(s).
2. Large-scale events (i.e., exceeding maximum allowed dwelling unit occupancy) such as parties, weddings, fundraisers and conferences, are prohibited in residential zones without a separate permit issued by the Town of Mesilla. Adequate parking must be available.
3. No more than one STR permit shall be issued per property except in multi-family single lot subdivisions.
4. The owner of a STR shall sign an indemnification and hold harmless agreement in a form approved by the Town of Mesilla Attorney, agreeing to indemnify, save, protect, hold harmless, and defend the Town of Mesilla, its officers, employees and agents from any liability in any way arising out of the use of the STR including, without limitations, from the STR guests.
5. All marketing and advertising of an STR, including any listing on a hosting platform, shall clearly list the Town of Mesilla-issued STR permit number.

F. APPLICATION REQUIREMENTS

The STR owner or managing agency shall apply to the Town of Mesilla for a STR permit and supply, at a minimum, the following information:

1. The maximum number of occupants and vehicles that the dwelling unit can accommodate.
 - a. The parking calculation shall be based upon a minimum of one parking space provided per dwelling unit. A parking fee shall be imposed if there is no private parking provided (see Appendix A). Parking requirements must be clearly stated on hosting platform listing and property.
 - b. The occupancy shall be determined by the floor area of each dwelling unit, number of restrooms per dwelling unit, infrastructure suitable to service

the occupants and shall be in accordance with habitable and occupancy codes.

2. The name, address, email address, telephone number of the owner, and the 24-hour emergency contact number (if not the owner of the STR) for which the permit is to be issued.
3. A tax ID number issued by the New Mexico Taxation and Revenue Department registered to the proposed STR.
4. A business license is also required for anyone conducting business within the Town of Mesilla (Municipal Town Code (MTC 5.05.03), and thus for a STR permit.
5. A site plan to include designated on-property parking (18.60.170(C)(2)).
6. Floor plan of the STR and location in reference to the property and/or existing structures on the property.
7. Owner authorization agreement (if applicable), allowing property management agency to represent their interest.
8. Application updates regarding ownership, changes in the structure, parking area, contact person information, etc., shall require an amendment to the existing STR permit. A one-time \$10 fee shall be assessed for any updates (see Appendix A).
9. Fees. Applicable fees are set forth in Appendix A to this ordinance.

G. ISSUING OF PERMIT

1. The Town Clerk or delegate shall review the initial application for a STR permit within 10 days. Renewal notifications for all permits shall occur 30 days prior to the renewal date. Issuing of permit will be consistent with Licensing MTC 3.20.090.
2. Once the application review is completed, the Town Clerk shall notify the applicant of the decision of whether to issue the permit based on compliance with this section. If approval is granted, the Town Clerk will issue a STR permit specifying the maximum number of cars, and the maximum number of occupants allowed. Failure to renew the permit within the 30 days after the applicable March 15 renewal date, shall be subject to a late fee.
3. An application for a permit or renewal application shall be denied if:
 - a. All applicable fees and taxes have not been paid as provided under MTC 3.20 or
 - b. Outstanding property nuisance or building code violations exist on property.
4. The Town of Mesilla recommends all STR owners to purchase insurance if the STR shares a common wall with an adjacent property or is less than seven feet from property line.
5. Failure to comply with code requirements of this may result in revocation of the permit for a 12-month time period at the discretion of the Community & Economic Development Director or designated staff.

6. If the STR owner plans to discontinue short-term rental of the property, a statement to that effect shall be filed with the Town of Mesilla and the permit will be revoked canceled.

H. TENANT NOTIFICATION REQUIREMENTS

1. The following information shall be provided by the owner, managing agency, or agent within each STR unit:
 - a. A copy of the STR permit.
 - b. The name of the managing agency, agent, property manager, local contact person or owner of the unit, and a telephone number at which the party can be reached on a 24-hour, seven days a week basis.
 - c. The maximum number of occupants three years of age and older are permitted to stay in the unit.
 - d. The number of maximum vehicles allowed to be parked on the property.
 - e. The number of on-site parking spaces and the parking rules and location(s).
 - f. The specific procedures regarding the disposal of trash and refuse.
 - g. A notification that a tenant may be cited and fined for creating a disturbance and/or for violating other provisions of the MTC.
 - h. Notice that noise provisions contained in the MTC section 9.10.070 will be enforced.
 - i. Notice of outdoor lighting provisions and regulations contained in MTC 18.50.050.
 - j. The 911 address for the property.
 - k. Notice that animal leash laws contained in section MTC 6.05 (prohibited acts; animal nuisance; vicious or dangerous animals) will be enforced.
 - l. Notification of MTC 8.10 Smoke-Free Regulations.
2. Exterior advertising or signage on STR units which indicate availability, phone numbers or other types of information is prohibited. For the purpose of this section, signage shall only be permitted if it includes the name of the dwelling unit and does not include advertisement of the property.
 - a. Signage shall be consistent with MTC 18.52.030(D) 18.65.070 (P), under exceptions. Maximum size of 2 square feet.

I. HOSTING PLATFORM RESPONSIBILITIES

1. Hosting platforms shall not process or complete any booking transactions for any, unless the STR has a valid current STR permit issued by the Town of Mesilla. Hosting platforms are required to list the STR permit number and expiration date for each listing.

2. Within forty-five (45) days of effective date of this ordinance, hosting platforms with listings located in the Town of Mesilla shall provide the contact information of the hosting platforms.
3. Hosting platforms shall remove any listings of STRs upon notification by the Town of Mesilla.
4. Hosting platforms shall be responsible for collecting all applicable lodging tax and submitting the same to the Town of Mesilla. The STR owner shall remain responsible for collection and remittance of the lodging tax in the event that the hosting platform fails to fulfill its obligations under this section to collect and/or remit to the Town of Mesilla or the hosting platform and the STR owner enter into agreement regarding the fulfillment of this subsection.
5. All hosting platforms operating within the Town of Mesilla must comply with all federal, state, and local laws.

J. SEVERABILITY

If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other sections provisions, or clauses, or applications, and to this end the provisions, sections, and clauses of the ordinance are declared to be severable.

K. ENFORCEMENT & PENALTIES

1. In addition to any other penalties or fines authorized by the Town of Mesilla Municipal Code, the owner of a STR unit shall be required to pay a penalty as set forth in the fee schedule to this code (MTC 18.95.040) in order to obtain, retain or renew a STR permit.
2. Each day that an owner rents a unit for a short term without first obtaining a STR permit is considered a separate violation of the Town of Mesilla Municipal Code and shall be treated as such.
3. The town code enforcement officer or other designated town employee or representative shall take action to correct the violation as provided for in this code or state statute.
4. The first suspected or observed violation of this section by the Town of Mesilla shall result in an initial warning notice requesting requiring registration of the unregistered STR unit in accordance with the provisions of this ordinance without subject to penalty. Should the property owner fail to comply after receiving such initial notice from the Town of Mesilla, penalties may be assessed.

