

Village of Lake Isabella
1010 Clubhouse Drive
Lake Isabella, MI 48893

Ordinance 2019-01

First Amendment to Conditional Rezoning Agreement 2018-01

The Village of Lake Isabella hereby ordains:

An ordinance to amend the Village of Lake Isabella Zoning Map by conditionally rezoning a tract of land located at 565 N. Coldwater Road, to the East Coldwater Business District classification from the Lake Residential-1 zoning district classification; pursuant to the terms of this conditional rezoning agreement between the Michael L. Fiorillo and the Village of Lake Isabella.

CONDITIONAL REZONING AGREEMENT

This Conditional Rezoning Agreement (“the Agreement”) made effective this _____ day of _____, 2019 by and between the Village of Lake Isabella (“the Village”), a Michigan Municipal Corporation with its offices at 1010 Clubhouse Drive, Lake Isabella, MI 48893, and Michael L. Fiorillo, 565 N. Coldwater Road, Lake Isabella, MI 48893, (“the Property Owner”), agree as follows:

RECITALS

A. The Property Owner is currently the owner of certain real property located in the Village of Lake Isabella, more specifically described on Exhibit A, attached hereto (“the Property”).

B. The Property is currently zoned Lake Residential-1 by the official zoning map of the Village.

C. The Property Owner desires to have the Property zoned East Coldwater Business District under the Village's zoning ordinance. This amendment to the official zoning map would result in the entirety of the Property Owner's parcel to be zoned East Coldwater Business and satisfy the conditions of the zoning code as it pertains to site development requirements for a permanent wedding facility.

D. The Property Owner has voluntarily offered to enter into this Agreement consistent with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

E. This Agreement is made by the Village pursuant to authority granted to the Village under MCL 125.3405, as amended; and Chapter 1212.53 of the Village of Lake Isabella zoning ordinance.

F. The Planning Commission of the Village has reviewed and conditionally approved a Site Plan attached hereto as Exhibit B that grants approval for the construction of a permanent wedding facility and rebuilt woodworking shop. The desire of the Property Owner is to operate these two facilities and also use his current dwelling as a bed & breakfast style short-term rental.

G. The Planning Commission of the Village has determined that, with appropriate conditions regarding the use and development of the Property contained herein, the requested East Coldwater Business District is an appropriate land use change, and that the conditions contained herein permit the rezoning as a compatible change to the Village's Master Plan.

H. The Village, by action of its Village Council at a _____ meeting held on the day of _____, 2019 has accepted the offer of the Property Owner to enter into this Agreement.

ARTICLE 2 – REZONING & CONDITIONS

2.1 **Rezoning.** At the request of the Property Owner, the Village hereby rezones the Property from Lake Residential-1 to East Coldwater Business District as such terms are

identified in the Village of Lake Isabella zoning ordinance. The following conditions which have been voluntarily offered by the Property Owner shall apply to such rezoning:

2.2 **Use Limitations.** In addition to the use of the property as a Single-family Dwelling, a Retail Woodworking Shop as allowed and regulated by Special Land Use Permit 2002-01, and as an Wedding Venue as regulated by Special Land Use Permit 2017-01; the other use of the Property shall be limited a Bed & Breakfast (classified as a Hotel/Motel) offering short-term lodging as allowed in the East Coldwater Business District.

2.3 **Expansion of Use.** In the event that the Property Owner desires to expand the use of the wedding barn to additional events, the Property Owner shall be required to gain approval of the proposed additional use through the appropriate Site Plan and/or Special Land Use review and approval process as may be required at such time by the zoning code of the Village of Lake Isabella. This document shall not be construed as to limit the ability of the Property Owner to seek such approval at a future date in time, nor does it convey an automatic approval of such on the part of the Village.

2.4 **Zoning District Reversion.** In the event that this agreement terminates at the request of the Property Owner or his heirs or successors, or the approved use of the short-term lodging and wedding venue cease operations or are discontinued for a period of 12 months; the zoning of the property shall revert to the Lake Residential 1 (LR-1), or its successor district classification. Such reversion shall in no way impact the approved Special Land Uses for the Retail Woodworking Shop and Wedding Venue provided the conditions of such approvals continue to be satisfied by the property owner.

2.5 **Validity of Uses.** In the event that the Village of Lake Isabella zoning ordinance is amended such that the uses provided for in this Agreement for the Facility and/or Property are no longer permitted uses by right in the East Coldwater Business District, the uses provided for in this Agreement shall be considered legally non-conforming and continuation of such use shall be governed by Chapter 1230 of the Village of Lake Isabella zoning ordinance.

