

**CITY OF ELEPHANT BUTTE
ORDINANCE NO. 180**

AN ORDINANCE OF THE CITY OF ELEPHANT BUTTE, NEW MEXICO AMENDING SECTIONS 155.005, 155.026, 155.027, 155.028, 155.029, 155.030 and 155.032 OF THE CODE OF ORDINANCES RELATING TO PERMITTED USES IN RESIDENTIAL DISTRICTS.

WHEREAS, the Code of Ordinances contains provisions regarding the size and width of dwellings in residential districts that are intended to conform to the requirements of the New Mexico Manufactured Housing and Zoning Act, NMSA (1978), §§ 3-21A-1 through 3-21A-8; and

WHEREAS, the city has determined that the dimensions of dwellings in the residential districts are not an appropriate method of conforming to the requirements of the Act; and

WHEREAS, the intention of the city is to allow manufactured homes in all single-family residential districts as required by section 3-21A-3 of the Act and to permit other manufactured and mobile homes only in the R-1-B, R-1-D and R-1-P zoning districts; and

WHEREAS, the city further finds that the storage of boats, trailers, recreational vehicles and similar vehicles on residential lots prior to or in the absence of construction or placement of a residence on the lot is a use inconsistent with the residential character of the districts and should be prohibited; and

WHEREAS various provisions of the building and development requirements of the code sections regarding residential districts are redundant or unclear and should be clarified without otherwise amending the substance of the provisions; and

WHEREAS, the ~~city is adopting the regularly referenced definition of an term~~ “impermeable surface” is used in the provisions regarding uses in the residential districts but

~~requires a definition to be added to and is asserting that definition by adding it to the~~ section 155.005;

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the City of Elephant Butte that the Code of Ordinances be amended as follows:

Section One. Section 155.026(C) & (E) of the Code of Ordinances is amended as follows:

§ 155.026 R-1-A SINGLE-FAMILY RESIDENTIAL

(C) *Building/development requirements.*

- (1) *Primary permitted use.* Primary permitted use is a single-family dwelling built to applicable IBC (and its subsequent versions) standards or such building code as may be applied by the New Mexico Construction Industries Division or to HUD ~~Code-Zone Code II~~ standards applicable to multi-section manufactured homes.
- (2) *One dwelling.* Only 1 dwelling is permitted per lot. Guest dwellings are not a permitted use.
- (3) *Heated area.* Dwellings shall have a minimum of 1,000 square feet of heated area exclusive of, but not limited to, garage, workshop and/or storage.
- (4)
- ~~(5) *Building width.* Dwellings shall have a minimum building width, of 22 feet.~~
- ~~(6)~~(5) *Height.* No structure shall exceed 26 feet in height.
- ~~(7)~~(6) *Roof.* Dwellings shall have a flat roof with parapets, or a pitched roof including, but not limited to gable, hip, gambrel or shed roof designs.
- ~~(8)~~(7) *Perimeter wall.* Dwellings-Manufactured homes shall have a masonry or concrete foundation perimeter wall. The foundation perimeter wall must be in place within 30 days of completion of construction and/or placement. Any home that is built, or set, with a space between the pad and the flooring shall include no less than 2 access panels/doors to provide for firefighter access. The access panels are to be located on opposite sides of the structure from each other at the points furthest apart from each other.

(9)(8) *Parking spaces.* A minimum of 2 off-street parking spaces per unit is required.

(10)(9) *Setbacks.* Minimum setbacks are:

(a) Front setback: 30 feet.

(b) Side setback: 5 feet, or 10 feet when abutting BLM or BOR Land.

(c) Rear setback. 5 feet, or 10 feet when abutting BLM or BOR Land.

(11)(10) *Open space/lot coverage.* No more than 60% of any lot may be covered by ~~any~~ structure(s) ~~or alternatively by and any~~ impermeable surfaces. An impermeable surface is any surface that does not permit the passage through or absorption of water.

(12)(11) *Arroyo and drainage channel use.* Upon completion of the City of Elephant Butte Drainage Study, zoning permits may only be issued for areas which have been designated suitable by the study.

(a) Changes in existing uses or proposed new uses must conform to the requirements of the Drainage Study recommendations.

(b) When an application for a zoning permit is made, the burden of proof of appropriateness of the plan for property designated as a drainage problem area is on the applicant.

(c) Prior to the issuance of a zoning permit, the Code Enforcement Officer and/or the city Engineer must examine the plan. Cost for engineering services will be an additional cost of the zoning permit and will be borne by the applicant. The building, structure, or activity must be found to conform to these provisions:

1. Will not constitute a hazard to persons or property;
2. Will not divert water from or obstruct the natural flow of water in or out of the parcel of land;
3. Will not cause flooding of land outside the natural drainage course; and

4. Will not reduce or endanger the water-carrying capacity of the arroyo or drainage channel.

~~(13)~~(12) Construction work. No clearing or construction work shall commence prior to the issuance of a zoning permit. If a contractor or owner prior to the issuance of a zoning permit begins any clearing or construction, the cost of the zoning permit when issued, will be double the ordinary permit cost as established by Elephant Butte City Council Resolution in addition to any cost assessed by the Municipal Court.