APPENDIX A

BUSINESS LICENSE	\$35	ANNUALLY
STR PERMIT	\$100	ANNUALLY
PARKING FEE	\$150	ANNUALLY, IF NO ON-SITE PARKING AVAILABLE
LATE RENEWAL PENALTY FEE	\$50	PER MONTH AFTER EXPIRATION
FIRE INSPECTION	\$40	EVERY 3 YEARS
STR PERMIT UPDATES	\$10	ONE-TIME

DRAFT

Chapter 3.20 LODGERS' TAX

Sections:

3.20.010 **Title, purpose and authority.**

3.20.020 **Definitions.**

3.20.030 **Limitations on the use of proceeds.**

3.20.040 **Eligible uses of tax proceeds.**

3.20.050 **Contracting for services.**

3.20.060 **Administration.**

3.20.070 **Imposition of tax.**

3.20.080 **Exemptions.**

3.20.090 **Licensing.**

3.20.100 **Collection of the tax – Reporting procedures.**

3.20.110 **Audit of vendors.**

3.20.120 **Advisory board created – Duties.**

3.20.130 **Financial reporting.**

3.20.140 **Enforcement.**

3.20.150 **Duty of vendor.**

3.20.160 **Failure to pay tax – Failure to make return – Computation, penalty, notice.**

3.20.170 **Lien for occupancy tax, payment, certificate of liens.**

3.20.180 **Penalty.**

3.20.010 Title, purpose and authority.

A. Title. This chapter may be cited as the "lodgers' tax chapter."

B. Purpose. The purpose of this chapter is to impose a tax which will be borne by persons using commercial lodging and short-term rental accommodations within the town of Mesilla and which will provide revenues for the purpose of advertising, publicizing and promoting tourist-related attractions, facilities and events, and acquiring, establishing and operating tourist-related facilities, attractions or transportation systems, as authorized in MTC 3.20.040.

C. Authority. This chapter is adopted pursuant to the provisions set forth in the New Mexico State Statutes 1978, Sections 3-38-13 through 3-38-23, as amended. The provisions of this chapter are adopted in acceptance of and in accordance with said statutes. [Ord. 2001-02 § 2; prior code § 7-9-1]

3.20.020 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. "Board of trustees" means the governing body of the town of Mesilla;

B. "Gross taxable rent" means the total amount of rent paid for lodging, not including the state gross receipts tax or local sales taxes;

C. "Lodging" means the transaction of furnishing rooms or other accommodations by a vendor to a vendee who for rent uses, possesses or has the right to use or possess any room or rooms or other units of accommodations in or at a taxable premises;

D. "Lodgings" means the rooms or other accommodations furnished by vendor to a vendee by a taxable service of lodgings;

E. "Occupancy tax" means the tax on lodging authorized by this chapter;

F. "Person" means a corporation, firm, other body corporate, partnership, association or individual. "Person" includes an executor, administrator, trustee, receiver or other representative appointed according to law and acting in a representative capacity. "Person" does not include the United States of America, the state of New Mexico, any corporation, department, instrumentality or agency of the federal government or the state government, or any political subdivision of the state;

G. "Rent" means the consideration received by a vendor in money, credits, property or other consideration valued in money for lodgings subject to an occupancy tax authorized in this chapter;

- H. "Taxable premises" means a hotel, apartment, apartment hotel, apartment house, lodge, lodging house, rooming house, motor hotel, guest house, guest ranch, ranch resort, guest resort, mobile home, motor court, auto court, auto camp, trailer court, trailer camp, trailer park, tourist camp, cabin, [short-term rental](#) or other premises used for lodging;
- I. "Town" means the town of Mesilla, New Mexico;
- J. "Town clerk-treasurer" means the town clerk-treasurer or his/her designated representative;
- K. "Tourist" means a person who travels for the purpose of business, pleasure or culture to a municipality or county imposing an occupancy tax;
- L. "Tourist-related events" mean events that are planned for, promoted to and attended by tourists;
- M. "Tourist-related facilities and attractions" means facilities and attractions that are intended to be used by or visited by tourists;
- N. "Tourist-related transportation systems" mean transportation systems that provide transportation for tourists to and from tourist-related facilities, attractions and events;
- O. "Vendee" means a natural person to whom lodgings are furnished in the exercise of the taxable service of lodging;
- P. "Vendor" means a person furnishing lodgings in the exercise of the taxable service of lodging. [Ord. 2001-02 § 2; prior code § 7-9-2]

3.20.030 Limitations on the use of proceeds.

- A. The occupancy tax shall not exceed five percent of the gross taxable rent.
- B. Every vendor who is furnishing any lodgings within the town is exercising a taxable privilege.
- C. Not less than one-half of the proceeds derived from the tax shall be used for advertising, publicizing and promoting tourist-related attractions, facilities and events.
- D. The proceeds from the occupancy tax in excess of the amount required to be used for advertising, publicizing and promoting tourist-related attractions, facilities and events may be used for any purpose authorized in [MTC 3.20.040](#).
- E. The proceeds from the occupancy tax that are required to be used to advertise, publicize and promote tourist-related attractions, facilities and events shall be used within two years of the close of

the fiscal year in which they were collected and shall not be accumulated beyond that date or used for any other purpose. [Ord. 2001-02 § 2; prior code § 7-9-3]

3.20.040 Eligible uses of tax proceeds.

Subject to the limitations contained in MTC 3.20.030, the town may use the proceeds from the lodgers' tax to defray the costs of:

- A. Collecting and otherwise administering the tax, including the performance of audits required by MTC 3.20.100, pursuant to guidelines issued by the Department of Finance and Administration;
- B. Establishing, operating, purchasing, constructing or otherwise acquiring, reconstructing, extending, improving, equipping, furnishing or acquiring real property or any interest in real property for the site or grounds for tourist-related facilities, attractions or transportation systems of the municipality or of the county in which the municipality is located;
- C. The principal of and interest on any prior redemption premiums due in connection with and any other charges pertaining to revenue bonds authorized by Section 3-38-23 or 3-38-24 NMSA 1978;
- D. Advertising, publicizing and promoting tourist-related attractions, facilities and events of the town and tourist facilities or attractions within Dona Ana County;
- E. Providing police and fire protection and sanitation service for tourist-related events, facilities and attractions located in the town or Dona Ana County; or
- F. Any combination of the foregoing purposes or transactions stated in this section, but for no other town or county purpose. [Ord. 2001-02 § 2; prior code § 7-9-4]

3.20.050 Contracting for services.

A. The board of trustees may contract for the management of programs and activities funded with revenue from the occupancy tax. The board of trustees shall require periodic reports to the board, at least quarterly, listing the expenditures for those periods. Within 10 days of receiving the reports, the board shall furnish copies of them to the advisory board. Funds provided to the contracting person or governmental agency shall be maintained in a separate account established for that purpose and shall not be commingled with any other money.

