

**CITY OF ELEPHANT BUTTE
ORDINANCE NO. 229**

**AN ORDINANCE OF THE CITY OF ELEPHANT BUTTE, NEW MEXICO REPEALING
ORDINANCE 202 PERTAINING TO THE ESTABLISHMENT OF A SHORT-TERM RENTAL
OVERLAY ZONE, WHILE AMENDING ORDINANCE 137 BUSINESS REGISTRATIONS**

WHEREAS, Chapter 110 of the Elephant Butte Code of Ordinances created by and through ordinance 137 currently provides the regulation for registering businesses within the incorporated city limits of Elephant Butte; and

WHEREAS, it is the goal of the City of Elephant Butte to create a streamlined code of ordinances for staff and constituents to read, understand, and maintain; and

WHEREAS, the City of Elephant Butte finds it necessary to amend the provisions of Chapter 110, and

WHEREAS, the City of Elephant Butte finds it desirable and necessary to add provisions related to short-term rental business registrations; and

NOW THEREFORE, BE IT ORDAINED, by the Governing Body of the City of Elephant Butte, that Ordinance 202 is repealed and replaced by amending Ordinance 137 as follows:

Chapter 110: Business Registration ~~and Business License~~

110.01 Registration ~~and License Required~~

110.02 Application

110.03 ~~Zoning Permit Required~~ Reserved

110.04 Approval

110.05 Renewal

110.06 Business ~~Registration License~~ Additional Requirements

110.07 Special Events

110.08 Fees and Charges

110.09 ~~Enforcement~~ Home Occupation Regulations *(Added by Ordinance 191 3.17.2021)*

110.99 Penalties *(this was the language under enforcement and currently under penalties on American legal.)*

§110.01 Registration ~~or License Required~~

Any person proposing to engage in business within the municipal limits of the City of Elephant Butte, including ~~but not limited to~~ home occupations, ~~short-term rentals, and contractors~~ shall apply for and pay ~~either~~ a business registration fee ~~or a business license fee~~, as applicable. Each outlet, branch or location of the business shall require a separate application and fee. ~~Business licenses are required for those businesses listed in section 110.06. All other businesses require business registration.~~

§110.02 Application

- A. The application for business registration ~~or business license~~ shall be submitted on a form provided by the city clerk. ~~Business registration, Contractor Registration, Alcohol Registration, Mobile Vending, and Short-Term Rental.~~
- B. Each application shall include the Tax ID number issued by the New Mexico Department of Taxation and Revenue for the business.
- C. For food vendors, the applicant shall provide a copy of the New Mexico food certificate.
- D. For contractors subject to the licensing provisions of the New Mexico Construction Industries Division, the applicant shall provide the contractor's license number issued by the Division. If a

contractor does not maintain a place of business within the city, the business registration will be registered to the property filed with NM Tax and Revenue and Construction Industries. ~~the location of a given construction project shall be considered the place of business for purposes of the registration.~~

- E. The applicable registration ~~or license~~ fee must be paid at the time of application. The fee shall not be prorated for a portion of a year.
- F. For short-term rentals, all properties applying for short-term rental registration shall be located within the residential zoning districts. Short-term rental properties shall have a Fire Inspection performed by the Fire Chief or designee prior to receiving registration. Short-term rentals shall be subject to adjacent property notification letters prior to registration. All registered short-term rental properties are subject to remitting Lodgers Tax to the City of Elephant Butte.

§110.03 Reserved

§110.04 Approval

The clerk shall, on proper application and upon obtaining all necessary approvals, issue a certificate of business registration ~~or business license~~ to qualifying businesses. The business shall display the certificate on its premises.

§110.05 Renewal

Each business registration ~~or business license~~ shall be renewed annually prior to July 1 of each year. The clerk shall send renewal notices to each business not less than thirty (30) days prior to July 1.