~~(14)~~(13) Additional structures. Construction of additional structures shall conform to the requirements of section 155.006(E) of this Code, "Zoning Permits." ~~No other structure may be erected until the time as a house is on the lot or is simultaneously placed/built on the lot. Before a zoning permit may be issued for simultaneous construction of a house and garage, the applicant must present construction drawings for the house to the Code Enforcement Officer. These drawings must be the ones that will be submitted to Construction Industries Division for application for a building permit or Manufactured Home Division for dwelling placement. Not less than 90 days following the date construction is begun on any other structures, construction of the home must begin. This 90 day time limit will be indicated on the zoning permit at the time of issuance. It is expected that the Code Enforcement Officer will establish this date with the agreement of the property owner or the person applying for the zoning permit. If for good cause construction is not begun the property owner and/or the contractor must notify the Code Enforcement Officer of the delay not later than 10 day prior to the 90 day deadline. The Code Enforcement officer may determine with the home owner a reasonable time delay but this must receive concurrence of the Planning and Zoning Commission at the next scheduled meeting. Under no circumstances may this delay exceed an additional 90 days. Failure to comply with this process will result in the issuance of a citation and an appearance in Municipal Court.~~

~~(15)~~ Zoning permit. A zoning permit will be required when the floor area does not exceed 120 square feet. If the permit is received prior to the construction, no fee will be charged.

~~(16)~~(14) Permit and new construction. At the time a zoning permit is issued for any new construction, remodeling, expansion or any other purpose for which a building permit is also required, the applicant must advise the City of Elephant Butte of the date of completion. Except for good cause shown, all the construction must be completed with 12 months of date zone permit issued. For any project requiring more than 12 months, a completion schedule will be required. The zoning permit will expire and

become null and void at the end of the agreed time schedule. ~~A variance must be requested to show cause for any extension.~~

~~(17)~~(15) *Density.* No more than 4 homes per acre.

~~(18) *Voided permit.* In cases where the City of Elephant Butte determines the construction poses a threat to the public health, safety and welfare, the city may declare the permit null and void and require that the applicant remove the unfinished construction and restore the property to its original state. The city shall not apply the provisions of this section in an arbitrary or capricious manner.~~

(E) *Permitted Uses.* By right the following uses are permitted in R-1-A Districts.

(1) *One dwelling unit.* ~~One dwelling unit per lot, site-built, multi-section or single-section manufactured, or modular~~ One single-family dwelling unit built to applicable IBC standards or such building code as may be applied by the New Mexico Construction Industries Division or to HUD Zone Code II standards applicable to multi-section manufactured homes. Mobile homes as defined in section 155.005 herein, other mobile homes not meeting the definition in section 155.005, and all other movable or portable housing structures are not permitted uses.

(2) *Accessory buildings and structures.* Accessory buildings or structures including, but not limited to, garages, storage sheds, and noncommercial greenhouses. Not more than six accessory buildings or structures shall be permitted per lot. The combined square footage of all buildings and structures, including the principal building or structure and all accessory buildings or structures, shall not exceed the limitations on lot coverage contained herein.

(a) There shall be no water run-off on an adjacent property caused by an accessory building structure. Side gutters may be required by the Zoning Administrator.

(b) Accessory buildings shall be no less than ten feet from main use or structure and in conformance with the front setback.

(c) Un-walled metal carports may be adjacent to main use or structures and no closer than five feet from property lines in yards other than the primary front yard. Such carports may not encroach in the clear-sight triangle.

(3) *Storage.* Storage of ~~a~~ vehicles, including, but not limited to, boats, campers, trailers or other recreational vehicles provided ~~that any such~~ vehicle is not used as additional living quarters and is not permanently

connected to utilities. Such vehicles may be used as temporary guest quarters, provided that such use shall not exceed 30 consecutive days or 90 total days per calendar year, and provided further that at least one off-street parking space is provided in addition to the parking requirement for the primary permitted use. Storage of vehicles as identified herein is an accessory use and is not permitted on any lot in the absence of a dwelling on the same lot.