2.6 **Permitted Use Considerations.** As a condition of the short-term lodging use being treated as a Permitted Use in the East Coldwater Business District, the Property Owner has previously offered the additional considerations and requirements:

- A. One unpaved independent off-street parking space shall be provided for every rental unit, plus one additional space for each employee.
- B. Any exterior play area or swimming pool shall be fenced and used only for persons staying at the property.
- C. Rooms used for short-term lodging of guests shall be at least 100 square feet in size.
- D. Ingress/Egress to rooms used for short-term lodging of guests shall comply with the requirements of the applicable fire code for residential structures and uses.

2.7 **On-site Parking.** The existing parking for wedding related events occurring on the property's front lawn is hereby recognized as an existing use when done in conjunction with a wedding, and is viewed as a grandfathered condition by the Village.

ARTICLE 3 - MISCELLANEOUS

3.1 **Effective Date.** In accordance with MCL 125.3401; the effective date of this Agreement and Ordinance shall be seven (7) days after notice of adoption has been published in a paper of general circulation in the Village of Lake Isabella.

3.2 **Severability.** Should any section, clause or provision of this ordinance and/or Agreement be declared unconstitutional, illegal, or of no force and effect by a court of competent jurisdiction, then and in that event such portion thereof shall not be deemed to affect the validity of any other part or portion of this ordinance and/or Agreement.

3.3 **Agreement "Running with The Land."** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns so long as it is in effect.

3.4 **Recording.** This Agreement shall be recorded with the Isabella County Register of Deeds within 30 days of the effective date at the expense of the Property Owner.

3.5 **Complete Agreement.** This Agreement and the attached exhibits referenced herein constitutes the entire Agreement between the parties, and supersede all prior oral and written representations, statements, promises, agreements, and/or undertakings made by either party or agent thereof which is not contained in this Agreement.

3.6 **Future Amendment.** This Agreement may not be amended or its terms varied except in writing and signed by the required parties, with the exception of the transfer of ownership of the Property or Facility.

3.7 **Governing Law.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Michigan. Nothing contained herein shall be construed to limit or prohibit the Developer to petition or submit zoning applications and requests to the Village after the effective date of this Agreement. Any failure by the Property Owner with the terms and conditions of this Agreement shall constitute a violation of the Lake Isabella Zoning Ordinance and subject the Property Owner to applicable action and remedies contained in the Zoning Ordinance.

3.8 **Joint Drafting.** This Agreement has been negotiated by the parties and each party has joined in and contributed to its drafting. Accordingly, there shall be no presumption favoring or burdening any of the parties based upon draftsmanship.

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We, the undersigned, President and Clerk of the Village of Lake Isabella, Isabella County, State of Michigan, do hereby certify that the above and foregoing Ordinance, known as Ordinance # 2019-01 “*First Amendment to Conditional Rezoning Agreement 2018-01*” of the Village of Lake Isabella was adopted in the following manner by the Lake Isabella Village Council at a _____ meeting of the Lake Isabella Village Council held on the ____ day of _____, 2019. This ordinance was originally introduced by councilmember _____ and then offered for adoption after a public hearing was held by the Village Council by councilmember _____, and seconded by councilmember _____.

Introduced before the Planning Commission:	<u>April 16, 2019</u>
Planning Commission Public Hearing:	<u>May 14, 2019</u>
• Notice Public Hearing Published On:	_____
• Notice of Public Hearing Mailed On:	_____
Planning Commission Recommendation:	_____
 Village Council Introduction:	 _____
• Notice Public Hearing Published On:	_____
• Notice of Public Hearing Mailed On:	_____
Village Council Public Hearing:	_____
Village Council Enactment:	_____

The vote on this ordinance was taken by roll-call with the “yeas” and “nays” recorded as such.

YEAS: _____
 NAYS: _____
 ABSTAIN: _____
 ABSENT: _____

Document Drafted By: Timothy R. Wolff, Village Manager
 1010 Clubhouse Drive
 Lake Isabella, MI 48893
 (989) 644.8654

Mike Fiorillo
 565 N. Coldwater Road
 Lake Isabella, MI 48893

Exhibit A

Property Subject to Conditional Rezoning



Part of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 35, F15N-R6W, Sherman Township, Isabella County, Michigan, described as beginning at a point on the East section line which is N 0 deg. 06" W, 130.0 feet from the East $\frac{1}{4}$ corner of Section 35; thence N 0-06' W 160.0 feet; thence S 89-11'-24" W, 400.0 feet; thence S 0-06' E, 160.0 feet; thence N 89-11'-24" E, 400.0 feet to the point of beginning.