B. A person or governmental agency with whom the town contracts under this section to conduct an activity authorized by MTC 3.20.040 shall maintain complete and accurate financial records of each expenditure of the tax revenue made and upon request of the board shall make such records available for inspection.

C. The occupancy tax revenue spent for a purpose authorized by this chapter may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses and other administrative costs only if those administrative costs are incurred directly for that purpose.

D. A person or governmental agency with whom the board of trustees contracts under this section may subcontract with the approval of the board of trustees. A subcontractor shall be subject to the same terms and conditions as the contractor regarding separate financial accounts, periodic reports and inspection of records. [Ord. 2001-02 § 2; prior code § 7-9-5]

3.20.060 Administration.

The board of trustees or their delegated representative shall administer the lodgers' tax moneys collected. The duties assigned to the town clerk-treasurer in this chapter may, from time to time, be reassigned to other departments or officials in whole or part as determined by the town clerk-treasurer. [Ord. 2001-02 § 2; prior code § 7-9-6]

3.20.070 Imposition of tax.

There is hereby imposed an occupancy tax of revenues of five percent of the gross taxable rent for lodging within the town of Mesilla paid to vendors from and after July 1, 1998. [Ord. 2001-02 § 2; prior code § 7-9-7]

3.20.080 Exemptions.

The occupancy tax shall not apply:

A. If a vendee:

1. Has been a permanent resident of the taxable premises for a period of at least 30 consecutive days; or
2. Enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least 30 consecutive days;

B. If the rent paid by a vendee is less than \$2.00 a day;

C. To lodging accommodations at institutions of the federal government, the state or any political subdivision thereof;

D. To lodging accommodations at religious, charitable, educational or philanthropic institutions, including without limitation such accommodations at summer camps operated by such institutions;

E. To clinics, hospitals or other medical facilities;

F. To privately owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill; or

~~G. If the taxable premises does not have at least three rooms or three other units of accommodation for lodging. [Ord. 2001-02 § 2; prior code § 7-9-8]~~

3.20.090 Licensing.

A. No vendor shall engage in the business of providing lodging in the town of Mesilla who has not first obtained a license as provided in this section [and a permit registration pursuant to MTC 00.00.000](#).

B. Applicants for a vendor's license shall submit an application to the town clerk-treasurer stating:

1. The name of the vendor, including identification of any person, as defined in this chapter, who owns or operates or both owns and operates a place of lodging and the name or trade names under which the vendor proposes to do business and the post office address therefor;
2. A description of the facilities, including the number of rooms and the usual schedule of rates therefor;
3. A description of other facilities provided by the vendor or others to users of the lodgings such as a restaurant, bar, cleaning, laundry, courtesy car, stenographic, tailor or others, and a statement identifying the license issued, to whom issued, the authority issuing and the period for which issued, if applicable, and the identification number provided by the Department of Taxation and Revenue of the State of New Mexico;
4. The nature of the business practices of the vendor and to what extent, if any, the business is exempt from the lodgers' tax;
5. Other information reasonably necessary to effect a determination of eligibility for such license.

C. The town clerk-treasurer shall review applications for licenses within 10 days of receipt thereof and grant the license in due course if the clerk-treasurer finds the applicant is doing business subject to the occupancy tax.

If the town clerk-treasurer finds that the applicant is not qualified to do business subject to the occupancy tax, the clerk-treasurer shall, not more than 10 days after receipt of the application, advise

the applicant of this decision and give the reasons therefor. The notice of such action shall be sent by certified mail addressed to the applicant at the address given on the application.

D. If the town clerk-treasurer finds the applicant not exempt under the terms of this chapter, the clerk-treasurer, shall, not more than 10 days after receipt of the application, advise the applicant of this decision and give the reasons therefor. The notice of such action shall be sent by certified mail addressed to the applicant at the address given on the application.

E. An applicant who is dissatisfied with the decision of the town clerk-treasurer may appeal the decision to the board of trustees by written notice to the town clerk-treasurer of such appeal to be made within 15 days of the date of the decision made by the town clerk-treasurer regarding the application. The matter shall be referred to the board of trustees for hearing at their next regularly scheduled meeting in the usual course of business.

The decision of the board of trustees made thereof shall be expressed in writing and notice of such decision shall be sent by certified mail addressed to the applicant at the address given on the application not more than 10 days following the meeting at which the decision was made. The action of the board of trustees shall be final.

F. If the board of trustees finds for the applicant, the town clerk-treasurer shall issue the appropriate license or other notice conforming to the decision made by the board of trustees. [Ord. 2001-02 § 2; prior code § 7-9-9]

3.20.100 Collection of the tax – Reporting procedures.

A. Every vendor providing lodgings in the town of Mesilla shall collect the tax thereon on behalf of the town and shall act as a trustee therefor.

B. The tax shall be collected from vendees in accordance with this chapter and shall be charged separately from the rent fixed by the vendor for the lodgings.

C. On and after July 1, 1998, each vendor licensed under the provisions of this chapter shall be liable to the town for the tax provided herein on the rent paid for lodging at the vendor's respective place of business.

D. Each vendor shall prepare a monthly report on forms provided by the town clerk-treasurer of the receipts for lodging paid to him in the preceding calendar month and shall submit the report and payment of the amounts due to the town by the twenty-fifth day of each month. The report shall include sufficient information to enable the town to audit the report and shall be verified on oath by the vendor. [Ord. 2001-02 § 2; prior code § 7-9-10]

3.20.110 Audit of vendors.

The board of trustees of the town shall have random audits conducted every third year to verify full payment of occupancy tax receipts.

A. The board of trustees shall determine the number of vendors within the municipality to audit.

B. The audit(s) may be performed by the town clerk-treasurer or by any other designee of the board of trustees. A copy of the completed audit(s) shall be filed annually with the Local Government Division of the Department of Finance and Administration. [Ord. 2007-05 § 1; Ord. 2001-02 § 2; prior code § 7-9-11]

3.20.120 Advisory board created – Duties.

A. The mayor shall appoint a five-member advisory board that consists of two members who are owners or operators of lodgings subject to the occupancy tax within the municipality, two members who are owners or operators of industries located within the municipality that primarily provide services or products to tourists and one member who is a resident of the municipality and represents the general public.

B. Members of the advisory board created under subsection (A) of this section shall serve at the pleasure of the board of trustees. The terms of appointment shall be for two years and shall be staggered.

C. The advisory board shall submit to the mayor and board of trustees recommendations for the expenditures of funds authorized by MTC 3.20.040(B) for advertising, publicizing and promoting tourist-related attractions, facilities and events in the town and surrounding area of Dona Ana County. [Ord. 2001-02 § 2; prior code § 7-9-12]

3.20.130 Financial reporting.

A. The board of trustees shall furnish to the advisory board that portion of any proposed budget, report or audit filed or received by the governing body pursuant to either Chapter 6, Article 6 NMSA 1978 or the Audit Act that relates to the expenditure of occupancy tax funds within 10 days of the filing or receipt of such proposed budget, report or audit by the board of trustees.