- (4) *Public utility.* Public utility structure provided its location is based on the City of Elephant Butte Comprehensive Plan approved by the City Councilors.
- (5) *Sales.* Garage sale, yard sale, or similar use:
 - (a) Two sales are permitted in a calendar year at a single address without charge after registering with the City Clerk-Treasurer of the City of Elephant Butte.
 - (b) A sale shall not exceed 3-consecutive days.
 - (c) All types of signs and advertising paraphernalia pertaining to the garage, yard, patio or similar sale must be removed at the end of the sale.
- (6) *Swimming pool.* The pool shall meet all set back requirements, and a protective fence 4-feet minimum in height is to be provided around the yard, lot or pool area. The commission may approve modification of these standards upon a showing of practical need with adequate safety features.

Section Two. Section 155.027(C) & (E) of the Code of Ordinances is amended as follows:

§ 155.027 R-1-B SINGLE-FAMILY RESIDENTIAL.

(C) *Building/development requirements.*

- (1) *Primary permitted use.* Primary permitted use is a single-family dwelling built to applicable IBC (and its subsequent versions) standards or such building code as may be applied by the New Mexico Construction Industries Division or built to HUD Code-Zone Code II standards applicable to multi-section manufactured homes, or qualifying as a mobile home as defined in section 155.005 herein.
- (2) *One dwelling.* Only one dwelling is permitted per lot. Guest dwellings are not a permitted use.

(3) *Heated area.* Dwellings shall have a minimum of 800 square feet of heated area exclusive of, but not limited to, garage, workshop and/or storage.

~~(4)~~ ~~*Width.* Dwellings shall have a minimum building width of 14 feet.~~

~~(5)~~(4) *Height.* No structure shall exceed 18 feet in height.

~~(6)~~(5) *Roof.* Dwellings shall have a flat roof with parapets, or a pitched roof including, but not limited to gable, hip, gambrel or shed roof designs.

~~(7)~~(6) *Perimeter wall.* ~~Dwellings~~ Manufactured and mobile homes shall have a masonry or concrete foundation perimeter wall. The foundation perimeter wall must be in place within 30 days of completion of construction and/or placement. Any home that is built, or set, with a space between the pad and the flooring shall include no less than two access panels/doors to provide for firefighter access. The access panels are to be located on opposite sides of the structure from each other at the points furthest apart from each other.

~~(8)~~(7) ~~*Street-p*~~Parking spaces. A minimum of two off-street parking spaces per unit is required.

~~(9)~~(8) *Setbacks.* Minimum setbacks are:

- (a) Front setback 20 feet;
- (b) Side setback 5 feet, or 10 feet when abutting BLM or BOR land; and
- (c) Rear setback 5 feet, or 10 feet when abutting BLM or BOR land.

~~—~~*Open space/lot coverage.* No more than 60% of any lot may be covered by ~~any~~ structure(s) ~~or alternatively by and any~~ impermeable surfaces. An impermeable surface is any surface that does not permit the passage through or absorption of water.

~~(10)~~(9)

~~(11)~~(10) *Arroyo and drainage channel use.* Upon completion of the City of Elephant Butte Drainage Study, zoning permits may only be issued for areas which have been designated suitable by the study.

- (a) Changes in existing uses or proposed new uses must conform to the requirements of the Drainage Study recommendations.

(b) When an application for a zoning permit is made, the burden of proof of appropriateness of the plan for property designated as a drainage problem area is on the applicant.

(c) Prior to the issuance of a zoning permit, the Code Enforcement Officer and/or the city Engineer must examine the plan. Cost for engineering services will be an additional cost of the zoning permit and will be borne by the applicant. The building, structure, or activity must be found to conform to these provisions:

1. Will not constitute a hazard to persons or property;
2. Will not divert water from or obstruct the natural flow of water in or out of the parcel of land;
3. Will not cause flooding of land outside the natural drainage course; and
4. Will not reduce or endanger the water-carrying capacity of the arroyo or drainage channel.

~~(12)~~(11) *Work commencement requirement.* No clearing or construction work shall commence prior to the issuance of a zoning permit. If a contractor or owner prior to the issuance of a zoning permit begins any clearing or construction, the cost of the zoning permit when issued, will be double the ordinary permit cost as established by Elephant Butte City Council Resolution in addition to any cost assessed by the Municipal Court.

~~(13)~~(12) *Additional structures.* Construction of additional structures shall conform to the requirements of section 155.006(E) of this Code, "Zoning Permits." ~~No other structure may be erected until the time as a house is on the lot or is simultaneously placed/built on the lot. Before a zoning permit may be issued for simultaneous construction of a house and garage, the applicant must present construction drawings for the house to the Code Enforcement Officer. These drawings must be the ones that will be submitted to Construction Industries Division for application for a building permit or Manufactured Home Division for dwelling placement. Not less than 90 days following the date construction is begun on any other structures, construction of the home must begin. This 90 day time limit will be indicated on the zoning permit at the time of issuance. It is expected that the Code Enforcement Officer will establish this date with the agreement of the property owner or the person applying for the zoning permit. If for good cause construction is not begun the property owner and/or the contractor must notify the Code Enforcement Officer of the delay not later than 10 day prior to the 90 day deadline. The Code~~

