# ORDINANCE 231

## CITY OF ELEPHANT BUTTE, NEW MEXICO

## AN ORDINANCE ADOPTING THE 2021 INTERNATIONAL FIRE CODE WITH NEW MEXICO AMENDMENTS; REPEALING ORDINANCE 60; AND REPEALING AND REPLACING CHAPTER 92 OF THE ELEPHANT BUTTE CODE OF ORDINANCES.

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

**Section 1 Chapter 92 replaced**

Chapter 92 is repealed in its entirety and replaced with the following:

**92.01 Fire Code adopted**

Under Section 3-17-6 NMSA 1978, the City adopts by reference the International Fire Code, 2021 edition, published by the International Code Council, with the amendments in 10.25.5 NMAC. Appendices D and I are included, and the City also adopts Appendices B and C. These provisions constitute the City of Elephant Butte Fire Code.

**92.02 Jurisdiction and state law**

The Fire Code applies within City limits and elsewhere only as authorized by law and any required agreement. New Mexico amendments and controlling state law prevail in a conflict. Authority reserved to the State Fire Marshal, Construction Industries Division, or another agency remains with that agency.

**92.03 Administration and enforcement**

The Bureau of Fire Prevention is established within Elephant Butte Fire Rescue under the Fire Chief. The Fire Chief or authorized designee is the fire code official and shall administer and enforce the Fire Code. The Chief may assign qualified inspectors, subject to City personnel and procurement requirements.

The City mandates local enforcement of IFC Sections 301.1, 301.2, 304.1.2, 307, and 319.2, as amended by 10.25.5 NMAC. Open burning remains subject to other lawful City restrictions.

The fire code official may conduct lawful inspections, issue required City permits, notices, and orders, require correction of violations, and exercise other powers authorized by the Fire Code and law. Entry into nonpublic areas requires consent, a warrant, or other lawful authority. Alternatives and modifications must be authorized by the adopted code and documented in writing. Fees shall be established separately as authorized by law. A City permit does not replace required state authorization.

**92.04 Appeals**

Appeals governed by state law shall follow that process, including Sections 59A-52-21 and 59A-52-22 NMSA 1978 and 10.25.1 NMAC, when applicable. A person affected by a solely local decision may appeal in writing to the City Clerk within 30 days after service. The Council or its designated hearing officer or board shall provide notice, an opportunity to be heard, and a written decision. An appeal does not stay an emergency life-safety order unless the reviewing authority orders otherwise.

**92.05 Violations and remedies**

Violating the Fire Code or a lawful order issued under it is unlawful. Municipal offenses are punishable under the City's general penalty provisions, subject to controlling law. Each day a violation continues after a lawful correction deadline may constitute a separate offense. The City may also seek correction, abatement, permit action, or other lawful relief. State offenses and penalties remain subject to state jurisdiction and procedure.

**92.06 Public access and code updates**

A copy of the adopted code and New Mexico amendments shall be available for public inspection at the City Clerk's office during normal business hours. Records shall be maintained and disclosed under applicable retention requirements and the Inspection of Public Records Act.

Within 120 days after a state rule adopting a different fire-code edition becomes effective, the Fire Chief shall recommend necessary City amendments to the City Manager for Council consideration. A later edition requires adoption by ordinance. Controlling state requirements remain applicable.

**Section 2 Repeal and transition**

Ordinance 60 is repealed. Other ordinances are repealed only to the extent of conflict. Repeal of Chapter 92 includes its existing fireworks provisions and penalties; they must be separately reenacted if the City intends to retain them.

Lawfully issued permits, approvals, notices, and orders remain valid. Pending proceedings and liabilities arising before the effective date are preserved to the extent allowed by law and may proceed under the law then applicable, unless controlling law requires otherwise.

**Section 3 Severability**

If any provision or application is held invalid, the remaining provisions and applications remain effective.

**Section 4 Effective date**

This ordinance takes effect five days after publication as required by Section 3-17-5 NMSA 1978, unless controlling law requires a different date.

PASSED, APPROVED AND ADOPTED this 18 day of November, 2026.

Richard Holcomb

Richard Holcomb, Mayor

ATTEST

THE CITY OF ELEPHANT BUTTE NEW MEXICO 1998 ★ SEAL

Lindsey Cobleigh

Lindsey Cobleigh, City Clerk