



Town of Mesilla, New Mexico

THE PLANNING, ZONING AND HISTORICAL APPROPRIATENESS COMMISSION
(PZHAC) WILL HOLD A WORKSHOP AT THE MESILLA TOWN HALL,
2231 AVENIDA DE MESILLA.
MONDAY- MAY 6, 2024, AT 5:00 PM

SHORT-TERM RENTALS DRAFT ORDINANCE

The commission will be discussing regulations and requirements to propose an ordinance on short-term residential rentals to the Board of Trustees for approval. An ordinance is being drafted and will be reviewed by commissioners during the workshop session.

THE PLANNING, ZONING AND HISTORICAL APPROPRIATENESS COMMISSION
(PZHAC) WILL HOLD A REGULAR MEETING AT THE MESILLA TOWN HALL,
2231 AVENIDA DE MESILLA.
MONDAY- MAY 6, 2024, AT 6:00 PM

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: *APRIL 15, 2024, Regular Meeting minutes
 - b. Special Use Permit #061805 (SUP) *Facts of Findings and Conclusions
6. ACTION AND CONSIDERATION
 - a. **PZHAC CASE #061818** – 2105 Snow Rd, submitted by Oscar and Mary Ann Luevano. Requesting approval to construct primary residence. ZONE: Rural Farm (RF).
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 4/26/2024 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 - 2253 Calle de Parian.

Town of Mesilla, New Mexico

FILED
TOWN OF MESILLA
2231 AVENIDA DE MESILLA
MESILLA NM 88046

PLANNING AND ZONING HISTORICAL
APPROPRIATENESS COMMISSION (PZHAC)
COMMUNITY DEVELOPMENT COORDINATOR
(CDC) EDDIE SALAZAR
DATE SUBMITTED: 3/27/2024

APPLICANT:

NEW MEXICO DEPARTMENT OF
CULTURAL AFFAIRS
407 GALISTEO ST. SUITE 260
SANTA FE, NM 87501

SPECIAL USE PERMIT CASE#061805

PZHAC FACTS OF FINDINGS AND CONCLUSIONS

New Mexico Department of Cultural Affairs submitted a request to operate a museum within a Historical Residential zone, 2340 & 2350 Calle de Principal/2330 Calle de Santiago, Dona Ana County account numbers R0401623, R0401624 & R0401625.

The special use permit hearing, held on April 15, 2024 at Mesilla Town Hall, 2231 Avenida de Mesilla. Community Development Coordinator, Eddie Salazar presented the special use permit case number 061805 to the Planning and Zoning Historical Appropriateness Commission (PZHAC).

Proposed facilities are being requested to be in Historical Commercial (HR) zone. According to Mesilla Town Code, (MTC) 18.55.020 (D); museums are allowed in any zone.

Location will operate a museum and visitor center "Taylor Reynold's Barela Historic Site." Museum is to be managed by Department of Cultural Affairs-Historic Sites and Monuments Division.

Site will be operate with up to 7 employees/volunteers in which is expected to have no more than 4 staff members at a time. There is no employee parking available on site and will require a yearly parking fee according to MTC 18.60.070 (B)(1)(a).

All renovations of facility and contractors performing the work are managed by Department of NM Cultural Affairs. Work performed on site will continue to collaborate with the Town of Mesilla municipal code.

The first phase, visitor center, know as the Reynold's and Barela Store is expected to be in operation in the fall of 2024 and the full Taylor-Mesilla Historic Site open in the fall of 2025.

ON APRIL 15, 2024, PZHAC RENDERED A DECISION UNANIMOUSLY (3-0), TO RECOMMEND APPROVAL TO THE BOARD OF TRUSTEES.

Davie Salas
PZHAC Vice-Chairperson

Yolanda Lucero
PZHAC Chairperson

TOWN OF MESILLA ORDINANCE 2024 – XX

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

WHEREAS, The Governing Body of Town of Mesilla is implementing a short-term residential rental overlay zone to reflect rules and regulations in operating a short-term residential rental; and

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

WHEREAS, The Governing Body of the Town of Mesilla has determined these requirements are necessary to prevent a burden on town services and impacts on residential neighborhoods posed by short-term residential rentals; and

WHEREAS, The Planning and Zoning Historical Appropriateness Commission and the Governing Body have conducted a duly advertised public hearing to consider this ordinance; and

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Town of Mesilla is hereby implementing these regulations as follows:

A. PURPOSE

The Governing Body of the Town of Mesilla finds and declares as follows:

1. Short-term residential rentals provide a community benefit by expanding the number and type of lodging facilities available to visitors.
2. Short-term residential rentals are not commercial but are strictly a residential use of the property under the Town of Mesilla Municipal Code.
3. The provisions of this section are necessary to prevent a burden on town services and impacts on residential neighborhoods posed by short-term residential rentals.