~~Enforcement officer may determine with the home owner a reasonable time delay but this must receive concurrence of the Planning and Zoning Commission at the next scheduled meeting. Under no circumstances may this delay exceed an additional 90 days. Failure to comply with this process will result in the issuance of a citation and an appearance in Municipal Court.~~

~~(14) Zoning permit. A zoning permit will be required when the floor area does not exceed 120 square feet. If the permit is received prior to the construction, no fee will be charged.~~

~~(15)~~(13) *New construction.* At the time a zoning permit is issued for any new construction, remodeling, expansion or any other purpose for which a building permit is also required, the applicant must advise the City of Elephant butte of the date of completion. Except for good cause shown, all the construction must be completed with 12 month of date zone permit issued. For any project requiring more than 12 months, a completion schedule will be required. The zoning permit will expire and become null and void at the end of the agreed time schedule. ~~A variance must be requested to show cause for any extension.~~

~~(16)~~(14) *Density.* No more than 10 homes per acre.

~~(19) Voided permit. In cases where the City of Elephant Butte determines the construction poses a threat to the public health, safety and welfare, the city may declare the permit null and void and require that the applicant remove the unfinished construction and restore the property to its original state. The city shall not apply the provisions of this section in an arbitrary or capricious manner.~~

(E) *Permitted uses.* By right the following uses are permitted in R-1-B Districts.

(1) ~~One dwelling unit. One dwelling unit per lot, site-built, multi-section or single-section manufactured, or modular~~ One single-family dwelling unit built to applicable IBC standards or such building code as may be applied by the New Mexico Construction Industries Division or to HUD Zone Code II standards applicable to multi-section manufactured homes, or qualifying as a mobile home as defined in section 155.005 herein.

(2) *Accessory buildings and structures.* Accessory buildings or structures including, but not limited to, garages, storage sheds, and noncommercial greenhouses. Not more than six accessory buildings or structures shall be permitted per lot. The combined square footage of all buildings and structures, including the principal building or structure and all accessory buildings or structures, shall not exceed the limitations on lot coverage contained herein.

- (a) There shall be no water run-off on an adjacent property caused by an accessory building structure. Side gutters may be required by the Zoning Administrator.
 - (b) Accessory buildings shall be no less than ten feet from main use or structure and in conformance with the front setback.
 - (c) Un-walled metal carports may be adjacent to main use or structures and no closer than five feet from property lines in yards other than the primary front yard. Such carports may not encroach in the clear-sight triangle.
- (3) *Storage.* Storage of a vehicles, including, but not limited to, boats, campers, trailers or other recreational vehicles provided that any such vehicle is not used as additional living quarters and is not permanently connected to utilities. Such vehicles may be used as temporary guest quarters, provided that such use shall not exceed 30 consecutive days or 90 total days per calendar year, and provided further that at least one off-street parking space is provided in addition to the parking requirement for the primary permitted use. Storage of vehicles as identified herein is an accessory use and is not permitted on any lot in the absence of a dwelling on the same lot.
- (4) *Public utility.* Public utility structure provided its location is based on the City of Elephant Butte Comprehensive Plan approved by the City Councilors.
- (5) *Sales.* Garage sale, yard sale, or similar use:
- (a) Two sales are permitted in a calendar year at a single address without charge after registering with the City Clerk-Treasurer of the City of Elephant Butte.
 - (b) A sale shall not exceed 3-consecutive days.
 - (c) All types of signs and advertising paraphernalia pertaining to the garage, yard, patio or similar sale must be removed at the end of the sale.
- (6) *Swimming pool.* The pool shall meet all set back requirements, and a protective fence 4-foot minimum in height is to be provided around the yard, lot or pool area. The commission may approve modification of these standards upon a showing of practical need with adequate safety features.

Section Three. Section 155.028(C) & (E) of the Code of Ordinances is amended as follows:

