

Termination of Conditional Rezoning Agreement

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

Ordinance 2019-02

*Termination of Conditional Rezoning Agreement
6900 W. Baseline Road*

The Village of Lake Isabella hereby ordains:

An ordinance to terminate a previously entered into conditional rezoning agreement and to amend the Village of Lake Isabella Zoning Map by reverting the zoning of parcel 22-036-30-001-14 located at 6900 W. Baseline Road from Light Industrial to East Coldwater Business per the terms and conditions of Conditional Rezoning Agreement 2010-02 entered into between PWGG, LLC (A.K.A. Isabella Pellet) and the Village of Lake Isabella recorded with the Isabella County Register of Deeds at Liber 1541 page 201.

SECTION 1: TERMINATION OF AGREEMENT

1. Whereas the Village of Lake Isabella and PWGG, LLC entered in a Conditional Rezoning Agreement (the Agreement) via the adoption and recording of Ordinance 2010-02 on May 18, 2010.
2. Whereas Clause 5.12 of the Agreement states the following:
Agreement Termination. This Agreement shall be terminated only as allowed by any of the following conditions:
 - A. *At any time prior to the commencement of construction of the Facility, or other site improvements, the Developer elects to terminate this Agreement by providing written notice to the Village.*
 - B. *The Facility and Property are not developed and operational within eighteen months (18) after the effective date of this Agreement.*
 - C. *The use of the Facility and Property agreed to and specified in this Agreement cease operation continuously for a period of six (6) consecutive months.*
3. Whereas the facility has not in in operation since October 26, 2018. A period of six-months of continual non-operation existed as of April, 26, 2019. As such, per clause 5.12c of the Agreement upon adoption of this Ordinance, the Agreement previously entered into and recorded shall be terminated and all conditions and approvals conveyed by the Agreement null and void.

SECTION 2: ZONING MAP AMENDMENT

1. Whereas the Agreement requires the zoning of the parcel to revert back to its previous land use classification upon the termination of the Agreement via Clause 2.4 which states:

Zoning District Reversion. In the event that this agreement terminates, or the use has been abandoned as defined in the Village's zoning code, the zoning of the property shall revert to the East Coldwater Business classification.

2. Whereas upon the recording of this Ordinance, the official zoning map of the Village of Lake Isabella shall be amended by reverting the zoning of parcel 22-036-30-001-14 located at 6900 W. Baseline Road from Light Industrial to East Coldwater Business as required by Clause 2.4 of the Agreement. Said parcel is legally described as:

PART OF THE SW 1/4 OF SECTION 36, T15N-R6W, SHERMAN TOWNSHIP, ISABELLA COUNTY, MICHIGAN. DESCRIBED AS BEGINNING AT A POINT ON THE SOUTH LINE OF SAID SECTION 36 WHICH IS N90°00'00"E ALONG SAID SOUTH LINE, 432.00 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 36; THENCE CONTINUING N90°00'00"E ALONG SAID SOUTH LINE, 66.00 FEET; THENCE N00°04'10"W, 300.00 FEET; THENCE N90°00'00"E PARALLEL WITH SAID SOUTH LINE OF SECTION 36, 872.05 FEET; THENCE N00°18'07"W, 130.01 FEET; THENCE N90°00'00"E PARALLEL WITH SAID SOUTH LINE OF SECTION 36, 300.00 FEET; THENCE N00°18'07"W, 789.77 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF CAMPO DRIVE AS RECORDED IN THE PLAT OF LAKE ISABELLA AIR PARK, LIBER 10 OF PLATS, PAGE 555; THENCE ALONG SAID SOUTHERLY RIGHT OF WAY ON THE FOLLOWING 3 COURSES: 1)N76°38'26"W, 108.85 FEET, 2)S13°39'59"W, 7.00 FEET, 3)N76°44'00"W, 39.96 FEET; THENCE S13°31'58"W, 176.38 FEET; THENCE N72°17'04"W, 153.83 FEET TO THE INTERMEDIATE TRAVERSE LINE OF A POND; THENCE NORTHWESTERLY, ALONG THE NORTHERLY SHORE OF SAID POND, 327 FEET MORE OR LESS TO A POINT THAT IS LOCATED BY THE FOLLOWING 6 COURSES FROM SAID SW CORNER OF SECTION 36: 1)N90°00'00"E, 432.00 FEET, 2)N00°04'10"W, 831.13 FEET, 3)S90°00'00"W, 62.00 FEET, 4) N00°04'10"W, 969.84 FEET, 5)S76°42'57"E, 785.66 FEET, 6)S13°32'34"W, 329.84 FEET; THENCE N13°32'34"E, 329.84 FEET TO THE PLATTED SOUTH LINE OF SAID LAKE ISABELLA AIR PARK; THENCE N76°42'57"W, ALONG SAID PLATTED LINE, 470.11 FEET; THENCE S13°17'03"W, 86.45 FEET TO THE INTERMEDIATE TRAVERSE LINE OF A POND; THENCE ALONG SAID TRAVERSE LINE THE FOLLOWING THREE COURSES: 1) N44°48'18"W, 31.09 FEET, 2) S47°48'49"W. 102.86 FEET AND 3) S02°44'48"W, 151.09 FEET TO THE SOUTHERLY END OF SAID TRAVERSE LINE; THENCE S89°55'50"W, LEAVING SAID TRAVERSE LINE, 181.45 FEET; THENCE S00°04'10"E, 615.04 FEET; THENCE N90°00'00"E, PARALLEL WITH THE SOUTH LINE OF SAID SECTION 36, 62.00 FEET; THENCE S00°04'10"E, 831.13 FEET TO THE POINT OF BEGINNING. CONTAINING 32.24 ACRES OF LAND MORE OR LESS, SUBJECT TO THE SOUTHERLY PORTION THEREOF AS BASELINE ROAD, A 33 FOOT WIDE EASEMENT OVER THE WESTERLY AND NORTHERLY PORTION THEREOF AS DESCRIBED HEREIN, AND ANY OTHER EASEMENTS, RESTRICTIONS, AND RIGHTS OF WAY OF RECORD.

SECTION 3: SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or portion of this Ordinance is found for any reason to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4: ORDINANCES REPEALED

All ordinances and/or parts of ordinances inconsistent with this Ordinance are hereby repealed.

SECTION 5: EFFECTIVE DATE

This Ordinance shall take effect and be in force upon the expiration of 7 days of the date when the notice of adoption for this Ordinance is published in a newspaper of general circulation in the Village of Lake Isabella, and upon being recorded with the Isabella County Register of Deeds. This Ordinance shall be codified, edited for typos and grammatical errors, and enumerated in accordance with the codification procedure of the Village of Lake Isabella.

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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 # 2019-02 *“Termination of Conditional Rezoning Agreement”* 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>May 14, 2019</u>
Planning Commission Public Hearing:	<u>May 14, 2019</u>
• Notice Public Hearing Published On:	<u>April 28, 2019</u>
• Notice of Public Hearing Mailed On:	<u>April 26, 2019</u>
Planning Commission Recommendation:	_____

