



39 (3) “Operator” means the person who is the proprietor of a short-term residential rental,  
40 whether in the capacity of owner, lessee, sub-lessee, or mortgagee in possession.

41 (4) “Owner” means the person(s) who owns the short-term residential rental.

42 (5) “Remuneration” means compensation, money, rent, or other consideration given in  
43 return for occupancy, possession or use of real property.

44 (6) “Rent” means the consideration charged, whether or not received, for the  
45 occupancy of space in a short-term residential rental, valued in money, whether to be  
46 received in money, goods, labor or otherwise, including all receipts, cash, credits, property  
47 and services of any kind or nature, without any deductions therefrom whatsoever.

48 (7) “Short-term residential rental” means a dwelling unit that is permitted under the  
49 base residential zoning of the area in which it is located and that is rented for the purpose  
50 of overnight lodging for a period of not less than one night nor more than 29 consecutive  
51 days to the same person or persons.

52 (8) “Sleeping unit” means a room or space in which people sleep, which can also  
53 include permanent provisions for living, eating, and either sanitation or kitchen facilities,  
54 but not both.

55 (9) “Third-party internet listing service” means an internet-based (or online)  
56 marketplace that connects owners of short-term residential rentals to potential renters by  
57 way of a website and in exchange for a service fee. Third-party listing agent shall not mean  
58 local contact person or managing agency or agent as defined in this Ordinance.

59 (d) **Short-term residential rental permit required.** No owner of a residential dwelling unit  
60 shall rent the dwelling unit for a short term without having a current valid short-term residential  
61 rental permit issued by the City of Elephant Butte for each dwelling unit the owner proposes to  
62 rent. Short-term residential rental permits are issued to the owner for a period of one year, are non-  
63 refundable, and are non-transferable to other dwelling units.

64 (1) Nothing contained within this section shall be construed to abridge the ability of  
65 bona fide neighborhood covenants and/or deed restrictions to be more restrictive than the  
66 regulations within this section. Such covenants and deed restrictions shall not be  
67 enforceable by the City but remain the responsibility of property owners to ensure  
68 compliance within the applicable neighborhood.

69 (2) Subject to the permit requirement above, nothing herein shall prohibit an owner  
70 from renting out multiple residential dwelling units upon a single lot, so long as the number  
71 and type of dwelling units are consistent with the base residential zoning applicable to the  
72 lot.

73 (e) **Application for a short-term residential rental permit.** The dwelling unit owner or  
74 managing agency shall apply to the City for a short-term residential rental permit and supply, at a  
75 minimum, the following information:

76 (1) The physical address of the residential dwelling unit for which the permit is to be  
77 issued.

78 a. If the dwelling unit is one of multiple units upon a single lot, the applicant  
79 must identify the sub-unit by which the dwelling unit can be distinguished from  
80 those on the same lot (e.g., “1000 Easy St. A”). If the sub-unit has not yet received  
81 a designation from the City, the applicant should contact the City Land Use Office  
82 to obtain an official sub-unit designation.

83 (2) The maximum number of occupants and vehicles that the dwelling unit can  
84 accommodate.

85 a. The parking calculation shall be based upon a minimum of one off-street  
86 parking space provided per sleeping unit.

87 b. The maximum number of occupants per dwelling unit shall be calculated as  
88 follows:

89 i. Four (4) individuals are permitted per sleeping unit of 100 square  
90 feet or more. For sleeping units of less than 100 square feet, a maximum of  
91 two (2) individuals are permitted. Example: A dwelling unit with two  
92 sleeping units of less than 100 square feet and one sleeping unit of over 100  
93 square feet would have a maximum occupancy of eight (8) individuals.

94 ii. Exception: The City Land Use Office may allow for more than four  
95 (4) individuals in sleeping units of over 100 square feet if, upon consulting  
96 with the City Fire Department, it reasonably determines that the applicant  
97 has shown that allowing additional individuals will not pose a safety risk.

98 (3) The name, address, email address and contact telephone numbers (including a 24-  
99 hour emergency contact number) of the owner of the residential rental for which the permit  
100 is to be issued.

101 (4) The name, address, email address and contact telephone numbers (including a 24-  
102 hour emergency contact number) of the agent, representative or local contact person for  
103 the owner of the residential rental.

104 (5) An application fee of \$50.00 per year.

105 (6) Compliance inspections are required on all short-term permits. The inspections are  
106 valid for biennial (every two years), and the fee is \$40.00.

107 Compliance inspections will be conducted by the City Land Use Office or its designees  
108 following submission of a permit application and prior to the issuance of a permit if there  
109 is not a current inspection for the property on file.

110 If the property is not in conformance with the compliance requirements at the time of the  
111 inspection, staff will notify the applicant, and a reinspection fee may be assessed of \$40.00  
112 if the inspector is required to return.