§ 155.028 R-1-C SINGLE-FAMILY RESIDENTIAL

(C) *Building/development requirements.*

- (1) *Primary permitted use.* Primary permitted use is a single-family dwelling built to applicable IBC (and its subsequent versions) standards or such building code as may be applied by the New Mexico Construction Industries Division or to HUD ~~Code~~-Zone Code II standards applicable to multi-section manufactured homes.
- (2) *One dwelling.* Only 1 dwelling is permitted per lot. Guest dwellings are not a permitted use.
- (3) *Heated area.* ~~Residence must~~ Dwellings shall have a minimum of ~~600~~800 square feet of heated area exclusive of, but not limited to, garage, workshop and/or storage.
- (4) *Height.* No structure shall exceed 18 feet in height.
- (5) *Roof.* Dwellings shall have a flat roof with parapets, or a pitched roof including, but not limited to gable, hip, gambrel or shed roof designs.
- (6) *Perimeter wall.* ~~Dwellings~~ Manufactured homes shall have a masonry or concrete foundation perimeter wall. The foundation perimeter wall must be in place within 30 days of completion of construction and/or placement. Any home that is built, or set, with a space between the pad and the flooring shall include no less than 2 access panels or doors to provide for firefighter access. The access panels are to be located on opposite sides of the structure from each other at the points furthest apart from each other.
- (7) ~~Street~~ Parking Spaces. A minimum of 2 off-street parking spaces per unit is required.
- (8) *Setbacks.* Minimum setbacks are:
 - (a) Front setback: 20 feet.
 - (b) Side setback: 5 feet, or 10 feet when abutting BLM or BOR Land.
 - (c) Rear setback. 5 feet, or 10 feet when abutting BLM or BOR Land.

- (9) *Open space/lot coverage.* ~~No more than 70% of the surface of the site shall be covered with a structure or structures~~ No more than 670% of any lot may be covered by ~~any~~ structure(s) ~~or alternatively by and any~~ impermeable surfaces. An impermeable surface is any surface that does not permit the passage through or absorption of water.
- (10) *Arroyo and drainage channel use.* Upon completion of the City of Elephant Butte Drainage Study, zoning permits may only be issued for areas which have been designated suitable by the study.
- (a) Changes in existing uses or proposed new uses must conform to the requirements of the Drainage Study recommendations.
 - (b) When an application for a zoning permit is made, the burden of proof of appropriateness of the plan for property designated as a drainage problem area is on the applicant.
 - (c) Prior to the issuance of a zoning permit, the Code Enforcement Officer and/or the city Engineer must examine the plan. Cost for engineering services will be an additional cost of the zoning permit and will be borne by the applicant. The building, structure, or activity must be found to conform to these provisions:
 - 1. Will not constitute a hazard to persons or property;
 - 2. Will not divert water from or obstruct the natural flow of water in or out of the parcel of land;
 - 3. Will not cause flooding of land outside the natural drainage course; and
 - 4. Will not reduce or endanger the water-carrying capacity of the arroyo or drainage channel.
- (11) *Construction work.* No clearing or construction work shall commence prior to the issuance of a zoning permit. If a contractor or owner prior to the issuance of a zoning permit begins any clearing or construction, the cost of the zoning permit when issued, will be double the ordinary permit cost as established by Elephant Butte City Council Resolution in addition to any cost assessed by the Municipal Court.
- (12) *Additional structures.* Construction of additional structures shall conform to the requirements of section 155.006(E) of this Code, "Zoning Permits." ~~No other structure may be erected until the time as a house is on the lot or~~

~~is simultaneously placed/built on the lot. Before a zoning permit may be issued for simultaneous construction of a house and garage, the applicant must present construction drawings for the house to the Code Enforcement Officer. These drawings must be the ones that will be submitted to Construction Industries Division for application for a building permit or Manufactured Home Division for dwelling placement. Not less than 90 days following the date construction is begun on any other structures, construction of the home must begin. This 90 day time limit will be indicated on the zoning permit at the time of issuance. It is expected that the Code Enforcement Officer will establish this date with the agreement of the property owner or the person applying for the zoning permit. If for good cause construction is not begun the property owner and/or the contractor must notify the Code Enforcement Officer of the delay not later than 10 day prior to the 90 day deadline. The Code Enforcement officer may determine with the home owner a reasonable time delay but this must receive concurrence of the Planning and Zoning Commission at the next scheduled meeting. Under no circumstances may this delay exceed an additional 90 days. Failure to comply with this process will result in the issuance of a citation and an appearance in Municipal Court~~

~~(13) — Permit. A zoning permit will be required when the floor area does not exceed 120 square feet. If the permit is received prior to the construction, no fee will be charged.~~

~~(14)(13) — New construction. At the time a zoning permit is issued for nay new construction, remodeling, expansion or any other purpose for which a building permit is also required, the applicant must advise the City of Elephant butte of the date of completion. Except for good cause shown, all the construction must be completed with 12 months of date zone permit issued. For any project requiring more than 12 months, a completion schedule will be required. The zoning permit will expire and become null and void at the end of the agreed time schedule. ~~A variance must be requested to show cause for any extension.~~~~

~~(15) — Voided permit. In cases where the City of Elephant Butte determines the construction poses a threat to the public health, safety and welfare, the city may declare the permit null and void and require that the applicant remove the unfinished construction and restore the property to its original state. The city shall not apply the provisions of this section in an arbitrary or capricious manner.~~

~~(16)(14) — Density. No more than 14 dwellings per acre.~~

(E) By right the following uses are permitted in R-1-C Districts.

