

VILLAGE OF ELBERTA
Benzie County, Michigan
Gilmore Township

Ordinance No. 34

ELBERTA PUBLIC BEACH AREAS ORDINANCE

AN ORDINANCE TO REGULATE AND CONTROL TRAFFIC,
OVERNIGHT CAMPING, PARKING, DOMESTIC ANIMALS,
NOISE, AND DUMPING OF GARBAGE AND RUBBISH AT THE
VILLAGE OF ELBERTA'S LAKE MICHIGAN BEACH AREA AND
TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF.

THE VILLAGE OF ELBERTA HEREBY ORDAINS:

Section 1. Purpose.

The purpose of this Ordinance is to regulate the use of the public beach and recreational areas on Lake Michigan in the Village of Elberta so that all residents, guests and area visitors may enjoy and make use of the public beach, parking lots and recreational areas in a safe and respectful manner and to protect the rights of those owning property on or near or adjacent to the public beach, parking lots or recreational areas.

Section 2. Definitions. As used in this Ordinance.

- (a) "Domestic animal" means a dog, cat, reptile, horse, pig, duck, goose, chicken, guinea hen, ferret, or other domesticated animals.
- (b) "Garbage" means, but is not limited to, rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that relate to the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables. Includes litter, trash, refuse, junk, waste and debris. This also includes harvested fish and deer remains.
- (c) "Rubbish" means, but is not limited to, nonputrescible solid wastes including ashes consisting of both combustible and noncombustible wastes, such as paper, cardboard, metal containers, yard clippings, wood, glass, bedding, crockery, bags, rags, clothing, furniture, tires, and demolished materials.
- (d) "Public Beach" means the Village of Elberta public beach and public recreational areas located on Lake Michigan, and include the scenic overlook and any other designated public beach or public recreational areas.
- (e) "Person" means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

- (f) "Motor Vehicle" means any motorized vehicle including, but not limited to: cars, trucks, bikes, motorcycles, ATV's, etc. Motorized wheelchairs are exempt from this designation, as are pedaled powered bikes.

Section 3. Regulations.

No Person shall do any of the following within or upon any Public Beach:

- (a) Utilize any part of the beach, parking lots, recreational area, or designated roads as an overnight camping or overnight sleeping place, or any similar purpose.
- (b) Willfully bring in and dump, deposit, or leave any household or commercial garbage, rubbish, or litter at any area of the beach, parking lots, recreational area, or designated roads.
- (c) Allow a domestic animal under his or her control or custody to run at large in any area of the Public Beach, parking lots or recreational area. Such domestic animals shall be restrained at all times by adequate leashes or other means to keep the animal physically restrained, and as required by State or County laws. All Animal Wastes are the responsibility of owner of animal and will be picked up by same and placed in area waste receptacles, per State Law.
- (d) Build, maintain, or ignite any fire in any area of the Public Beach, parking lots, recreational area, or designated roads.
- (e) Intentionally make any noise or play any sound producing device between the hours of 11:00pm and 7:00am, which is audible from any adjoining property or from the parking lots.(see Village Noise Ordinance No. 33)
- (f) Park any motor vehicle, camper, trailer or boat in the designated fire lane or in the Public Beach, or in any other area other than an established or designated parking area.
- (g) Park or store any motor vehicle, camper or boat overnight
- (h) Ride or drive a motor vehicle at a rate of speed exceeding ten (10) miles per hour or operate a motor vehicle without due care and caution within the confines of the Public Beach and on any designated road and parking area.
- (i) Ride or drive any motor vehicle within the Public Beach except on the designated roads or parking area.
- (j) Leave human waste in any area or in or on a Public Beach, other than in designated porta-jons or bathrooms.
- (k) Ignite Fireworks of any kind, except during designated 4th of July Holiday hours. (See Village Fireworks Ordinance No. 31). Any other times require a permit obtained from the Village of Elberta Office.

- (l) Conduct wedding ceremonies or any other ceremonies, without first obtaining a permit for a fee from the Village of Elberta Office.

Section 4. Penalties.

Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 126 of 1994, amending Public Act 236 of 1962, being Sections 600.101 – 600.9939 of the Michigan Compiled Laws and shall be subject to the following punishment and penalties:

- (a) For a first offense, depending on the infraction, the person shall be fined not less than \$100.00, nor more than \$500.00, plus the costs of prosecution and other sanctions provided by law.
- (b) For a second or subsequent offense occurring within two (2) years of the date the person was found responsible for the first or immediately preceding offense, the person shall be fined not less than \$200.00 nor more than \$1,000.00, plus the costs of prosecution and other sanctions provided by law.

Each day this Ordinance is violated shall be considered a separate violation (Refer to 4. (a) and (b)).

Section 5. Enforcement Officers.

Officers of the Benzie County Sheriff's Department, Benzie-Leelanau Health Department, Michigan DNR, and Village officials designated by resolution of the Village Council, are hereby designated as the officials authorized to issue municipal civil infractions under this Ordinance directing offenders to appear in court.

Section 6. Nuisance Per Se.

A violation of this Ordinance is hereby declared to be a public nuisance or a nuisance per se and is declared to be offensive to the public health, safety and welfare.

Section 7. Separate Court Action.

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 8. Severability.

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance shall be invalid, such invalidity shall not affect any remaining portion or application of this Ordinance which can be given effect without the invalid portion or application.

Section 9. Effective Date.

This Ordinance was adopted by the Trustees of the Village of Elberta on December 21, 2017 and shall become effective on 12/21/17.



Holly Odwyer, Village President



Rebecca Addis, Village Clerk

ORDINANCE CERTIFICATION

I, the undersigned Clerk of the Village of Elberta, Benzie County, Michigan, do hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Village County of said County at its regular meeting held on December 21, 2017 that said meeting was conducted and public notice of said meeting was given pursuant to and in Full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be made available as required by said Act, this ordinance was published in the Benzie Record Patriot on 1/3/18.



Rebecca Addis, Village Clerk

12/21/17

Date