B. APPLICABILITY OF REQUIREMENTS

This zone overlay applies to all non-commercial residential property with the town regardless of the zoning district. 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, motel or commercial lodging.

C. TOTAL ALLOWABLE SHORT-TERM PERMITS

The total number of allowable STR permits shall be regulated not to exceed ??? percent of the total housing units within the Zone.

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 is authorized to respond to any violation of this section 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 residential rental, or person/agency owning the residential unit.
3. **Operator** means the person who is proprietor of a residential rental, whether in the capacity of owner, lessee, sub-lessee, or mortgage in possession.
4. **Owner** means as defined in section 1-2 of this section.
5. **Remuneration** means compensation, money, rent, or other consideration given in return for occupancy, possession or use of real property.
6. **Payment** means the consideration charged, whether or not received, for the occupancy of space in a residential rental, 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 residential rental** 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. **Sleeping Unit** as defined by the International Building Code, 2024, section 202 Definitions, means a room or space in which people sleep, which can also include permanent provisions for living, eating, and either kitchen or sanitation facilities, but not both.
9. **Third-Party Internet listing services** means an internet-based (online) platform that connects owners of short-term residential rentals to potential renters by way of a website and in exchange for a service fee. Third-party listing agent shall not mean local contact person or managing agency or agent as defined in this section.

E. SHORT-TERM RESIDENTIAL RENTAL PERMIT REQUIRED.

No owner of a residential dwelling unit shall rent the unit for a short term without having a current valid short-term residential rental permit issued by the Town of

Mesilla. Short-term residential rental 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 section. Such covenants and deed restrictions shall not be enforceable by the Town but remain the responsibility of the property owners to ensure compliance within the applicable neighborhood.
2. Large scale events (i.e., exceeding maximum allowed occupancy) such as parties, weddings, fundraisers and conferences, are prohibited.
3. No more than one STR permit shall be issued per property except in multi-family single lot subdivisions.
4. The owner must provide proof that the STR is not prohibited by a Homeowner's Association Condition Covenants and Restrictions or any other community standard/guidelines, applicable to the proposed STR. A letter from the Homeowner's Association would satisfy this requirement.
5. The owner shall sign an indemnification and hold harmless agreement in a form approved by the Town 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 limitation, from the STR Guests.
6. All marketing and advertising of an STR, including any listing on a Hosting Platform, shall clearly list the town issued STR permit number.
7. The minimum age of a STR tenant shall be 25 years old.
8. The town will post STR contact information on the town website for the public to access.
9. The owner shall authorize any Hosting Platform on which their STR is listed to provide the town with the operator listing and other information to demonstrate compliance with all provisions of this title.

F. APPLICATION REQUIREMENTS

The dwelling unit owner or managing agency shall apply to the town for a short-term residential rental 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 sleeping unit. A parking fee shall be imposed if there is no private parking provided. Parking requirements must be clearly stated on listing and property.
 - b. The occupancy shall be determined by the floor area of each sleeping 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 and contact telephone number (including 24-hour emergency contact number) of the owner of the residential rental 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 required for anyone conducting business within the Town of Mesilla. MTC 5.05.030.
5. A site plan to include designated off-property parking.
6. Floor plan of the STR and location in reference to the property and/or existing structures on the property.
7. Notification to adjacent property owners shall be required for all STR rental permits. Notification fee of \$25 will be imposed if Town of Mesilla staff notifies all property owners within 100 feet of the intent to use their property as a short-term residential rental. Property owners may opt out of this fee if their managing agent performs this task certifying compliance with this notification.
8. The owner or managing agent/agency shall attest that they have met these requirements as part of the initial rental registration and each successive renewal registration. The form utilized to attest to these requirements shall be part of the registration form provided by the town and be authenticated by a public notary.
9. Owner authorization agreement, allowing agency to represent their interest.
10. Application updates regarding ownership, changes in the structure, parking area, contact person information shall an amendment to the existing registration and a \$10 fee shall be assessed.
11. Fees. Fees are set forth in appendix A to this code. The initial application fee should be sufficient to cover the cost of processing the application, reviewing the information submitted, and issuing the permit.