B. The board of trustees shall report to the Local Government Division of the Department of Finance and Administration on a quarterly basis any expenditure of occupancy tax funds pursuant to Sections 3-38-15 and 3-38-21 NMSA 1978, and shall furnish a copy of this report to the advisory board when it is filed with the Division. [Ord. 2001-02 § 2; prior code § 7-9-13]

3.20.140 Enforcement.

A. An action to enforce the Lodgers' Tax Act may be brought by:

1. The attorney general or the district attorney in the county of jurisdiction; or
2. A vendor who is collecting the proceeds of an occupancy tax in the county of jurisdiction.

B. A district court may issue a writ of mandamus or order an injunction or other appropriate remedy to enforce the provisions of the Lodgers' Tax Act.

C. The court shall award costs and reasonable attorneys' fees to the prevailing party in a court action to enforce the provisions of the Lodgers' Tax Act. [Ord. 2001-02 § 2; prior code § 7-9-14]

3.20.150 Duty of vendor.

Vendors shall maintain adequate records of facilities subject to the occupancy tax and of proceeds received for the use thereof. Such records shall be maintained in the town of Mesilla and shall be open to the inspection of the municipality during reasonable hours and shall be retained for three years. [Ord. 2001-02 § 2; prior code § 7-9-15]

3.20.160 Failure to pay tax – Failure to make return – Computation, penalty, notice.

A. Every vendor is liable for the payment of the proceeds of any occupancy tax that the vendor failed to remit to the town, whether due to his failure to collect the tax or otherwise.

B. If any vendor makes a return as required by this chapter without paying the tax then due, the vendor shall be liable for the tax and a penalty equal to 10 percent of the amount not remitted but not less than \$100.00 without notice from the town with regard thereto. Promptly thereafter, the town clerk-treasurer shall give the delinquent vendor written notice of such estimated tax, penalty and interest, which notice shall be served personally or by certified mail.

C. If any vendor neglects or refuses to make a return and pay the tax as required by this chapter, the town clerk-treasurer may make an estimate based upon any information in the clerk-treasurer's possession, or that may come into the clerk-treasurer's possession, of the amount of the rent of the delinquent vendor for the period with respect to which the vendor has failed to make a return, and upon the basis of the estimated amount the clerk-treasurer shall compute and assess the tax payable by the delinquent vendor, adding to the sum thus arrived at a penalty equal to 10 percent thereof, but not less than \$100.00. Promptly thereafter, the town clerk-treasurer shall give the delinquent vendor written notice of such estimated tax, penalty and interest, which notice shall be served personally or by certified mail.

D. If a vendor shall fail to make payment of the tax when due, the vendor shall be liable for the tax and a penalty equal to 10 percent thereof but not less than \$100.00 in addition to the tax and interest on such amounts of one percent per month.

E. If payments are not made by the vendor within 15 days of written notice, the town clerk-treasurer shall bring an action in law or equity in the magistrate or district court for the collection of any amounts due, including without limitation penalties thereon, interest on the unpaid principal at a rate not exceeding one percent per month and the costs of collection and reasonable attorney's fee incurred in connection therewith. [Ord. 2001-02 § 2; prior code § 7-9-16]

3.20.170 Lien for occupancy tax, payment, certificate of liens.

A. The occupancy tax imposed by the town constitutes a lien in favor of the town upon the personal and real property of the vendor providing lodgings in the town of Mesilla. The lien may be enforced as provided in Sections 3-36-1 through 3-36-7 NMSA 1978. Priority of the lien shall be determined from the date of filing.

B. Under process or order of court, no person shall sell the property of any vendor without first ascertaining from the town clerk-treasurer the amount of any occupancy tax due the town. Any occupancy tax due the town shall be paid from the proceeds of the sale before payment is made to the judgment creditor or any other person with a claim on the sale proceeds.

C. The town clerk-treasurer shall furnish to any person applying for such a certificate a certificate showing the amount of all liens in the records of the town against any vendor pursuant to Chapter 3, Article 38, NMSA 1978. [Ord. 2001-02 § 2; prior code § 7-9-17]

3.20.180 Penalty.

Any person who violates the provisions of this chapter by failure to pay the tax, to remit the proceeds thereof to the town, or to account properly for any lodging and tax proceeds pertaining thereto, shall be charged with a petty misdemeanor and upon conviction shall be punished by a fine of not more than \$500.00 or imprisonment for not more than 90 days or by both such fine and imprisonment as provided for in MTC 1.05.080. [Ord. 2001-02 § 2; prior code § 7-9-18]

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Code Publishing Company

Chapter 18.20

RF – RURAL FARM ZONE

Sections:

18.20.010 Purpose.

18.20.020 Permitted uses.

18.20.030 Uses requiring special use permits.

18.20.040 Uses prohibited.

18.20.050 Development standards.

18.20.010 Purpose.

This zone is intended for the maintenance of low residential densities, for the preservation of agricultural uses and for the continuance of agriculturally related industries and activities. [Ord. 2000-03 § 1; Ord. 94-06 § 1; prior code § 11-2-11.1.A]

18.20.020 Permitted uses.

A lot in the RF zone shall be used for the following purposes only:

- A. A farm or ranch.
- B. A one-family home, only as an accessory to the primary agricultural use.
- C. Farm labor housing, only as an accessory to the primary agricultural use.
- D. A guest house, used only as an accessory to the primary single-family home ~~and not rented or otherwise conducted as a business.~~
- E. A roadside stand offering for sale only farm products, the majority of which are grown on the premises; provided, that such stands shall be removed during any period of time when not in use.
- F. Home occupations.
- G. A farm for the raising, breeding, and sale of small animals such as dogs, cats, rabbits, chinchillas, and hamsters.

H. Plant nursery and greenhouse.

I. Storage only of trailers and campers; provided, they are not in excess of 35 feet in length; and provided, that the trailers and/or campers are not used for human habitation nor shall they be connected to any public or private utility system such as water, sewer, gas, or electricity.

J. Accessory structures and uses such as barns, corrals, sheds, pens and similar structures customarily incidental to any of the above uses, when located on the same lot.

K. Stockpiling and composting of manures, fertilizers, soil amendments, conditioners, or compost as an ancillary use to the primary agricultural use; and provided, that such materials do not remain stockpiled for more than 30 days. The stockpiling or composting of any manures, fertilizers, soil amendments, conditioners or compost for more than 30, but no more than 60 days, shall be allowed only subject to the following requirements and standards:

1. Space Requirement. Stockpiled material shall occupy no more than five percent of the entire parcel and the total area occupied by stockpiled material shall be no greater than one acre;
2. Setback Standard. All stockpiled material shall be set back a minimum of 500 feet from abutting adjacent properties;
3. Protective Covering Requirement. All stockpiled material shall be covered with an impermeable protective covering to reduce odor, dust, debris and flies and bar access to vermin;
4. Screening Requirement. The stockpiled material shall be screened from public view, and shall not be visible beyond the property boundaries.