113 The compliance inspection shall meet the following requirements:

114 a. An ABC-type fire extinguisher(s) to be mounted at points of egress, with at  
115 least one provided per floor and a minimum of one per dwelling unit with at least  
116 two per dwelling unit if greater than 1,000 square feet, at a height not to exceed 48

117 inches. Extinguishers must be inspected and maintained according to state  
118 requirements and must properly display the inspection history of the device.

119 b. Approved (and working) smoke alarms installed as per manufacturer's  
120 instructions in every sleeping room, and on every level of the home, including the  
121 basement and as otherwise required by law.

122 c. Every sleeping room and living area with access to a primary means of  
123 escape shall provide a clear, unobstructed path of travel to the outside.

124 d. Indoor fireplaces shall be properly maintained and inspected by a qualified  
125 person as necessary.

126 e. Signage reflecting the street number and, where applicable, the sub-unit of  
127 the dwelling unit as required by Section 150.04 of the Elephant Butte Municipal  
128 Code.

129 f. Authority for a code compliance inspection. By applying, the owner  
130 authorizes the City Land Use Office and Fire Department, or their designees, to  
131 conduct a code compliance inspection of the residence at intervals deemed  
132 appropriate by the City, or if deemed necessary when it is alleged or suspected that  
133 a violation of this section may exist or have occurred.

134 (7) Owner/agent authorization.

135 (8) Business registrations and taxes.

136 Business registrations are \$35.00 and are required for anyone conducting business within  
137 the City of Elephant Butte. *See* Elephant Butte Municipal Code §110.01 through 110.99.

138 The short-term rental of residential property shall not be considered a home occupation  
139 under the Elephant Butte Municipal Code, and no home occupation permit will be required.

140 If an owner rents, lists, or books their property with a managing agency, a business  
141 registration is not required.

142 If a property owner rents, lists, or books their property without a managing agency, a  
143 business registration is required pursuant to City Code Section 110.01.

144 (9) Notification to adjacent property owners shall be required for all short-term rental  
145 permits.

146 The notification fee is \$25.00. The City of Elephant Butte staff will notify all property  
147 owners within 200 feet of the permitted property, notifying the intent to use their home as  
148 a short-term rental and the name and number of the local contact person.

149 The managing agent may opt-out to perform this task by certifying compliance with the  
150 notifications. If the managing agent opts out to perform this task, the \$25.00 fee will not  
151 be charged.

152 (10) The owner or managing agent/agency shall attest that they have met these  
153 requirements in each property registered as part of the initial rental registration and each  
154 successive renewal registration. The form utilized to attest to these requirements shall be  
155 part of the registration form provided by the City and be authenticated by a notary public.

- 156 (f) **Application renewal or update.** Prior to the permit’s expiration or when there is a change  
157 to the information contained in the permit regarding ownership, changes in the structure or parking  
158 area, or contact person, a new permit application shall be submitted. A transfer fee of \$10.00 shall  
159 be assessed.  
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- 161 (g) **Review of application and issuance of permit.**
- 162 (1) The City Land Use Office shall complete a review of the permit application and,  
163 when necessary, will conduct the compliance inspection within ten (10) business days of  
164 submission of a completed application. Renewal notifications of all permits shall occur 30  
165 days prior to renewal.
- 166 (2) Once the application review and compliance inspection are complete, the City shall  
167 notify the applicant of the decision of whether or not to issue the permit based on  
168 compliance with this Ordinance. If approval is granted, the City will issue a short-term  
169 residential rental permit specifying the maximum number of cars and the maximum  
170 number of occupants allowed. Failure to apply for a renewal of the permit prior to its  
171 expiration shall subject the owner to pay a late permit renewal penalty fee of \$\_\_\_.
- 172 (3) An application for permit or renewal application shall be denied if:
- 173 a. All applicable fees and taxes have not been paid, including lodgers’ taxes  
174 as provided under Sections 31.60 through 31.69 of the Elephant Butte Municipal  
175 Code; or
- 176 b. Outstanding property nuisance or building code violations exist on the  
177 property.
- 178 (4) The City of Elephant Butte recommends that all property owners purchase short-  
179 term rental insurance.
- 180 (5) Failure to comply with any provision of Chapter 31 of the Elephant Butte Municipal  
181 Code (Taxation) may result in a revocation of the permit for a 12-month time period at the  
182 discretion of the City Manager or their designee.
- 183 (6) If the dwelling unit owner plans to discontinue short-term residential rental of the  
184 property, a statement to that effect shall be filed with the City, and the permit will be  
185 revoked.
- 186 (h) **Tenant notification requirements.** Each short-term residential rental unit shall have a  
187 clearly visible and legible notice posted by the owner or managing agency or agent within the unit  
188 on or adjacent to the interior of the front door containing the following information:
- 189 (1) A copy of the short-term residential rental permit.
- 190 (2) The name of the managing agency, agent, property manager, local contact person  
191 or owner of the unit, and a telephone number at which that party can be reached on a 24-  
192 hour, seven days a week basis.
- 193 (3) The maximum number of occupants, three years of age and older, permitted to stay  
194 in the unit.
- 195 (4) The maximum number of vehicles allowed to be parked on the property.