G. ISSUING OF PERMIT

- A. The Town Clerk or delegate shall review the initial application within 10 days. Renewal notifications for all permits shall occur 30 days prior to the renewal date.
- B. Once the application review is completed, the Town Clerk shall notify the applicant of the decision of whether or not to issue the permit based on compliance with this section. If approval is granted, the town will issue a short-term residential rental permit specifying the maximum number of cars and the maximum number of occupants allowed. Failure to renew the permit within the 30 day after the applicable March 15, shall subject the owner to payment of late permit renewal penalty fee.
- C. An application for a permit or renewal application shall be denied if:
 1. All applicable fees and taxes have not been paid, including Lodger's tax as provided under MTC 3.20 or

2. Outstanding property nuisance or building code violations exist on property; or
 3. the owner of the property is not compliant with subsection (h)(5) herein and has exceeded the number of adjudicated citations afforded under that section.
- D. The Town of Mesilla recommends all property owners to purchase short-term rental insurance.
- E. Failure to comply with code requirements of this section may result in revocation of the permit for a 12-month time period at the discretion of the planning director.
- F. If the dwelling unit owner plans to discontinue short-term residential rental of the property, a statement to that effect shall be filed with the town and the permit revoked.

TENANT NOTIFICATION REQUIREMENTS

- A. Each short-term residential rental unit shall have a clearly visible and legible notice posted by the owner or managing agency or agent within the unit on or adjacent to the interior of the front door containing the following information:
1. A copy of the short-term residential permit.
 2. 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.
 3. The maximum number of occupants three years of age and older permitted to stay in the unit.
 4. The number of maximum vehicles allowed to be parked on the property.
 5. The number of on-site parking spaces and the parking rules and location(s).
 6. The specific procedures regarding the disposal of trash and refuse.
 7. A notification that a tenant may be cited and fined for creating a disturbance and/or for violating other provisions of the MTC.
 8. Notice that noise provisions contained in the MTC section 9.10.070 will be enforced.
 9. Notice of outdoor lighting provisions and regulations contained in MTC 18.50.050.
 10. The 911 address for the property.
 11. Notice of animal leash laws contained in section MTC 6.05 (prohibited acts; animal nuisance; vicious or dangerous animals) will be enforced.
 12. Notification of MTC 8.10 Smoke-Free Regulations.
- B. Exterior advertising or signage on short-term residential rentals units which indicate availability, phone numbers or other type 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.

HOSTING PLATFORM RESPONSIBILITIES

- A. Hosting platforms shall not process or complete any Booking Transactions for any STR, 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.
- B. Within forty-five (45) days of effective date of this Ordinance, Hosting Platforms with listings located in the town shall provide to the town contact information of the Hosting Platforms.
- C. A Hosting Platform with listings located in the town shall provide to the town on a monthly basis, in a format specified by the town, the STR permit number of each listing, the name of the person responsible for each listing, the address of each such listing, and for each Booking Transaction that occurs within the reporting period, the number of days booked, and the total price paid for each rental.]
- D. Hosting Platforms shall remove any listings of STRs, including those on the town's Prohibited Building List, from the platform upon notification of the town.
- E. Hosting Platforms shall be responsible for collecting all applicable lodging tax and submitting the same to town. The 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 or the Hosting Platform and the owner enter into agreement regarding the fulfillment of this subsection.
- F. All Hosting Platforms operating in the town must comply with all Federal, State, or Local laws.

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 cluses of the ordinance are declared to be severable.

ENFORCEMENT & PENALTIES

- A. In addition to any other penalties or fines authorized by the Town of Mesilla Municipal Code, the owner of a short-term residential rental unit shall be required to pay a penalty as set forth in the fee schedule to this code in order to obtain, retain or renew a short-term residential rental permit.
 - 1. Each day that an owner rents a unit for a short term without first obtaining a short-term residential rental permit is considered a separate violation of the Town of Mesilla Municipal. Code as provided for in sections 1-6.
 - 2. 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.
 - 3. The first suspected or observed violation of this section by the town may result in an initial warning notice requesting registration of the unregistered

short-term residential rental unit in accordance with the provisions of this code without subject to penalty. Should the property owner fail to comply after receiving such initial notice from the town, penalties may be assessed as provided elsewhere in this code in sections 1-6, including the assessment of a registration fee twice the listed amount.

THIS ORDINANCE SHALL BE RECORDED UPON ADDOPTION AND BECOME EFFECTIVE 30 DAYS THEREAFTER.

PASSED, APPROVED AND ADOPTED on this _____ day of _____ 2024.

Gloria S Maya
Town Clerk/Treasurer

Russell Hernandez
Mayor