Notwithstanding the above requirements and standards, no manures, fertilizers, soil amendments, conditioners or compost shall be stockpiled for more than 60 days. [Ord. 2003-06 § 2; Ord. 2000-03 § 1; Ord. 94-06 § 1; prior code § 11-2-11.1.B]

18.20.030 Uses requiring special use permits.

Special or unclassified uses as defined in MTC [18.55.010](#) and [18.55.020](#) shall be permitted in the RF zone, provided the board of trustees approves following a public hearing. In addition, the following uses may be permitted subject to restrictions, and the issuance of a special use permit:

A. Cottage industries; provided, the following conditions are met:

1. Employment shall be limited to a maximum of five persons plus one additional person for every two acres above the minimum lot size.
2. Structures housing cottage industries shall occupy no more than five percent of the lot where they are located.
3. No noxious, odorous or hazardous processes shall be employed; nor shall the use or storage of explosives or flammable materials be permitted, excepting those specifically related to the allowed use and in conformance with applicable codes. Dust, noise or glare shall not extend beyond the properties on which they are located.
4. One parking space shall be provided for each employee.
5. One unlighted sign, having a maximum area of 10 square feet shall be permitted.
6. Parking, outdoor storage areas or other unsightly appurtenances shall be screened from public view.

B. Agriculturally related industries such as cotton gins, food processing plants, packaging plants or mills providing the following conditions are met:

1. The site for the use shall be no smaller than five acres.
2. Structures housing agriculturally related industries shall occupy no more than 20 percent of the parcel.
3. No noxious, odorous or hazardous processes shall be employed, nor shall the use or storage of explosives or flammable materials be permitted, excepting those specifically related to the allowed use and in conformance with applicable codes, nor shall industries emit dust, noise or glare beyond the property.
4. No industry shall be permitted closer than 500 feet from abutting adjacent properties.
5. One parking space shall be provided for each employee.
6. Parking, outdoor storage areas or other unsightly appurtenances shall be screened from public view.

C. Feedlots; provided, that the following conditions are complied with:

1. Livestock in a feedlot shall not be corralled within 500 feet of any residence or any residential zones.
2. One parking space shall be provided for each employee.

D. Bed and breakfast inns may be permitted; provided, the following conditions are met:

1. General.

- a. The owner/manager shall live on site.
- b. Employment shall be limited to a maximum of five persons including the owner/manager.
- c. No more than seven guest rooms shall be permitted.
- d. Length of stay shall be limited to no more than 14 consecutive days. Bed and breakfast inns are specifically prohibited from allowing guests a permanent residence.
- e. Food service shall be limited to breakfasts.

2. Land Use Requirements.

- a. The guest rooms shall be part of or attached to the main residence of the owner/manager.
- b. Only one unlighted sign having a maximum area of 10 square feet shall be permitted.
- c. A minimum of two parking spaces shall be required for the owner/manager. In addition, one parking space shall be required for each employee and one parking space shall be required for each guest room.
- d. Inns shall meet the provisions of the New Mexico Uniform Building Code, New Mexico Environmental Improvement Division Regulations and pertinent fire safety regulations.
- e. Newly constructed inns or existing residences modified to meet the provisions of this section shall be designed to be compatible with the residential character of the neighborhood in which they are located. New construction of bed and breakfast inns must meet the architectural guidelines and criteria for development established for Historical Residential and Historical Commercial zones in Mesilla.

3. Development Plans. The owner/manager of the land shall submit a complete detailed plan of the project. The development plan shall contain the following information:

- a. Site plan with scale and north point showing all existing and proposed improvements.
- b. Surveyed boundaries or legal description of the area proposed to be developed.
- c. Parking areas with arrangement of stalls, location of entrance and exit driveways and their relation to existing streets.
- d. Landscaping plan including fencing.
- e. Floor plans, elevations and exterior details of proposed improvements.
- f. Existing development of adjacent properties within 600 feet of the exterior boundary of the lot, including the location, type and use of buildings and structures. [Ord. 94-06 § 1; Ord. 89-03; prior code § 11-2-11.1.C]

E. Short-term rentals. All requirements MTC 00.00.000 must be met.

18.20.040 Uses prohibited.

Prohibited uses in the RF zone are as follows:

- A. Multifamily uses.
- B. Commercial uses other than the sale of agricultural products, the majority of which were produced on the property.
- C. Industrial uses other than cottage or agricultural industries.
- D. Use of trailers as dwellings with or without wheels attached.
- E. Signs other than those permitted by this title. [Ord. 94-06 § 1; prior code § 11-2-11.1.D]

18.20.050 Development standards.

- A. Lot Area. Each lot shall have a minimum area of five acres except cluster development.
- B. Lot Dimensions. Each lot shall have a minimum width of 225 feet. Each lot shall have a minimum depth of 300 feet.
- C. Yards – Front. Each lot or parcel of land shall have a front yard extending across the full width of the lot or parcel, with a depth of not less than 30 feet.

D. Height Limitations. The maximum height of buildings or structures in the RF zone shall be two stories or 30 feet, whichever is less.

E. Utilities. All installation of utility lines shall be underground, wherever technically feasible. [Ord. 2004-7 § 3; Ord. 2004-01 § 2; Ord. 94-06 § 1; prior code § 11-2-11.1.E]

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Chapter 18.30

R-1 – SINGLE-FAMILY RESIDENTIAL ZONE

Sections:

18.30.010 Purpose.

18.30.020 Uses permitted.

18.30.030 Uses requiring special use permits.

18.30.040 Uses expressly prohibited.

18.30.050 Development standards.

18.30.010 Purpose.

This zone is intended to provide for the development of single-family homes on smaller lots where community water supply is immediately available. [Ord. 94-06 § 1; prior code § 11-2-11.3.A]

18.30.020 Uses permitted.

Buildings and premises on any lot in the R-1 zone shall be used for the following purposes only:

A. One single-family dwelling.

B. Agriculture, except the raising of animals or fowl for commercial purposes, or the sale of any products on the premises.

C. A guest house not rented ~~or used as a business.~~ long-term.

D. Home occupations.

E. Accessory uses customarily incidental to a single-family dwelling.

F. One unlighted sign not to exceed one square foot in area and containing only the name and address of the occupants.

G. Storage of trailers and campers as specified in the RF zone. [Ord. 2003-06 § 4; Ord. 94-06 § 1; prior code § 11-2-11.3.B]

H. Short-term rentals pursuant to MTC 00.00.000.

18.30.030 Uses requiring special use permits.

Uses requiring special use permits in the R-1 zone are as follows:

Same as the RF zone, except for cottage industries. [Ord. 94-06 § 1; prior code § 11-2-11.3.C]

18.30.040 Uses expressly prohibited.

Uses expressly prohibited in the R-1 zone are as follows:

Same as the RF zone. [Ord. 94-06 § 1; prior code § 11-2-11.3.D]

18.30.050 Development standards.

A. Lot Area. Each lot shall have a minimum of one acre except cluster development.

B. Lot Dimensions. Each lot shall have a minimum width of 100 feet. Each lot shall have a minimum depth of 200 feet.

C. Yards.

1. Front. Each lot shall have a front yard extending across the full width of the lot or parcel, with a minimum depth of 30 feet.