§110.06 Business Registration License Additional Requirements

- A. As authorized in NMSA 1978, § 3-38-1, the city finds that the registration ~~licensing~~ and regulation of certain businesses is conducive to the promotion of the health and general welfare of the municipality.
- B. The following business shall be subject to regulation and registration ~~licensing~~ provisions in addition to the registration requirements contained in sections 110.01 through 110.05:
 - 1. Mobile Retail Vendors, as defined in § 155.005;
 - 2. Special Events, as defined in § 110.007.
 - 3. Flea Markets, as defined in § 155.005.
 - 4. Pawnbrokers, as defined in and subject to the regulations of NMSA 1978, §§ 56-12-1 through .56-12-16.
 - 5. Short-Term Rental
 - 6. Cannabis – see provisions in Ordinance 198

§110.07 Special Events

Applications for special events shall, in addition to other requirements of this chapter, be subject to the following requirements and conditions.

A. **Definition.** A special event means a community-based event not more than five consecutive days in length, and not more than twice yearly per event, which meets either or both of the following criteria:

- 1. Any trade show or exhibition of goods and services by multiple exhibitors, athletic or recreational events, processions, parades and musical events; or
- 2. Any event for which a special dispenser's license for the sale of alcoholic beverages is required.

B. **Application for registration ~~license~~; guarantee of compliance.**

1. Every application for a special event registration ~~license~~ must be submitted at least ten (10) business days in advance of the special event, and shall contain the following information in addition to other information required of business license applicants:

- a. An estimate of the number of guests or patrons that are expected to attend the event;
- b. A diagram of the premises showing the location of activities, emergency access, and a description of how access to the event is to be controlled; and
- c. If alcoholic beverages are to be served, the identities of both the sponsor of the event and the

alcoholic beverage licensee who will cater the event.

~~2. If the event is to be held outdoors, the application shall be accompanied by a cashier's check in the currently required amount or other equivalent security as a guarantee of compliance with subsection 0(5) of this section.~~

C. **Standards.** Each special event shall meet the following standards:

1. Sanitary facilities. All special events shall have an adequate number of sanitary facilities. If the event is held outdoors, facilities in adjacent buildings may be used with the written consent of the property owner if, during the event, the exterior of the building is clearly marked to show the availability of facilities. Portable outdoor toilets may be used if the city approves their use and location.

2. Waste Receptacles. For outdoor special events, adequate waste receptacles shall be provided at the sponsor's expense. The number of receptacles shall be subject to approval by the city.

3. Access for emergency vehicles. All special events shall have adequate access for emergency vehicles as approved by the city.

4. Compliance with other regulations. All special events must meet all other applicable codes and ordinances, including but not limited to fire codes, building codes and noise limitation ordinances.

5. Cleanup of area. The person obtaining the ~~registration~~ **license** for an outdoor special event shall be responsible for the cleanup of the area used by the event, plus the public rights-of-way within 150 feet of that area, within 48 hours of the close of the event.

6. Liability insurance. All special events shall provide comprehensive public liability insurance with limits of liability of not less than \$1,000,000.00 combined single limit. The city shall be named as an additional insured for the duration of the event. Coverage shall include liquor legal liability if alcoholic beverages are to be served. The city manager may permit reduced or no coverage if he finds that the public safety and welfare will not be jeopardized by this reduced coverage. The city manager shall advise the council in writing of all pertinent facts when a reduction or waiver is granted.

D. **Events with alcoholic beverages.** The sponsor shall comply with the applicable provisions of state law, as well as any provisions imposed by the city manager ~~or council~~ in furtherance of the public health, safety and welfare, including, but not limited to, designating and securing alcohol service and consumption areas, hours of operation, and types of allowable beverage containers.

E. **Approval.** Following review by such departments and outside agencies as the city manager deems appropriate, the city clerk may approve or deny the application, subject to appeal,

~~§155.007 Appeals, as provided in section 110.06(C) herein.~~

§110.08 Fees and Charges

All applicable fees and charges associated with business registrations shall be adopted by resolution by the City Council. All applicable fees associated with fire inspections shall be adopted by resolution by the City Council.

