

**VILLAGE OF ELBERTA**  
**Ordinance No. 45 of 2024**

AN ORDINANCE TO CREATE A VILLAGE  
PLANNING COMMISSION PURSUANT TO ACT 33 OF  
THE PUBLIC ACTS OF 2008, AS AMENDED, TO PROVIDE  
FOR ITS ORGANIZATION, AND TO DEFINE ITS POWERS  
AND DUTIES

THE VILLAGE OF ELBERTA ORDAINS:

**Section 1. Creation of Village Planning Commission; Name of Planning Commission**

A village planning commission is hereby created for the Village of Elberta pursuant to the Michigan Planning Enabling Act, Act 33 of the Public Acts of 2008, as amended. This planning commission shall be known as the "Village of Elberta Planning Commission."

**Section 2. Membership; Appointment; Compensation; Terms; Removal; Vacancy.**

- (a). The village planning commission shall consist of five (5). The village president or one (1) member of the village council may be appointed to the village planning commission as an *ex officio* member with full voting rights on the planning commission. An employee of the village shall not be eligible to be a member of the village planning commission. Members of the village planning commission shall be qualified electors of the village, except two (2) members may be individuals who are not qualified electors of the village but are qualified electors of another local unit of government. In addition, members of the village planning commission shall be representative of the entire territory of the village to the extent practicable and shall be representative of important segments of the village, such as the economic, governmental, educational, and social development of the village, in accordance with the major interests as they exist in the village, such as agricultural, natural resources, recreation, education, public health, government, transportation, industry, and commerce.
- (b). All members of the village planning commission shall be appointed by the village president, subject to the approval by a majority vote of the entire village council.
- (c). All appointed members of the village planning commission may be compensated at a rate to be determined by the village council.
- (d). Except for the *ex officio* member, the term of each appointed member shall be three (3) years or until his or her successor is appointed, except that the

respective terms of approximately one-third (1/3) of the non-*ex officio* members first appointed shall be for one (1) year and the respective terms of approximately one-third (1/3) of the non-*ex officio* members first appointed shall be for two (2) years, so that as nearly as possible the terms of one-third (1/3) of the non-*ex officio* members of the planning commission will expire each year. If appointed to the village planning commission, the term of the village president shall correspond to his or her term as village president and the term of any member appointed from the village council shall expire with his or her term on the village council.

- (e). After written charges and a public hearing before the village council, a member of the village planning commission, including any *ex officio* member, may be removed from office for misfeasance, malfeasance, or nonfeasance in office by the village council. The failure of a planning commission member to disclose to the planning commission a potential conflict of interest, as defined in Section 5 of this Ordinance, shall constitute malfeasance in office. The failure of a planning commission member to regularly attend scheduled meetings of the planning commission shall constitute nonfeasance in office. The planning commission secretary shall report to the village council when a planning commission member has failed to attend three (3) consecutive planning commission meetings.
- (f). A vacancy on the village planning commission occurring otherwise than through the expiration of a member's term shall be filled for the unexpired term in the same manner as the original appointment.

**Section 3. Organization; Chairperson, Secretary, and Other Officers; Committees; Meetings; Rules; Records.**

- (a). The village planning commission shall elect a chairperson, vice chairperson, and secretary from its members; provided, however, an *ex officio* member shall not be eligible to serve as the chairperson of the planning commission. The planning commission may create and fill by election such other offices as it considers advisable. The term of chairperson and any other officers shall be one (1) year, with eligibility for reelection as specified in the planning commission bylaws.
- (b). The planning commission may appoint advisory committees, whose members are not required to be members of the planning commission.
- (c). The village planning commission shall hold not less than four (4) regular meetings each year and shall by resolution determine the time and place of the meetings.
- (d). The village planning commission shall adopt bylaws for the transaction of its business.

- (e). The village planning commission shall keep a public record of its resolutions, transactions, findings, and determinations.