2. Side. There shall be a side yard of seven feet on each side of the lot extending from the front yard to the rear yard.

3. Rear. There shall be a rear yard on each lot extending across the full width of the lot, with a minimum depth of 30 feet.

D. Height Limitations. Same as the RF zone.

E. Off-Street Parking. See MTC [18.60.170](#).

F. Utilities. All installation of utility lines shall be underground, wherever technically feasible. [Ord. 2004-7 § 5; Ord. 2004-01 § 2; Ord. 94-06 § 1; prior code § 11-2-11.3.E]

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Chapter 18.25

RA – RESIDENTIAL/AGRICULTURAL ZONE

Sections:

18.25.010 Purpose.

18.25.020 Permitted uses.

18.25.030 Uses requiring special use permits.

18.25.040 Uses expressly prohibited.

18.25.050 Development standards.

18.25.010 Purpose.

This zone is intended to encourage a suitable environment for single-family residential use on large parcels of land on the periphery of the built-up portions of the town and to provide for a low density of population. [Ord. 94-06 § 1; prior code § 11-2-11.2.A]

18.25.020 Permitted uses.

Permitted uses in the RA zone are as follows:

A. A farm or ranch; provided, that livestock or poultry is not kept in corrals, barns or structures located within 50 feet of an adjacent residential property.

B. A one-family house.

C. A guest house, used only as an accessory to the primary single-family home and not rented ~~or used as a business.~~ [long-term.](#)

D. Home occupations.

E. Accessory uses customarily incidental to the uses listed above.

F. One unlighted sign not to exceed one square foot in area and containing only the name and address of the occupants.

G. Storage of trailers and campers as specified in the RF zone. [Ord. 2003-06 § 3; Ord. 94-06 § 1; prior code § 11-2-11.2.B]

H. [Short-term rentals pursuant to MTC 00.00.000.](#)

18.25.030 Uses requiring special use permits.

Uses requiring special use permits in the RA zone are as follows:

Same as RF zone excepting that a cottage industry may not employ more than five persons. [Ord. 94-06 § 1; prior code § 11-2-11.2.C]

18.25.040 Uses expressly prohibited.

Prohibited uses in the RA zone are as follows:

Same as the RF zone. [Ord. 94-06 § 1; prior code § 11-2-11.2.D]

18.25.050 Development standards.

A. Lot Area. Each lot shall have a minimum of three acres for each dwelling unit except cluster development.

B. Lot Dimensions. Each lot shall have a minimum width of 200 feet. Each lot shall have a minimum depth of 300 feet.

C. Yards.

1. Front. Each lot or parcel of land shall have a front yard extending across the full width of the lot or parcel, with a minimum depth of 30 feet.

2. Side. There shall be a side yard with a minimum width of 10 feet on each side of the lot or parcel extending from the front yard to the rear yard.

3. Rear. There shall be a rear yard extending across the full width of the lot, with a minimum depth of 30 feet.

D. Height Limitations. Same as the RF zone.

E. Off-Street Parking. See MTC 18.60.170.

F. Utilities. All installation of utility lines shall be underground, wherever technically feasible. [Ord. 2004-7 § 4; Ord. 2004-01 § 2; Ord. 94-06 § 1; prior code § 11-2-11.2.E]

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Chapter 18.35

H-R – HISTORICAL RESIDENTIAL ZONE

Sections:

18.35.010 Purpose.

18.35.020 Uses permitted.

18.35.030 Area requirements deemed met.

18.35.040 Density requirements deemed met.

18.35.050 Exterior appearance.

18.35.060 Development standards.

18.35.010 Purpose.

The purpose of this zone is to provide for the protection of those residential sections of the town that are worth preserving because of historical, cultural and aesthetic or architectural interest. All remodeling or new structures must be compatible with established architectural styles and design elements as outlined in Chapter [18.33](#) MTC (Historic Preservation). [Ord. 2021-01 § 2; Ord. 2020-02 § 1; Ord. 94-06 § 1; prior code § 11-2-11.4.A]

18.35.020 Uses permitted.

Uses permitted in the H-R zone are as follows:

Single-family and multiple-family residences and related uses approved by the commission upon application and approval of a development plan in accordance with Chapter [18.33](#) MTC (Historic Preservation), this chapter (H-R – Historical Residential Zone) and the comprehensive land use ordinance for the town. [Ord. 2021-01 § 2; Ord. 2020-02 § 1; Ord. 94-06 § 1; prior code § 11-2-11.4.B]

[Short-term rental pursuant to MTC 00.00.000.](#)

18.35.030 Area requirements deemed met.

Any lot or building site shall meet the minimum area requirements when:

A. It existed as an entire lot, or as an entire parcel, for which either a deed was on record in the office of the county clerk or a bona fide contract of sale was in effect prior to March 14, 1972.

B. It is legally subdivided after the effective date of the ordinance codified on March 14, 1972.

Any lot or building that is deemed to be legal and meets the area requirements because of this section shall not be deemed nonconforming simply because it exists on less than the area required by the code. [Ord. 2021-01 § 2]

18.35.040 Density requirements deemed met.

Any lot or building which had been approved by the Mesilla board of trustees prior to June 8, 2020 (Ord. 2020-02) and which is not in conformity with these regulations, but for which permits or variances were granted under previous ordinances, may continue and shall not be deemed nonconforming. [Ord. 2021-01 § 2]

18.35.050 Exterior appearance.

An application for a permit which would authorize construction, modification, moving or destruction, use or function which would affect the exterior appearance of any structure or sign must first be reviewed and approved by the PZHAC for compliance with Chapter [18.33](#) MTC (Historic Preservation), and receive final approval by the board of trustees. [Ord. 2021-01 § 2; Ord. 2020-02 § 1; Ord. 94-06 § 1; prior code § 11-2-11.4.C. Formerly 18.35.030]

18.35.060 Development standards.

A. Lot Area. Each lot or parcel to be developed in the H-R zone shall have a minimum of 80 feet of frontage on a public street and a minimum of 8,000 square feet of area.

B. Population Density. When lots or parcels in the H-R zone are to be developed to single-family or multiple single-family dwellings, each lot or parcel shall have sufficient area to provide 8,000 square feet of area for each family unit to be built. The maximum number of dwellings allowed on any property shall be two, providing density and parking requirements are met. Additionally, up to five structures will be allowed on any property, providing density and parking requirements are met. A minimum of 40 percent of the property shall be open space and is required in order to limit the density of development on each parcel. Each applicant must submit a site plan demonstrating the open space requirement at the time they apply for a permit for any new structure.