- 196 (5) The number of on-site parking spaces.
- 197 (6) The specific procedures regarding the disposal of trash and refuse.
- 198 (7) A notification that an occupant may be cited and fined for creating a disturbance  
199 and/or for violating other provisions of the City of Elephant Butte Municipal Code.
- 200 (8) Notice that noise provisions contained in the City of Elephant Butte Ordinance No.  
201 173 will be enforced.
- 202 (9) The address of the property for emergency purposes.
- 203 (10) Notice that animal leash laws contained in Elephant Butte Municipal Code Section  
204 91.29 (restraining animals) will be enforced.
- 205 (i) Exterior advertising or signage. All exterior signage on short-term rentals must comply  
206 with the Sign Ordinance of the City of Elephant Butte (*see* Elephant Butte Municipal Code §152
- 207 (j) Penalties for violation of requirements of this section
- 208 (1) Each day that an owner rents a dwelling unit for a short term without first obtaining  
209 a short-term residential rental permit is considered a separate violation of this Ordinance  
210 and is subject to the penalties found in Elephant Butte Municipal Code Section 10.99(A).
- 211 (2) The City Land Use Office or its designees shall take action to correct violations of  
212 this Ordinance.
- 213 (3) The first suspected or observed violation of this section by the City may result in  
214 an initial warning notice requesting registration of the unregistered short-term residential  
215 rental unit in accordance with the provisions of this code without subject to penalty. Should  
216 the property owner fail to comply after receiving such initial notice from the City, the City  
217 may commence legal proceedings in Magistrate Court for the violation(s) of this  
218 Ordinance.
- 219 (k) Appeals.
- 220 (1) Short-term residential rental applicants aggrieved by the denial, non-renewal, or  
221 revocation of a short-term residential rental permit may appeal the decision of the City  
222 Land Use Office to the Planning and Zoning Commission.
- 223 a. The aggrieved applicant must appeal the City Land Use Office's decision  
224 within 15 calendar days of receiving it by submitting a notice of appeal to the City  
225 Clerk. The notice of appeal must specify the Land Use Office's action(s) to which  
226 the applicant is appealing and why the applicant believes the action(s) should be  
227 reversed.
- 228 b. The City Clerk shall place the appeal hearing on the agenda for the Planning  
229 and Zoning Commission's next regular meeting, consistent with the Open Meeting  
230 Act. The City Clerk shall also mail notice of the appeal hearing's date, time, and  
231 place to the applicant.
- 232 c. Prior to the appeal hearing, the City Clerk shall transmit the notice of appeal  
233 and all documents constituting the record relating to the action(s) being appealed  
234 to the Planning and Zoning Commission for review.

235 d. The Planning and Zoning Commission may reverse or affirm the action(s)  
236 of the City Land Use Office. The Planning and Zoning Commission may only  
237 reverse the actions of the City Land Use Office if they were (1) arbitrary, capricious,  
238 or fraudulent; (2) unsupported by substantial evidence; (3) outside the scope of the  
239 Land Use Office’s authority; or (4) otherwise unsupported by law.

240 e. The Planning and Zoning Commission shall provide the applicant with a written  
241 copy of its findings and decision.

242 (2) Applicants aggrieved by the decision of the Planning and Zoning Commission may  
243 appeal to the City Council following the procedure under Elephant Butte Municipal Code  
244 Section 155.007.

245 (1) Grace Period. The City hereby provides the following grace periods for short-term  
246 residential rental owners to obtain their permits:

247 (1) All owners of short-term residential rentals shall have thirty (30) days from the  
248 effective date of this Ordinance to obtain a permit before the provisions of this Ordinance  
249 will be enforced against them.

250 (2) Short-term residential rental owners who must renew their permits shall have a  
251 grace period of ten (10) business days from the expiration date of their permit to obtain a  
252 new permit before the provisions of this Ordinance will be enforced against them, with the  
253 exception of the late permit renewal penalty fee.

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256 **PASSED, APPROVED, AND ADOPTED by the Governing Body of the City of Elephant**  
257 **Butte, New Mexico, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.**

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266 ATTEST:

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\_\_\_\_\_  
Rani Bush,  
Clerk-Treasurer

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Phillip Mortensen  
Mayor