

**CITY OF ELEPHANT BUTTE
ORDINANCE NO. 190**

**AN ORDINANCE AMENDING THE CITY OF ELEPHANT BUTTE CODE OF
ORDINANCES 2015, CHAPTER 31, SECTION 31.64, EXEMPTIONS**

WHEREAS, City of Elephant Butte Code of Ordinances Section 31.64 sets out exemptions from the City's lodgers' tax and the exemption set forth in Section 31.64(G) provides that otherwise taxable premises that do not have at least three rooms or three other units of accommodations for lodging are not required to pay a lodgers' tax to the City; and

WHEREAS, the effect of the exemption is that otherwise taxable premises, such as Airbnb rentals within the City limits, are not subject to the City's 5% lodgers' tax and these rentals are commonly referred to as "short-term vacation rentals" or "short-term occupancy rentals," which provide internet platforms to allow homeowners to list their homes or other residential properties as short-term rentals; and

WHEREAS, cities and counties in New Mexico that seek to impose a lodgers' tax by ordinance must abide by the exemptions provided in the enabling New Mexico Lodgers' Tax Act ("State Act"), NMSA 1978 § 3-38-16, and the New Mexico legislature amended the State Act during the 2019 legislative session and deleted the subject exemption, which amendment took effect on January 1, 2020; and

WHEREAS, if the City wants to take advantage of this amendment, the exemption set forth in Section 31.64(G) must be deleted to be consistent with the State Act exemptions; and

WHEREAS, the deletion of this exemption will generate additional revenue for the City;

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the City of Elephant Butte that:

Section One. That Chapter 31, Section 31.64, Exemptions, of the City of Elephant Butte Code of Ordinances be amended to be consistent with state law and to read as follows:

"Section 31.64 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 a day;
- (C) To lodging accommodations at institutions of the federal government, the state or any political subdivisions thereof, provided, that lodging accommodations leased by the city to a vendor shall not be considered institutions of the city and shall be considered taxable premises;
- (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; or
- (F) To privately owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill."

Section Two. That City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

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

PASSED, APPROVED, AND ADOPTED 19th day of February, 2020.


Edna Trager
Mayor

ATTEST:



Rani Bush
City Clerk-Treasurer