Canopies and accessory structures in a rear yard shall not be more than 50 percent of the required area and can be set back three feet from the side or rear yards if they are made of fire resistive materials. Any temporary structures can be set back three feet from the side or rear yards if they are made of fire resistive materials.

C. New Construction. New structures and modifications to existing structures prior to June 8, 2020, may be built in this zone, providing the exterior appearance of the structure is approved by the PZHAC

for compliance with Chapter [18.33](#) MTC (Historic Preservation) and the comprehensive land use ordinance for the town, with final approval by the BOT.

1. New structures on properties containing existing structures shall be architecturally similar to the principal dwelling or structure on the property and shall meet the requirements in subsection (C)(3) of this section.
2. If a property is undeveloped, any new structure, to include dwellings, shall be architecturally similar to the dwellings or structures in the development zone immediately adjacent to the property and shall not exceed 15 feet in height including parapet, whichever is lower. The height of chimneys is to meet building code, but not be higher than 17 feet.
3. Any structure within the historical residential zone shall be architecturally similar to the dwellings or structures in the development zone immediately adjacent (a block radius as discussed in Chapter [18.33](#) MTC (Historic Preservation) to the property and shall not exceed 15 feet in height including parapet.

D. Yards. For all new buildings, front, side and rear yard must be at least seven feet from the property line.

1. Any repairs of structures or fences that have been legally built on a property line prior to June 8, 2020, will not require a right-of-entry form;
2. New construction of fences shall require a right-of-entry agreement signed by all property owners of all applicable properties for construction and maintenance that is recorded in Dona Ana County records and filed with the town clerk; and
3. This document must be acquired prior applying to planning, zoning, and historical appropriateness commission approval; and
4. This document shall be permanent and remain with all properties regardless of ownership; and
5. If a mutual agreement cannot be acquired, the applicant shall meet the required setback of seven feet.

E. Utilities. All new installations of utility lines shall be underground unless a utility service provider demonstrates the inability to provide service, or a demonstrated hardship of inability to obtain easement from an adjacent property owner for an installation from an existing pole. A final determination as to whether a hardship is sufficient to allow an aboveground utility installation will be

decided on a case-by-case basis by the mayor along with the public works director and community development department coordinator. For connections to town utilities refer to Chapter [13.10](#) MTC.

F. Flagpole Lots (Existing). Lots substandard of 80-foot fronts:

1. Shall be limited to only one single-family home.
2. Must meet the height requirement in subsection (C)(2) of this section.
3. Must meet the size requirements in subsection (B) of this section.

G. Off-Street Parking. See MTC [18.60.170](#) and shall not include private garage as part of the off-street calculations of parking area.

H. Lighting. See Chapter [18.50](#) MTC.

I. Architectural Style and Design Standards. See Chapter [18.33](#) MTC (Historic Preservation). In addition, the architectural style and design standards shall comply with the following:

1. Elevations of proposed structures shall be submitted with site plans for review by the planning, zoning, and historical appropriateness commission with final approval by the board of trustees.
2. Internal consistency or compatibility of styles, colors, materials, and design elements will be required in all new development or redevelopment within the H-R zone.
3. Stucco, brick, stone, wood, and adobe are permitted exterior wall materials. Aluminum siding, metal panels, metal, and aluminum fencing, mirrored glass, unstuccoed concrete block and unstuccoed concrete are prohibited exterior wall materials within the front setbacks.
4. The use of solar and other energy collecting and conserving strategies is encouraged by Mesilla. Where publicly visible, solar features and equipment shall be architecturally integrated or screened and shall not be visible from any public right-of-way.
5. Walls and fencing with adobe, brick, stucco, slump block, stone, wood, ornamental wire loop fencing, and wrought iron fencing is permitted. Unstuccoed concrete, barbed wire, chain link, metal wire, or similar materials are prohibited.
6. Mechanical, electrical, telephone, heating, and cooling equipment as well as other obtrusive structures shall be architecturally screened.

7. No person shall stand, stop, or park a vehicle on any street or property for the principal purpose of living within the vehicle. An RV can only be used for dwelling purposes for a maximum of 14 days. There can be no permanent connection for water, sewer, or electricity.

J. Wall, Fencing, Hedge in H-R Zone. See MTC [18.60.340](#).

K. In addition to maintaining the yard, the developer (if so designated by covenant or other document) or the property owner shall maintain all fixed structures attached to the ground. [Ord. 2021-01 § 2; Ord. 2020-02 § 1; Ord. 2006-03 § 1; Ord. 2004-7 § 6; Ord. 2001-04 § 2; Ord. 94-06 § 1; Ord. 92-07 § 1; prior code §§ 11-2-11.4.D – 11-2-11.4.G. Formerly 18.35.040]

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Chapter 18.45

C – COMMERCIAL ZONE

Sections:

18.45.010 Purpose.

18.45.020 Uses permitted.

18.45.030 Uses expressly prohibited.

18.45.040 Development standards.

18.45.010 Purpose.

This zone is intended to provide for limited commercial enterprises. [Ord. 94-06 § 1; prior code § 11-2-11.6.A]

18.45.020 Uses permitted.

A building and premises on any lot in the C zone shall be used for the following purposes only:

Appliance stores, household;

Auction houses, not including animal auctions;

Automobile supply stores;

Barber shop;

Bank or financial institution;

Bakery goods shop;

Bars and cocktail lounges;

Bicycle, scooter and similar nonmotorized vehicle sale and rental;

Billiard and pool halls;

Book binding;

Book store;

Building material dealers;

Clothing stores;

Department stores;

Drugstores;

Dry goods stores;

Employment agencies;

Feed and grain stores;

Florist shops;

Furniture stores;

Gas stations;

Gift shops;

Grocery;

Hardware stores;

Hobby supply shops;

Hotels;

Interior decorating shops;

Jewelry stores;

Laundries, self-service;

Laundry agencies;

Leather goods stores;

Locksmith shops;

Millinery shops;

Motels;

Music stores;

News stands;

Notions store;

Office, business and professional;

Office equipment, sales and service;

Package liquors stores;

Paint and wallpaper stores;

Photography studio;

Pet shops, pet supply stores;

Plumbing shops;

Real estate offices;

Restaurants and other eating establishments;

Secondhand stores;

Shoe repair shops;

Shoe stores;

Short-term Rentals;

One single-family dwelling on any lot or parcel of land in the zone may be permitted; provided, a special use permit for said dwelling is first obtained; and further provided, that the dwelling shall be used only by the owner or lessee of the lot or parcel on which it is erected or by an employee of said owner or lessee, and used only with any permitted commercial use, exclusive of home occupations;

Sporting goods stores;

Tailor shops;

Theaters;

Tobacco shops;

Typewriter sales and repair shops. [Ord. 2001-09 § 1; Ord. 2001-04 § 1; Ord. 94-06 § 1; prior code § 11-2-11.6.B]

18.45.030 Uses expressly prohibited.

Uses expressly prohibited in the C zone are as follows:

A. Agricultural uses.

B. Industrial uses.

C. Home occupations.

D. Multifamily dwellings. [Ord. 2001-09 § 1; Ord. 94-06 § 1; prior code § 11-2-11.6.C]

18.45.040 Development standards.

A. Lot Area. Each lot or parcel to be developed in the C zone shall have a minimum of 100 feet of frontage on a street and a minimum of 12,000 square feet of area.

