

**AN ORDINANCE TO AMEND THE VILLAGE CODE BY REPEALING SECTION 5040 OF THE CODE AND ADOPTING A NEW SECTION 25 OF THE CODE.**

VILLAGE OF ELBERTA PLANNING COMMISSION ORDINANCE  
OF SEPTEMBER 18, 2008

WHEREAS, The People of Village of Elberta did establish the Village of Elberta Planning Commission Ordinance of July 19, 2007, and it is now desired to repeal the existing ordinance and adopt this ordinance to insure proper record of the action is created, NOW THEREFORE, THE PEOPLE OF THE VILLAGE OF ELBERTA DO ORDAIN THAT SAID ORDINANCE SHALL READ AS FOLLOWS:

**VILLAGE OF ELBERTA PLANNING COMMISSION ORDINANCE**

AN ORDINANCE to create a Planning Commission for the Village of Elberta as authorized by P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et. seq.* for the purpose of having planning and zoning in Village of Elberta, to create, organize, enumerate powers and duties, and to provide for the regulation and subdivision of land, coordinated and harmonious development of the Village of Elberta; and to function in cooperation with other constituted authorities of incorporated and unincorporated areas within the state where the Village of Elberta exists.

THE PEOPLE OF THE VILLAGE OF ELBERTA DO ORDAIN:

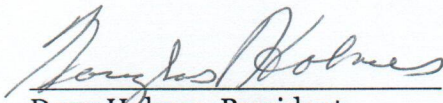
1. **Creation:** There shall be a Village of Elberta Planning Commission pursuant to P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et. seq.*, hereinafter referred to as the Commission with the powers and duties as therein set forth and as hereinafter provided. This ordinance shall be officially known and described as the "Village of Elberta Planning Commission Ordinance."
2. **Membership:**
  - 2.1 The Commission shall consist of 5 members appointed by the Village of Elberta Council. To be qualified to be a member and remain a member of the Commission, the individual shall meet the following qualifications:
    - a. shall be a qualified elector of the Village of Elberta, except 1 non-qualified elector may be a member;
    - b. shall not be a declared candidate for any political office, except this condition shall not apply to the Council representative to the Commission;
    - c. provided there is sufficient budget funding, as determined by the Council, after an individual's first appointment and before reappointment, shall have attended training for Commission members, pursuant to section 4 of this Ordinance;
    - d. shall meet the conditions provided for each individual member in sections 2.2 - 2.6 of this Ordinance, except the geographical location of the individual's residency may be considered optional.
  - 2.2 Members shall be appointed for three-year terms. However, when first appointed a number of members shall be appointed to one-year, two-year, or three-year terms such that, as nearly as possible, the terms of no more than 2 of all Commission members will expire each year. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such

that, as nearly as possible, the terms of 1/3 of all commission members continue to expire each year.

