

**CITY OF ELEPHANT BUTTE  
ORDINANCE NO. 140**

**AN ORDINANCE OF THE CITY OF ELEPHANT BUTTE, NEW MEXICO  
AMENDING SECTION 155.006 OF THE ELEPHANT BUTTE CODE OF  
ORDINANCES, CLARIFYING THE PROCEDURES FOR APPROVAL OF A ZONING  
PERMIT, AND ADDING NEW MATERIAL RELATING TO REQUIREMENTS FOR  
BUILDING PERMITS AND PROVIDING FOR VOIDANCE OF THE ZONING PERMIT  
AND PENALTIES AND PROCEDURE FOR NONCOMPLIANCE**

**WHEREAS**, the code of ordinances currently provides for application for a zoning permit and specifies requirements for the application; and

**WHEREAS**, the existing application requirements are redundant and lack clarity in places; and

**WHEREAS**, the Council wishes to clarify that the procedures for obtaining a zoning permit apply to all construction and all uses; and

**WHEREAS**, the Council wishes to facilitate the issuance of a zoning permit for residential uses and certain minor non-residential changes of use by delegating authority to the zoning administrator for such uses; and

**WHEREAS**, the existing code allows construction of accessory structures to be commenced prior to construction of the principal structure; and

**WHEREAS**, the construction of accessory structures prior to construction of the principal structure has led to instances where the principal structure is never constructed and the accessory structure remains in violation of the letter and/or spirit of the code and of the comprehensive plan ; and

**WHEREAS**, the proposed amendments will tie the building permit to the zoning permit; and

**WHEREAS**, the proposed amendments will provide procedures for avoidance of the zoning permit and imposition of penalties for violations of the code's provisions.

**NOW THEREFORE, BE IT ORDAINED** By The Governing Body Of The City Of Elephant Butte, that section 155.006 of the Code of Ordinances of the City of Elephant Butte be amended as follows:

**Section one.** Section 155.006 is amended by deleting paragraph (E) in its entirety and replacing it with new material as follows:

(E) *ZONING PERMITS.*

(1) *Zoning Permit Required.* No construction or use of property shall be commenced prior to issuance of a zoning permit.

(2) *Application.* An application for a zoning permit shall include the following information and attachments, provided that the zoning administrator may waive those requirements deemed to be inapplicable:

(a) *Proof of ownership.* Applications must be submitted by the owner of the subject property or the owner's agent designated in writing.

(b) *Survey.* An accurate improvement survey, containing legal description and address of the property, not older than 36 months, prepared by a licensed New Mexico surveyor, provided, that the zoning administrator may accept a boundary survey in lieu of an improvement survey for applications that do not include the construction or placement of new improvements if the administrator finds that the boundary survey is adequate to meet the requirements of this chapter. The zoning administrator may accept an older survey if satisfied that it accurately reflects the property and accurately identifies all utility, drainage and other public easements.

(c) *Site plan.* A site plan consisting of a scaled drawing or map of the property showing the location of existing and proposed streets, driveways, parking and loading sites, pedestrian walks, structures, drainage improvements, landscaped areas, utility easements, setbacks, and location of the septic tank, if any. If the septic system is not on the property, the site plan must indicate the lines going to and the location of the area where the group/community septic system is located.

(d) *Infrastructure.* An evaluation of the existing infrastructures' capacities to serve the needs for potable water, liquid waste disposal and solid waste disposal.

(e) *Application fee.* The appropriate application fee as designated in the fee schedule shall accompany the application.

(3) *Approval of Permits.*

(a) *Issuance of permit; double permit fee for violation.* Upon approval of the application by the zoning administrator or the planning and zoning commission, as applicable, and as subject to appeal, the zoning administrator shall issue a zoning permit. The zoning administrator shall notify the applicant in writing if the application has been denied, and the time for appeal shall run from the date of the notice. Any construction commenced prior to issuance of a zoning permit shall result in imposition of a permit fee in double the amount of the regular permit fee. Imposition of the double fee shall be in addition to, and not in lieu of, other penalties and enforcement remedies available to the city.

(c) *Building permit.*

(i) No construction shall be permitted until a copy of the approved building permit and the construction drawings for such permit have been submitted to the zoning administrator. The zoning permit shall automatically expire ninety (90) days after issuance unless the building permit and construction plans have been submitted to the zoning administrator with receipt acknowledged. Construction of any accessory building shall not commence prior to commencement of construction of the principal building, and neither the principal building nor any accessory building shall be occupied prior to issuance of a certificate of occupancy for the principal building. Issuance of a zoning permit shall constitute agreement by the applicant to site visits by the zoning administrator to determine compliance with these provisions. Construction or occupancy in violation of any of these provisions shall result in automatic voidance of the zoning permit. Upon such automatic voidance, the city may take such action as is necessary to abate the violation, including, but not limited to, issuance of a stop work order, filing of a complaint in municipal court, and application for injunctive relief in a court of competent jurisdiction.

(ii) *Expiration of permits.* A zoning permit that authorizes construction shall expire at the end of 12 months if construction has not been completed, and a certificate of occupancy issued, provided, that the planning commission may extend the period for good cause shown and with agreement by the applicant upon a reasonable completion schedule. The applicant shall provide a copy of the certificate of occupancy to the zoning administrator prior to occupancy of any of the improvements. In the case of placement of a manufactured housing unit, the applicant

shall provide the administrator with a copy of the approval of final inspection provided by the New Mexico Manufactured Housing Division of the Construction Industries Division.

(d) *Manufactured housing permit.* In addition to all other provisions of this section, an application for a zoning permit for placement of a manufactured home, a mobile home or a recreational vehicle shall require issuance of a placement permit by the zoning administrator. The applicant shall submit such surveys, site plans and other documents as deemed necessary by the administrator to assure compliance with the provisions of this chapter. For placement of mobile homes or recreational vehicles, the applicant shall obtain a final approval from the administrator prior to occupancy. The administrator shall be satisfied that placement, grading and utility connections are in compliance with applicable provisions of this code prior to final approval.

**Section two.** All other provisions of section 155.006, Administration of the Code, not specifically amended in section one herein, shall remain unchanged and in full force and effect as written.

**Section three.** Effective date. This ordinance shall become effective five days following publication.

PASSED, APPROVED AND ADOPTED by the Governing Body of the City of Elephant Butte, New Mexico, this 18<sup>th</sup> day of September, 2013.

Eunice Kent  
Eunice Kent, Mayor

Attest:

Ron Hunter  
City Clerk