

**Village of Elberta  
County of Benzie, State of Michigan  
Ordinance No. 47**

**Adopted: 2026**

**Effective: 2026**

**LAND DIVISION ORDINANCE**

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, being the Land Division Act and Act 3 of 1895, as amended, being the General Law Village Act; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

**Village of Elberta  
Benzie County, Michigan**

**Ordains:**

**SECTION I  
TITLE**

This ordinance shall be known and cited as the Village of Elberta Land Division Ordinance.

**SECTION II  
PURPOSE**

The purpose of this ordinance is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to ensure conformance with the requirements of the Village Zoning Ordinance, to prevent the creation of unbuildable lots, to protect purchasers of newly created lots, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise to provide for the health, safety and welfare of the residents and property owners of the Village by establishing reasonable standards for prior review and approval of lot divisions within the Village.

**SECTION III  
PRIOR APPROVAL PROCESS for LAND DIVISIONS**

Prior Approval Requirement for Lot Divisions. Land in the Village, including any platted lot, out lot, or other parcel of land within a recorded plat, shall not be divided or combined with another parcel or lot unless such division or combination is approved by the Village Council. The creation of any other lot after the effective date of this Ordinance shall also require the approval of the Village Council.

**SECTION IV  
APPLICATION for LAND DIVISION APPROVAL**

An applicant for a land or lot division or combination shall file an application for said division or combination with the Zoning Administrator together with the application fee in such amount as shall be established from time to time by resolution of the Village Council. An application for a proposed division or combination shall not be considered filed with the Village, nor shall the time period for review and approval of the application commence until all of the requirements for an application have been met. Such application shall contain all of the following:

1. A completed application on such form required and provided by the Village.

2. The zoning district in which the proposed parcel(s) or lot(s) is/are located and a full description of the minimum dimensional requirements of that district for lot size, minimum frontage required, setbacks, coverage requirements, etc.
3. Proof of fee ownership of the land proposed to be divided or combined.
4. An adequate and accurate legal description of the proposed parcel(s) or lot(s) to be created, and a drawing or survey showing:
  - a. the size of the proposed parcel(s) or lot(s) to be created and the boundaries thereof;
  - b. the size of the remainder of the parcel or lot from which the proposed parcel(s) or lot(s) is split;
  - c. public utility easements;
  - d. the location of all existing structures and other land improvements on the proposed parcel(s) or lot (s);
  - e. the accessibility of the parcels for vehicular traffic and utilities from existing public roads.
 If the drawing provided is other than a survey map, the application shall not be deemed complete until the Zoning Administrator is satisfied that the drawing accurately depicts the land proposed to be divided.
5. A copy of the recorded plat or other official maps showing the size of parcels in the vicinity of the parcel proposed for division.
6. The purpose of the proposed division or combination;
7. Whether or not public sanitary sewer, public storm sewer or public water exists, available or proposed for each parcel or lot created by the proposed division.
8. If the parcel proposed to be split is unplatted, the history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the Land Division Act.
9. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided or combined are paid in full.

**SECTION V**  
**PROCEDURE for REVIEW of LAND DIVISION APPLICATION**

The Zoning Administrator shall review the application and shall make a recommendation to the Planning Commission for a recommendation for approval or disapproval of the proposed division or combination to be made to the Council. The Planning Commission, with the assistance of those attorneys, planners, and engineers that it deems necessary, shall make such recommendations based on their determination of the compliance of the proposed division or combination with the following requirements:

1. The proposed parcel(s) or lot(s), as divided or combined, shall fully conform to or, if presently nonconforming, will be more conforming to the requirements of this Ordinance.
2. The property remaining after the proposed division or combination has occurred constitutes a lot or parcel which conforms fully with the requirements of the zoning district in which it is located or, if presently nonconforming, will be more conforming to the requirements of this Ordinance.
3. A lot in a recorded plat is not being divided into more than 4 parcel(s) or lot(s) as a result of the proposed division.
4. The division of an unplatted parcel of land complied with the requirements of the Land Division Act.
5. Any lot resulting from the proposed division or combination must meet the minimum dimensional requirements of the zoning district in which it is located.
6. Any lot resulting from the proposed division or combination must meet the minimum buildable area requirements of the zoning district in which it is located.
7. The division or combination shall not result in the creation of a flag lot except upon a finding by the Council that, due to limited street frontage, there is no other way to gain access to a parcel or lot which is otherwise buildable under the requirements of the zoning district in which it is located. In such cases, the flag lot created must have at least 20 feet of frontage on a public street and it must be separated from another flag lot by a distance equal to the minimum lot width of the zoning district in which the flag lot is located. In addition the main (non-flag) portion of the lot shall meet the front, side and rear yard setback requirements of the zoning district in which it is located.

8. The proposed division shall not create parcels which are irregular in shape unless the irregularity is due to a pre-existing natural feature such as a wetland, waterway, or woodland area.
9. Upon receipt of the recommendation of the Planning Commission, the Council shall consider the request for the land or lot division or combination. Before approving a proposed division or combination, the Council shall find that all of the requirements of Section V and any applicable provisions of the Land Division Act have been met. In doing so, it shall consider, but is not bound by the recommendation made by the Zoning Administrator and the Planning Commission.
  - a. The Council shall approve or disapprove the application within 45 days from receipt of a recommendation of the Planning Commission. Any application which is not approved or disapproved by the Council within 120 days from receipt of a completed application by the Zoning Administrator shall be deemed approved. A complete application for a proposed division or combination shall be approved if; in addition to the requirements of this Ordinance it meets the applicable requirements of the Land Division Act.
  - b. The Council shall provide the person who filed the application written notice whether the application is approved or disapproved and, if disapproved, all the reasons for disapproval.

**SECTION VI**  
**CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL**  
**REQUIREMENT**

Any parcel created in noncompliance with this ordinance shall not be eligible for any building permits, or zoning approvals, such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this ordinance shall subject the violator to the penalties and enforcement actions set forth in Section VII of this ordinance, and as may otherwise be provided by law.

**SECTION VII**  
**PENALTIES AND ENFORCEMENT**

Any person who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail for not to exceed 90 days or by both such fine and imprisonment. Any person who violates any of the provisions of this ordinance shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

**SECTION VIII**  
**SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part or portion thereof.

**SECTION IX**  
**REPEAL**

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Village Zoning Ordinance, the Village Subdivision Control Ordinance, or the County Building Code.

**SECTION X**  
**EFFECTIVE DATE**

This ordinance shall take effect 30 days following its publication after adoption.

VILLAGE OF ELBERTA

\_\_\_\_\_ Rachel Perkins, Village Clerk