B. Lot Dimensions.

1. Width. A minimum width of 100 feet is required.

2. Depth. A minimum depth of 120 feet is required.

C. Density. When lots in the C zone are to be developed, each lot or parcel shall have sufficient area to meet the standards and regulations described below for yard requirements; ponding; parking at the maximum number of spaces required for the intended use; solid waste collection; off-street loading and unloading; screening and buffering; and landscaping.

D. Yards.

1. When a lot is developed to a permitted commercial use which is adjacent to a residential zone, the yard requirements of the adjacent residential zone shall prevail; provided, that subsections (D)(2), (3) and (4) of this section are met.

2. In no event shall the setback requirement for any yard in the C zone be less than seven feet unless the structure meets UBC fire-resistive requirements.
3. In the event the structure meets UBC fire-resistive requirements, then the setback requirement for any yard in the C zone shall be a minimum of three feet.
4. In addition to subsections (D)(1), (2) and (3) of this section, where there are three or more contiguous lots proposed for development in the C zone, the rear yard setback shall be designated as an alley and shall be specifically designated and used only for off-street loading and unloading, solid waste collection, emergency vehicles and other service access. The alley shall meet the following standards:
 - a. The width of the alley shall be a minimum of 20 feet and unobstructed throughout the width.
 - b. The alley shall be one-way.
 - c. The alley shall serve contiguous lots where there are three or more contiguous lots.
 - d. The alley shall be maintained by the developer if so designated by covenant or other document or by property owner.
 - e. The alley shall meet the design standards set forth in the town's land subdivision regulations, MTC Title 17.

E. Off-Street Parking. See MTC 18.60.170.

F. Off-Street Loading and Unloading. Every commercial building in a C zone shall have and maintain an off-street loading and unloading area.

G. Lighting. Any lighting system shall be installed so that any glare from the system shall be reflected downward and away from any nearby structure or roadway.

H. Height Limitations. No building or structure shall have a height greater than two stories or 30 feet, whichever is less, as measured from the natural grade of the land.

I. Screening. Outdoor storage shall require a six-foot opaque fence or wall to screen the outdoor storage from public view.

J. Architectural Style and Design Standards. New development or redevelopment in the C zone shall comply with Mesilla's established architectural styles and design elements as listed in the town's "Guidelines and Criteria for Preservation and Development" manual, including the development zone specifications.

In addition, the architectural style and design standards shall comply with the following:

1. Elevations of proposed structures shall be submitted with site plans for review by the planning, zoning and historical appropriateness commission with final approval by the board of trustees.
2. Internal consistency or compatibility of styles, colors, materials, and design elements will be required in all new development or redevelopment within the C zone.
3. Stucco, brick, stone, wood, and adobe are permitted exterior wall materials. Aluminum siding, metal panels, mirrored glass, unstuccoed concrete block and unstuccoed concrete are prohibited exterior wall materials.
4. The use of solar and other energy collecting and conserving strategies is encouraged by Mesilla. Where publicly visible, solar features and equipment shall be architecturally integrated or screened.
5. Walls and fencing with adobe, brick, stucco, slump block, stone, wood, and wrought iron fencing is permitted. Unstuccoed concrete, chain link, metal wire, or similar materials are prohibited.
6. Mechanical, electrical, telephone, heating and cooling equipment as well as other obtrusive structures shall be architecturally screened.
7. All installations of utility lines shall be underground.
8. Inspections as required by the UBC and the town of Mesilla, inclusive of foundation through final, shall be conducted as per Chapter [15.15](#) MTC.

K. Landscaping. Landscaping in the C zone shall be subject to those requirements and conditions for landscaping as set forth in the Avenida de Mesilla Gateway Plan, adopted May 6, 1996, and as approved by the planning, zoning, and historical accuracy commission.

L. Parking Lots. Development of public or private parking areas shall be subject to the restrictions and conditions set forth in MTC [18.60.170\(E\)](#).

M. Ponding. Each lot or parcel shall be provided with on-site ponding that meets the standards set forth by the town of Mesilla.

N. Perimeter Wall or Fencing. A uniform six-foot high perimeter wall or fencing, measured from natural ground surface level, shall be installed by the subdivider and/or developer between commercial development in the C zone and adjacent residential development or adjacent agricultural development to provide privacy to the homeowner and protection to the farmer from urban encroachment. The wall/fence shall be maintained by the developer if so designated by covenant or other document or by the property owner. The planning and zoning commission shall determine if the standards and design proposed for the wall/fence are adequate and appropriate. Cross Reference: MTC [17.30.030](#), Alley location.

O. Wall, Fencing, Hedge, C Zone.

1. Height. A three-foot maximum height above natural ground surface level shall be permitted on any part of the required setback in the front yard and a four-foot maximum height above natural ground surface level shall be permitted on any part of the required set back in the side yards; provided, the height of such wall, fence or hedge is in accord with subsection (O)(2) of this section.

2. Clear Sight Triangle. There shall be no fence, wall, hedge or obstruction more than three feet above the street curb level or natural ground surface level at the edge of the street in the clear sight triangle, measured 30 feet in both directions on the property line from a corner.

3. Materials. Walls or fences constructed in the C zone must be built with the following materials only: stucco, brick, stone, wood, adobe or decorative iron. Decorative iron is defined as iron made from square or rectangular shaped iron and it may be used in the C zone for fencing alone or in combination with the other allowed materials mentioned above in this subsection.

4. Other Restrictions. All other restrictions and conditions appearing in MTC [18.60.340](#), Wall, fence, or hedge, and applying to the C zone are included here by reference.

P. In addition to maintaining the landscaping, ponding, and parking areas, the developer if so designated by covenant or other document or the property owner shall maintain any and all fixed structures attached to the ground.

Q. All construction within the C zone shall comply fully with the American National Standards Institute (ANSI) 117.1-1998 handicap standards. [Ord. 2001-09 § 1; Ord. 2001-04 § 1; Ord. 94-06 § 1; Ord. 92-06 § 1; Ord. 89-07 § 1; prior code § 11-2-11.6.D]

The Mesilla Town Code is current through Ordinance 2021-03, passed December 30, 2021.

Disclaimer: The town clerk's office has the official version of the Mesilla Town Code. Users should contact the town clerk's office for ordinances passed subsequent to the ordinance cited above.

Town Website: <http://www.mesillanm.gov/>

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