- (1) *One dwelling unit.* ~~One dwelling unit per lot, site-built, multi-section or single-section manufactured, or modular.~~ One single-family dwelling unit built to applicable IBC standards or such building code as may be applied by the New Mexico Construction Industries Division or to HUD Zone Code II standards applicable to multi-section manufactured homes. Mobile homes as defined in section 155.005 herein, other mobile homes not meeting the definition in section 155.005, and all other movable or portable housing structures are not permitted uses.
- (2) *Accessory buildings and structures.* Accessory buildings or structures including, but not limited to, garages, storage sheds, and noncommercial greenhouses. Not more than six accessory buildings or structures shall be permitted per lot. The combined square footage of all buildings and structures, including the principal building or structure and all accessory buildings or structures, shall not exceed the limitations on lot coverage contained herein.
 - (a) There shall be no water run-off on an adjacent property caused by an accessory building structure. Side gutters may be required by the Zoning Administrator.
 - (b) Accessory buildings shall be no less than ten feet from main use or structure and in conformance with the front setback.
 - (c) Un-walled metal carports may be adjacent to main use or structures and no closer than five feet from property lines in yards other than the primary front yard. Such carports may not encroach in the clear-sight triangle.
- (3) *Storage.* Storage of ~~a~~ vehicles, including, but not limited to, boats, campers, trailers or other recreational vehicles provided ~~that any such vehicle~~ is not used as additional living quarters and is not permanently connected to utilities. Such vehicles may be used as temporary guest quarters, provided that such use shall not exceed 30 consecutive days or 90 total days per calendar year, and provided further that at least one off-street parking space is provided in addition to the parking requirement for the primary permitted use. Storage of vehicles as identified herein is an accessory use and is not permitted on any lot in the absence of a dwelling on the same lot.
- (4) *Public utility.* Public utility structure provided its location is based on the City of Elephant Butte Comprehensive Plan approved by the City Councilors.
- (5) *Sales.* Garage sale, yard sale, or similar use:

- (a) Two sales are permitted in a calendar year at a single address without charge after registering with the City Clerk-Treasurer of the City of Elephant Butte.
- (b) A sale shall not exceed 3-consecutive days.
- (c) All types of signs and advertising paraphernalia pertaining to the garage, yard, patio or similar sale must be removed at the end of the sale.
- (6) *Swimming pool.* The pool shall meet all set back requirements, and a protective fence 4-feet minimum in height is to be provided around the yard, lot or pool area. The commission may approve modification of these standards upon a showing of practical need with adequate safety features.

Section Four. Section 155.029(C) & (E) of the Code of Ordinances is amended as follows:

§ 155.029 R-1-D SINGLE-FAMILY RESIDENTIAL.

(C) *Building/development requirements.*

- (1) *Primary permitted use* ~~is for a recreational vehicle.~~ Primary permitted use is a single-family residence built to applicable IBC (and its subsequent versions) standards or such building code as may be applied by the New Mexico Construction Industries Division or built to HUD Code-Zone Code II for a recreational vehicle standards applicable to multi-section manufactured homes, or qualifying as a mobile home as defined in section 155.005 herein, or a recreational vehicle as defined in section 155.005, "Recreational Vehicle," paragraphs (a) and (c) herein.
- (2) *One dwelling.* Only one dwelling is permitted per lot whether a recreational vehicle or house. Guest dwellings are not a permitted use.
- (3) *Height.* No structure shall exceed 18 feet in height.
- (4) *Roof.* Dwellings shall have a flat roof with parapets, or a pitched roof including, but not limited to gable, hip, gambrel or shed roof designs. This does not apply to recreation vehicles.
- (5) *Perimeter wall.* Dwellings-Manufactured and mobile homes shall have a masonry or concrete foundation perimeter wall. The foundation perimeter wall must be in place within 30 days of completion of construction and/or placement. Any home that is built, or set, with a space between the pad and the flooring shall include no less than two access panels/doors to provide for firefighter access. The access panels are to be located on

opposite sides of the structure from each other at the points furthest apart from each other.

(6) *Setbacks and open space/lot coverage.* Minimum setbacks are:

- (a) Front setback 5 feet;
- (b) Side setback 5 feet, a total minimum ten-foot separation between units will be maintained, excluding un-walled metal carports, which may be placed two feet from the side property boundary providing that no portion of the carport overhangs closer than two feet to the property line; and
- (c) Rear setback 5 feet.

(7) *Open space/lot coverage.* No more than 90% of any lot may be covered by ~~any~~ structure(s) ~~or alternatively by~~ any impermeable surfaces. An impermeable surface is any surface that does not permit the passage through or absorption of water.