Late fees. An additional fee shall be assessed for any renewal application that is received on or after July 1 of each year. All late fees shall be adopted by resolution by the City Council.

~~A. Business registration: \$35.00~~

~~B. Business license:~~

~~1. Mobile Retail Vendor: \$25/day; maximum \$200/year~~

~~2. Special Event: \$35.00~~

~~—Special Event Deposit: \$200.00~~

~~3. Pawnbroker: \$200.00/\$5,000.00 bond payable to the city.~~

~~4. Flea Market: \$200.00/\$5,000.00 bond payable to the city.~~

~~C. Late Fees. Late fees. An additional \$10.00 shall be assessed for any renewal application that is received on or after July 1 of each year.~~

§110.09 Enforcement Home Occupation Regulations (Added by Ordinance 191 3.17.2021)

154 **110.11 Short-Term Rental Regulations**

155 **A. Definition.** A short-term residential rental means a dwelling unit that is permitted under the
156 base residential zoning of the area in which it is located and that is rented for the purpose of
157 overnight lodging for a period of not less than one night and not more than 29 consecutive days.
158

159 **B. Application for Registration; guarantee of compliance.** Short-term residential rental permit
160 required. No owner of a residential dwelling unit shall rent the dwelling unit for a short term
161 without having a current valid short-term residential rental permit issued by the City of Elephant
162 Butte for each dwelling unit the owner proposes to rent. Short-term residential rental permits are
163 issued to the owner for a period of one year, are non- refundable, and are non-transferable to
164 other dwelling units.

165 1. Nothing contained within this section shall be construed to abridge the ability of
166 bona fide neighborhood covenants and/or deed restrictions to be more restrictive than the
167 regulations within this section. Such covenants and deed restrictions shall not be enforceable by
168 the City but remain the responsibility of property owners to ensure compliance within the
169 applicable neighborhood.

170 2. Subject to the permit requirement, nothing herein shall prohibit an owner from
171 renting out multiple residential dwelling units upon a single lot, so long as the number and type of
172 dwelling units are consistent with the base residential zoning applicable to the lot.
173

174 **C. Application for a short-term residential rental registration.** The dwelling unit owner or
175 managing agency shall apply to the City for a short-term residential rental permit and supply, at a
176 minimum, the following information:

177 1. The physical address of the residential dwelling unit for which the permit is to be
178 issued. The property shall be properly identifiable as per code §150.04 with address
179 numbers visible from the roadway.

180 2. The maximum number of occupants and vehicles that the dwelling unit can
181 accommodate.

182 3. The name, address, email address, and contract phone numbers of the owner(s) of
183 the residential property.

184 4. Fire Inspection of the proposed short-term rental is required every two years. The
185 Fire Inspection is performed by the Fire Chief or Designee. Within this inspection the
186 Fire Chief will inform the property owner of the required equipment for safely operating
187 a short-term rental.

188 5. Provide proof of short-term rental insurance with the application packet.

189 **D. Registration and Taxes.** All short-term rental properties are subject to the adopted City of
190 Elephant Butte Business Registration fees as well as remitting monthly Lodgers' Tax Reports and
191 tax to the City as per Chapter 31 Taxation, §31.63 Imposition of Tax.
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193 **§110.99 Penalties** *(this was the language under enforcement and currently under penalties on American*
194 *legal.)* Violations of this chapter are subject to the general penalty provision of § 10.99 of this code. In
195 addition the city may seek enforcement of these provisions by any of the methods authorized in NMSA §
196 3-38-5.
197

198
199 **PASSED, APPROVED AND ADOPTED** by the Governing Body of the City of Elephant Butte, New
200 Mexico, this ____ day of _____ 2026. Effective five days after adoption.
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203
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Richard Holcomb, Mayor

Attest:

Lindsey Cobleigh, City Clerk

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