

**CITY OF ELEPHANT BUTTE
ORDINANCE NO. 215**

**AN ORDINANCE ESTABLISHING A MULTI FAMILY RESIDENTIAL OVERLAY
ZONE TO ALLOW UP TO FOUR (4) RESIDENTIAL HOUSING UNITS ON ONE
PROPERTY**

WHEREAS, the City Elephant Butte is an ever-growing community; and

WHEREAS, creating additional housing options for the community that promotes the health, safety, welfare and prosperity of the City and its inhabitants; and

WHEREAS, the City's Governing Body conducted a duly advertised public hearing to consider this ordinance on Wednesday August 16, 2023.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ELEPHANT BUTTE, NEW MEXICO:

(A) *Intent*. This zoning overlay is designed to provide a higher density of housing and rental units. This typology increases available rental units while providing affordable new home purchase options for market segments such as first-time home buyers and retirees. This provides flexibility for the owner in the form of rental income and the ability to combine units if needed to meet changing family composition and lifestyle.

(B) *Area applications*. All of Unit 10.

(C) *Building/development requirements*.

- 1) *Permitted primary use*. 1, 2,3 & 4 family dwellings 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.
- 2) *Heated area*. A single-family detached dwelling shall have a minimum of 800 square feet of heated area and multi-family attached units shall have a minimum of 500-square feet of heated area per unit, exclusive of, but not limited to, garage, workshop and/or storage.
- 3) *Height*. Structure shall not exceed 26', with a 2-story maximum allowance.
- 4) *Minimum Building Width*. No structure shall be less than 20' in width.
- 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*. Multi-section 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) *Parking spaces*:
 - a. *Single Family Homes* – 2 parking spaces

- b. Multi-Family Homes - Two, Three & Four Family homes shall be required to provide parking based on the bedroom count listed below: upon the approved plans apartment bedroom count as follows:
 - c. Studios – 1 parking space
 - d. 1,2,3-bedroom units – 2 parking spaces
 - e. 4-bedroom units – 3 parking spaces
- 8) *Setbacks*. Minimum setbacks are:
 - (a) Front setback 30 feet; and
 - (b) Side setback 5 feet, with no one side less than 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.
- 9) *Open space*. No more than 60% of any lot may be covered by impervious structures ONLY.
- 10) *Construction work*. No clearing or construction work shall commence prior to the issuance of a zoning permit. If 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 zoning permit cost as established by Elephant Butte City Council resolution in addition to any cost assessed by the Magistrate Court.
- 11) *Additional structures*. Construction of additional structures shall conform to the requirements of § 155.006(E), 155.028 (C) 12 of this Code.
- 12) *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 within 12 months of date zone permit issued. For any project requiring more than 12 months, a completion schedule will be required. If the project is a minimum of 75% complete the Land Use Administrator or designee can issue a three month/90 day extension for the completion of the project. If the project is less than 75% complete it will be required to go before the Zoning Commission to explain the new proposed completion schedule.
- 13) *Temporary portable structures during construction*. A temporary/portable accessory building, structure or container as defined in § [155.005](#) may be used during construction according to the conditions stated therein.
- 14) *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.
 - (D) *Clearing and grading*. Applicant must comply with all requirements found in the City of Elephant Butte Code of Ordinances, Chapter [155](#) or any amendments or successor ordinances regarding the same subject matter.
 - (E) *Permitted uses*. By right the following uses are permitted in R-4 Zoning Overlay.

Dwelling units. A maximum of 4 dwelling units per lot site built, Site Built or modular.

(1) *Accessory buildings and structures.* Accessory buildings or structures including, but not limited to garages and storage sheds. Not more than ONE accessory building or structure 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; 60%.

(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 Land Use Administrator.

(b) Accessory buildings shall be no less than ten feet from main use or structure and in conformance with the front setback. With all front/rear set back and side yard requirements

(c) Un-walled metal carports Shall not be permitted.

2) *Utility structure.* Public utility structure provided its location is based on the City of Elephant Butte Comprehensive Plan approved by the City Councilors.

3) *Sales.* Garage sale, yard sale, or similar use; and

a) Two sales are permitted in a calendar year at a single address without charge after registering with the City Clerk with 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.

4) *Swimming pool.* The pool shall meet all setback requirements, and a protective fence 4 feet minimum in height is to be provided around the yard, lot, or pool area.

(F) *Conditional/special use.* The following uses may be allowed in this zone district only upon a special use permit being granted in accordance with this code. The Elephant Butte Zoning Commission may recommend this special use permit after a public hearing. Special uses include, but are not limited to:

1) Home-based business provided that:

a) In all cases, the home-based business shall be clearly incidental and subordinate to the primary residential use of the property.

b) Proprietors shall be in complete compliance with this code and all other current local, state, and federal regulations. Failure to comply may result in revocation of the home-based business registration.

c) The proprietor of the business shall be the property owner or a lawful resident of the property where the business is to be located. There shall be no more than 1 non-resident employee on site.

d) It does not change the residential character of the neighborhood.

e) One non-illuminated sign not exceeding 2-square feet in area mounted flush to a building is permitted.

f) No exterior storage of stock in trade or materials used in the conduct of the home-based business shall be permitted.

- g) There shall be no external (outside) evidence of the business activity such as noise, dust, odors, fumes, electrical interference, or other nuisances emitted from the home-based business.
- h) Required off-street parking of the dwelling unit shall not be reduced or expanded because of the home-based business, all Home-Based Business shall require additional onsite 2 parking spaces.
- i) The home-based business shall not create any vehicular traffic at the dwelling or in the neighborhood more than that normally generated by the residential use of that dwelling. Revocation of home-based business permits: Failure of the applicant to abide with the terms of the home-based business permit shall be cause for immediate revocation of the permit. Non-transferable: Home-based business permits may not be transferred from location to location. Prior to moving a home-based business owner or agent of the business must apply for and receive a new permit for the proposed new location.

(G) *General restrictions.*

- 1. No more than 4 units per building.
- 2. All lavatories and toilets shall be built indoors and connected with an outside septic tank until the time as a sewer system shall be available, at which time the facility shall be connected thereto within 12 months.
- 3. No basement, tent, garage or other accessory buildings or structures may be used as a primary residence, temporary or permanent.
- 4. No vehicle may remain parked on a public right-of-way for more than 3-consecutive days (72-consecutive hours).
- 5. No livestock including but not limited to pigs, goats, rabbits, poultry or other wild or domesticated fowl, shall be kept or permitted to remain on any of the land or part thereof.
- 6. Garbage must be stored in tightly covered containers. The garbage container capacity must be adequate to store the garbage from 1 collection date to the next to prevent a nuisance.

PASSED, APPROVED, AND ADOPTED by the Governing Body of the City of Elephant Butte, New Mexico, this 16 day of August, 2023.


Phillip Mortensen, Mayor

ATTEST:


Lindsey Cobleigh, City Clerk