**Section 4. Powers and duties.**

- (a). The village planning commission shall have all powers authorized by, and shall perform all duties specified in, the Michigan Planning Enabling Act, being Act 33 of the Public Acts of 2008, as amended.
- (b). The village planning commission shall have all the powers and duties conferred on zoning commissions under the Michigan Zoning Enabling Act, being Act 110 of the Public Acts of 2006, as amended, and any other powers and duties conferred on planning commissions by other provisions of law. Any and all such powers and duties are hereby conferred and incorporated as if fully set forth herein.

**Section 5. Conflict of Interest.**

A member of the village planning commission shall declare a conflict of interest in connection with a matter pending before the planning commission and shall disqualify himself or herself from deliberating and voting on the matter when any of the following circumstances exist:

- (a). The applicant is the child, grandchild, great-grandchild, parent, grandparent, great-grandparent, brother, sister, nephew, niece, aunt, or uncle of the planning commission member or the member's spouse.
- (b). The planning commission member or the member's spouse, parent, child, or any relative residing in the member's household has a pecuniary interest in the outcome of the matter.
- (c). The planning commission member or the member's spouse resides on or has an ownership interest in land within 300 feet of the parcel regarding which the decision is to be made.
- (d). While being a member of the planning commission the member has made statements or taken any action outside the formal decision-making process that would suggest that he or she has prejudged the matter before the planning commission or would in any way preclude him or her from affording the applicant and the public a fair hearing.
- (e). If the planning commission member has expressed an opinion concerning a matter before the planning commission prior to becoming a member of the planning commission and cannot in good faith set aside that prior opinion and

decide the matter based on the information provided at the public hearing and the zoning ordinance requirements.

- (f). The planning commission member concludes in good faith that because of prior business or personal relationships with the applicant or with other participants in the public hearing process, or for other reasons, he or she cannot afford the applicant and the public a fair hearing.

**Section 6. Planning Director and Personnel; Contract for Planning Services and other Technicians.**

- (a). The village council may employ a planning director and other personnel as it considers necessary to assist the village planning commission in carrying out its powers and duties.
- (b). The village council may contract for professional planning services and other technical services, such as attorneys and engineers, as it considers necessary to assist the village planning commission in carrying out its powers and duties.

**Section 7. Notification to County Planning Commission.**

Within fourteen (14) days after the village council adopts this Ordinance the village clerk shall transmit a notice of the adoption of this Ordinance to the county planning commission.

**Section 8. Savings Clause.**

All official actions taken by the village planning commission prior to the effective date of this Ordinance are hereby approved, ratified, and reconfirmed. Any project, review, or process taking place on the effective date of this Ordinance shall continue with the village planning commission created by this Ordinance, shall be subject to the requirements of this Ordinance, and shall be deemed a continuation of any previous village planning commission action.

**Section 9. Repeal.**

The previous ordinance creating the Village of Elberta Planning Commission under the Municipal Planning Act, being Act 285 of the Public Acts of 1931, as amended, is hereby repealed in its entirety.

**Section 10. Severability.**

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not effect any remaining

portions or application of this Ordinance, which can be given effect without the invalid portion or application.

**Section 11. Effective Date.**

This Ordinance shall become effective the day following its publication in a newspaper of general circulation within the village.

**Ordinance No. 45** was adopted on the 15th day of February 2024, by the Elberta Village Council as follows:

Motion by: **Emily Votruba**


Seconded by: **Brett McGregor**

Yeas: **Brett McGregor, Ryan Fiebing, Ken Holmes, Emily Votruba, and Jennifer Wilkins**

Nays: **None**

Absent: **None**

  
Katherine A. Ralston, Clerk

  
Jennifer Wilkins, President

I certify that this is a true copy of **Ordinance No. 45** that was adopted at a regular and public hearing meeting of the Elberta Village Council on **February 15, 2024**, and published in the **Benzie County Record Patriot** on February 21, 2024.

Dated: 2/16/2024

  
Katherine A. Ralston, Clerk



(Village Seal)