- 2.3 Ex officio members shall include 1 member of the Village Council. The terms of office of ex officio members shall coincide with their elected terms of office on the Council.
- 2.4 The membership shall be representative of the important segments of the of community, such as the economic, governmental, educational, and social development of the Village of Elberta, in accordance with the major interests as they exist in the Village of Elberta, as follows:
  - a. Natural resources;
  - b. Recreation;
  - c. Development and Commerce;
  - d. Infrastructure (water, sewer, electric, gas); and
  - e. Government;
- 2.5 The membership shall also be representative of the entire geography of the Village of Elberta to the extent practicable, and as a secondary consideration to the representation of the major interests.
- 2.6 A member of the Council of the Village of Elberta shall not be chair of the Commission.
3. **Liaisons:** The Commission, in its Bylaws, may name "liaisons" to the Commission. The purpose of liaisons is to provide certain Village of Elberta and quasi-Village of Elberta officials ability to participate in discussion with the Commission in addition to speaking in public participation, and nothing else. At a minimum liaisons shall include: Village of Elberta Zoning Administrator; Consultants employed by the Village; and Legal counsel retained by the Village to advise the Planning Commission.
4. **Training:** Appointed members of the Commission shall attend educational programs designed for training members of Michigan planning commissions if the adopted Village of Elberta budget for that fiscal year includes funds to pay for tuition, registration, and travel expenses for the training. Nothing in this paragraph shall deem a member who has not had training from finishing his term of office unless the member resigns or is removed by action of the Council. The member shall be ineligible for reappointment at the conclusion of the term of office if they did not attend training if funding for such training was available. The Commission shall include in its Bylaws what training programs qualify to meet this requirement.
5. **Members, Appointment and Terms:** In June of each year the Village of Elberta Clerk shall determine which members' terms of office expire and inform the Village Council of the expiring terms. Interested individuals may apply for membership by submitting an application to the Village Clerk or individuals may be nominated by members of the Council. In July of each year the Council shall consider the applications and nominations receive, and appoint members to the Commission by a majority vote for a three-year term of office which shall end July 30, at 9:00 a.m. of the respective year. However, unless otherwise provided by law, any Commission member with an expired term may continue in that capacity until such time as their replacement is appointed.
6. **Removal from Office:**
  - 6.1 The Council may remove a member of the Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Failure to repeatedly attend Commission meetings shall be considered nonfeasance in office.
  - 6.2 The secretary of the Planning Commission shall report any member who has missed three regular meetings in a row to the Council.
7. **Membership; Vacancies:** The Council shall fill any vacancy in the membership of the Commission for the unexpired terms in the same manner as the initial appointment.

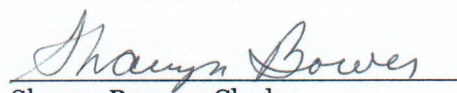
8. **Membership; Transition:** The transition from the previous Village of Elberta Planning Commission and the Commission established in this Ordinance shall be gradual and shall take place over the next three years. The Council shall continue to make annual appointments, appointing approximately 1/3 of the membership of the Commission as specified in this Ordinance, so that three years from the effective date of this Ordinance the membership, membership representation, and number of members have completed the transition to fully comply with this Ordinance. All other aspects of this Ordinance shall have immediate effect.
9. **Membership; Compensation** Members shall serve without compensation.
10. **Meetings:**
  - 10.1 The Commission shall meet at least 4 times a year and a majority of the Commission shall constitute a quorum for the transaction of the ordinary business of said Commission and all questions which shall arise at their meetings shall be determined by a vote of the majority of the members of the Planning Commission.
  - 10.2 The affirmative vote of 2/3 of the total number of seats for members of the Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a plan.
11. **Powers and Duties:**
  - 11.1 The Commission shall have their powers and duties as set forth in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et seq.*; and P.A. 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 *et seq.*).
  - 11.2 The Commission shall have authority to apply for and receive grants from any government agency or the federal government and to receive gifts.
12. **Meetings; Records:** The Commission shall adopt Bylaws for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which records shall be a public record.
13. **Approval, Ratification, and Reconfirmation:** All official actions taken by all Village of Elberta County Planning Commissions preceding the Commission created by this Ordinance are hereby approved, ratified and reconfirmed. Any project, review, or process taking place at the effective date of this Ordinance shall continue with the Commission created by this ordinance, subject to the requirements of this Ordinance, and shall be deemed a continuation of any previous Village of Elberta Planning Commission. This Ordinance shall be in full force and effect from and after its adoption and publication.
14. **Repeal.** Ordinance No. 5040 is hereby repealed.

Passed by the Council of the Village of Elberta on September 18, 2008, at its regular meeting.

  
 Doug Holmes, President.

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I hereby certify that the foregoing was duly adopted by the Village of Elberta of Village of Elberta, Benzie County, Michigan, at its regular meeting on September 18, 2008, that of 7 members of the Council, 5 were in attendance and 5 voted for the adoption of the Ordinance.

  
 Sharyn Bower, Clerk  
 September 18, 2008