~~(6)~~(8) *Arroyo and drainage channel use.* Upon completion of the City of Elephant Butte Drainage Study, zoning permits may only be issued for areas which have been designated suitable by the study.

- (a) Changes in existing uses or proposed new uses must conform to the requirements of the Drainage Study recommendations.
- (b) When an application for a zoning permit is made, the burden of proof of appropriateness of the plan for property designated as a drainage problem area is on the applicant.
- (c) Prior to the issuance of a zoning permit, the Code Enforcement Officer and/or the city Engineer must examine the plan. Cost for engineering services will be an additional cost of the zoning permit and will be borne by the applicant. The building, structure, or activity must be found to conform to these provisions:
 - 1. Will not constitute a hazard to persons or property;
 - 2. Will not divert water from or obstruct the natural flow of water in or out of the parcel of land;
 - 3. Will not cause flooding of land outside the natural drainage course; and

4. Will not reduce or endanger the water-carrying capacity of the arroyo or drainage channel.

~~(7) — Zoning permit. A zoning permit will be required when the floor area does not exceed 120 square feet. If the permit is received prior to the construction, no fee will be charged.~~

~~(8)~~(9) *Zoning and construction permit.* A zoning and construction permit shall not be required for 1 story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet.

~~(9)~~(10) *New Construction.* At the time a zoning permit is issued for any new construction, remodeling, expansion or any other purpose for which a building permit is also required, the applicant must advise the City of Elephant Butte of the date of completion. Except for good cause shown, all the construction must be completed within 12 months. For any project requiring more than 12 months, a completion schedule will be required. The zoning permit will expire and become null and void at the end of the agreed time schedule. ~~A variance must be requested to show cause for any extension.~~

~~(10)~~(11) *Density.* No more than 25 dwellings per acre.

~~(11) — Voided permit. In cases where the City of Elephant Butte determines the construction poses a threat to the public health, safety and welfare, the city may declare the permit null and void and require that the applicant remove the unfinished construction and restore the property to its original state. The city shall not apply the provisions of this section in an arbitrary or capricious manner.~~

(E) *Permitted uses.* By right the following uses are permitted in R-1-D Districts.

(1) *One dwelling unit.* ~~One dwelling unit per lot, site-built, manufactured, or modular, RV or mobile. One single-family dwelling unit built to applicable IBC standards or such building code as may be applied by the New Mexico Construction Industries Division or to HUD Zone Code II standards applicable to multi-section manufactured homes, or qualifying as a mobile home as defined in section 155.005 herein, or a recreational vehicle as defined in section 155.005, "Recreational Vehicle," paragraphs (a) and (c) herein.~~

(2) *Accessory buildings and structures.* Accessory buildings or structures including, but not limited to, garages, storage sheds, and noncommercial greenhouses. Not more than three accessory buildings or structures shall

be permitted per lot except as a conditional use. The combined square footage of all buildings and structures, including the principal building or structure and all accessory buildings or structures, shall not exceed the limitations on lot coverage contained herein.

- (3) Public utility. Public utility structure provided its location is based on the City of Elephant Butte Comprehensive Plan approved by the City Councilors.
- (4) Sales. Garage sale, yard sale, or similar use:
 - (a) Two sales are permitted in a calendar year at a single address without charge after registering with the City Clerk-Treasurer of the City of Elephant Butte.
 - (b) A sale shall not exceed 3-consecutive days.
 - (c) All types of signs and advertising paraphernalia pertaining to the garage, yard, patio or similar sale must be removed at the end of the sale.

Section Five. Section 155.032(C) & (E) of the Code of Ordinances is amended as follows:

§ 155.032 R-3 ONE-, TWO-, AND THREE-FAMILY RESIDENTIAL.

(C) *Building/development requirements.*

- (1) *Primary permitted use.* Primary permitted use is 1-, 2-, and 3-family ~~residences-dwellings~~ built to ~~UBC-applicable IBC standards or such building code as may be applied by the New Mexico Construction Industries Division,~~ or to HUD ~~Code~~-Zone Code II ~~standards applicable to multi-section manufactured homes.~~
- (2) *Heated area.* A single-family ~~residence-detached dwelling must shall~~ have a minimum of ~~800~~ 1000 square feet of heated area and a multi-family attached units shall have is a minimum of 540 square feet of heated area per unit, exclusive of, but not limited to, garage, workshop and/or storage.
- (3) *Height.* No structure shall exceed 26 feet in height.
- (4) *Roof.* Dwellings shall have a flat roof with parapets, or a pitched roof including, but not limited to gable, hip, gambrel or shed roof designs.
- (5) *Perimeter wall.* ~~Dwellings-~~Manufactured homes shall have a masonry or concrete foundation perimeter wall. The foundation perimeter wall must

be in place within 30 days of completion of construction and/or placement. Any home that is built, or set, with a space between the pad and the flooring shall include no less than 2 access panels or doors to provide for firefighter access. The access panels are to be located on opposite sides of the structure from each other at the points furthest apart from each other.

- (6) *Street-Parking Spaces*. A minimum of 2 off-street parking spaces per unit is required.
- (7) *Setbacks*. Minimum setbacks are:
 - (a) Front setback: 30 feet.
 - (b) Side setback: 5 feet; and
 - (c) Rear setback. 5 feet.
- (8) *Open space/lot coverage*. No more than 60% of ~~the surface of the site shall any lot may~~ be covered ~~with a by structure or structures and impermeable surfaces. An impermeable surface is any surface that does not permit the passage through or absorption of water.~~
- (9) *Arroyo and drainage channel use*. Upon completion of the City of Elephant Butte Drainage Study, zoning permits may only be issued for areas which have been designated suitable by the study.
 - (a) Changes in existing uses or proposed new uses must conform to the requirements of the Drainage Study recommendations.
 - (b) When an application for a zoning permit is made, the burden of proof of appropriateness of the plan for property designated as a drainage problem area is on the applicant.
 - (c) Prior to the issuance of a zoning permit, the Code Enforcement Officer and/or the City Engineer must examine the plan. Cost for engineering services will be an additional cost of the zoning permit and will be borne by the applicant. The building, structure, or activity must be found to conform to these provisions:
 - 1. Will not constitute a hazard to persons or property;
 - 2. Will not divert water from or obstruct the natural flow of water in or out of the parcel of land;

3. Will not cause flooding of land outside the natural drainage course; and
 4. Will not reduce or endanger the water-carrying capacity of the arroyo or drainage channel.
- (10) *New construction.* No clearing or construction work shall commence prior to the issuance of a zoning permit. If a contractor or owner prior to the issuance of a zoning permit begins any clearing or construction, the cost of the zoning permit when issued, will be double the ordinary permit cost as established by Elephant Butte City Council Resolution in addition to any cost assessed by the Municipal Court.
- (11) *Additional structures.* Construction of additional structures shall conform to the requirements of section 155.006(E) of this Code, "Zoning Permits."~~Construction of additional structures shall conform to the requirements of section 155.006(E) of this Code, "Zoning Permits."~~No other structure may be erected until the time as a house is on the lot or is simultaneously placed/built on the lot. Before a zoning permit may be issued for simultaneous construction of a house and garage, the applicant must present construction drawings for the house to the Code Enforcement Officer. These drawings must be the ones that will be submitted to Construction Industries Division for application for a building permit or Manufactured Home Division for dwelling placement. Not less than 90 days following the date construction is begun on any other structures, construction of the home must begin. This 90 day time limit will be indicated on the zoning permit at the time of issuance. It is expected that the Code Enforcement Officer will establish this date with the agreement of the property owner or the person applying for the zoning permit. If for good cause construction is not begun the property owner and/or the contractor must notify the Code Enforcement Officer of the delay not later than 10 day prior to the 90 day deadline. The Code Enforcement officer may determine with the home owner a reasonable time delay but this must receive concurrence of the Planning and Zoning Commission at the next scheduled meeting. Under no circumstances may this delay exceed an additional 90 days. Failure to comply with this process will result in the issuance of a citation and an appearance in Municipal Court.
- (13) ~~Zoning Permit.~~ A zoning permit will be required when the floor area does not exceed 120 square feet. If the permit is received prior to the construction, no fee will be charged.
- (14)(13) *Date of completion.* At the time a zoning permit is issued for any new construction, remodeling, expansion or any other purpose for which a building permit is also required, the applicant must advise the City of Elephant Butte of the date of completion. Except for good cause shown,

all the construction must be completed with 12 month of date zone permit issued. For any project requiring more than 12 months, a completion schedule will be required. The zoning permit will expire and become null and void at the end of the agreed time schedule. ~~A variance must be requested to show cause for any extension.~~

~~(15) *Voided permit.* In cases where the City of Elephant Butte determines the construction poses a threat to the public health, safety and welfare, the city may declare the permit null and void and require that the applicant remove the unfinished construction and restore the property to its original state. The city shall not apply the provisions of this section in an arbitrary or capricious manner.~~

Section Six. Section 155.005 (B) of the Code of Ordinances is amended as follows:

§ 155.005 Definitions,

(B) For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

Impermeable Surface. Any surface that does not permit the passage through or absorption of water.

Section Seven. All provisions of sections 155.005, 155.026, 155.027, 155.028, 155.029, 155.030 and 155.032 not expressly amended herein shall remain in full force and effect.

Section Eight. *Effective Date.* This ordinance shall be effective five days following publication after adoption.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2019.

Edna Trager, Mayor

ATTEST:

Rani Bush, City Clerk-Treasurer