

ORDINANCE NO. 2019-04

AN ORDINANCE OF THE CITY OF IOWA COLONY, TEXAS, CONTAINING FINDINGS OF FACT AND CONCLUSIONS OF LAW; AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF SAID CITY TO PERMIT THE SPECIFIC USE OF PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF HIGHWAY 6 AND LOUISIANA STREET FOR AN ELECTRIC POWER GENERATING FACILITY AND RELATED ADMINISTRATIVE USES; PROVIDING FOR FEES; RATIFYING AND CONFIRMING ALL ACTIONS PREVIOUSLY TAKEN BY THE MAYOR, MAYOR PRO-TEM, CITY ATTORNEY, OR CITY SECRETARY WITH RESPECT THERETO; PROVIDING FOR THE TERMINATION, REVOCATION AND SUSPENSION OF SAID PERMIT; AND CONTAINING A SEVERANCE CLAUSE, SAVINGS CLAUSE, AND EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS:

**SECTION A.** The City Council of the City of Iowa Colony, Texas ("the City") makes the following findings of fact and conclusions of law:

1. As used herein, "permittee" shall mean the fee owner of the property subject to this permit, at the time in question, according to the tax rolls of Brazoria County. This permit shall run with the land.
2. The Permittee timely filed with the Secretary of the City an application, containing all information required by the Zoning Ordinance, for the Specific Use Permit herein granted.
3. The public hearing required by the Zoning Enabling Act of the State of Texas, codified as Section 211.001, et seq., Texas Local Government Code, and said Ordinance, has been conducted in the manner and at the time required.

4. At least sixteen (16) days prior to the date of such hearing, public notice of such hearing was published once in the Alvin Sun, a newspaper of general circulation in and the official newspaper of the City, stating the date, time, and place of such hearing.

5. At least eleven (11) days before the date of such hearing and at least thirty-one (31) days before the passage of this ordinance, written notice of said application was sent to the owner of the herein described property for which the specific use is proposed and to all owners of property located within two hundred (200') feet of such property.

6. At least ten days before the date of that public hearing, a sign or signs were posted on the property to give notice of this proposed specific use permit, in compliance with the Iowa Colony Uniform Development Code.

7. After giving due regard and consideration to the nature and condition of the subject property and the proposed use thereof, and of all adjacent uses and structures, and of the nature and condition of the City as a whole, the City Council is of the opinion that such proposed use conforms to the requirements and intent of the City and the Comprehensive Plan of the City; that the conditions herein attached to the granting of such permit are reasonable, necessary, and in the public interest; and that such use under such conditions and under the circumstances of this particular case will not constitute a nuisance or be detrimental to the public welfare of the community.

8. The health, safety, morals, and general welfare of the citizens of the City will best be served by the adoption of this ordinance and the granting of the Specific Use Permit herein described with the restrictions, regulations, and prohibitions herein set forth.

9. All requirements of law have been satisfied.

**SECTION B.** The Comprehensive Zoning Ordinance of the City, as previously amended, is hereby amended, and a Specific Use Permit is hereby granted to Permittee authorizing the specific use described herein of the following described real property (herein sometimes called "the premises") located within the corporate limits of the City, in Brazoria County, Texas:

The portions of the following property that are in the city limits of Iowa Colony: A 5.568 acre tract of land (called 6.005 acres), being a part of Lots Fifteen (15) and Sixteen (16) of the Subdivision of the H. T. & B. R. R. Company Survey, Section 70, Abstract No. 545, Brazoria County, Texas, and being more particularly described by metes and bounds in a deed dated April 25, 1977, to Safwat A. Abdelsayed and others, recorded at Volume 1337 page 767 of the Official Records of Brazoria County, Texas, which is the same land as in account number 177341 of the Brazoria County Appraisal District, and located generally at the southeast corner of Highway 6 and Louisiana Street in the City of Iowa Colony, Texas.

The specific use authorized by this permit is the following: an electric generating power facility with related administrative facilities.

**SECTION C.** The City Council hereby ratifies and confirms any and all actions taken by the Mayor, Mayor Pro-Tem, City Attorney, or City Secretary of the City in connection with the granting of the Specific Use Permit evidenced by this ordinance, in giving the public notice of such hearing, in giving written notice of such hearing to the owner of the premises and to the adjoining property owners, in conducting the public hearing required by said Act and said Ordinance, and in any procedures concerning this Ordinance.

**SECTION D.** The above described use and this Specific Use Permit are subject to the following restrictions, regulations, controls and limitations:

1. Neither the Permittee; the owner of the property; their respective lessees, sublessees, invitees, or guests; nor the respective officers, agents, servants, or employees of any

of the foregoing shall use, or allow or suffer the premises to be used by any person for any purpose not allowed by law.

2. The Permittee; the owner of the property; their respective lessees, sublessees, invitees, and guests; and the respective officers, agents, servants, and employees of each of the foregoing shall comply with the provisions of all applicable laws, rules, regulations, statutes, and ordinances of any governmental unit, concerning the operation and use of the premises for any purpose, concerning any activity on the premises, or concerning the health and safety of persons on, about, or near the premises, including but not limited to environmental laws.

3. Permittee shall comply with all conditions, restrictions, and requirements in the Addendum to this ordinance.

**SECTION E.** If any person fails to comply with a condition, restriction, regulation or requirement contained herein, or any provision hereof, then the City Council may, by majority vote of those present and voting, revoke, suspend, or attach further conditions to the Permit granted herein, by observing the following procedures:

1. Such revocation or suspension proceeding shall be instituted by notifying the Permittee or its designated agent, in writing, to appear before the City Council at a date, time and place specified therein, which time may not be less than ten (10) days from the date of such notice. The notice required shall state the grounds upon which such revocation or suspension is sought. Such notice shall be delivered in person or mailed to Permittee or its designated agent, by registered or certified U. S. mail. In any administrative or judicial proceedings, such notice shall be deemed delivered upon the depositing of such notice in U. S. mail, properly addressed and postage prepaid.

2. Any such notices that are mailed shall be mailed to Permittee at the address, if any, of Permittee in the Brazoria County tax records or any other address in the City's records. Permittee may change its address by written notice to the City Secretary at the Iowa Colony City Hall, 12003 Iowa Colony Boulevard, Iowa Colony, Texas 77583.

3. The City Council shall conduct a hearing on the grounds of revocation or suspension on the date and at the time and place designated in the notice above. At such hearing the Permittee shall be permitted to present evidence and argument in connection with such grounds in person or by an agent or attorney.

4. After considering evidence and arguments, if the City Council is satisfied that the existence of one or more of such grounds has been shown by a preponderance of the evidence, the Council may by majority vote of those present and voting suspend such permit, require such corrective action or other requirements as the Council deems appropriate as a condition of continuing this Permit, revoke this Permit and/or amend this Permit. If the Permit is suspended, such suspension shall be for a time certain. Before the end of the length of time of the suspension, if corrective action has been taken, the City Council may by majority vote reinstate the Permit; if corrective action has not been taken, the City Council may by majority vote extend the suspension for a length of time certain or may revoke this Permit. At the hearing at which a suspension is imposed, the Council may announce a time, date, and place of a subsequent hearing on the suspension, revocation, or conditioning of the permit, and no further notice of such subsequent hearing shall be required. If the City Council takes no action before the end of the period of suspension, the Permit will automatically be reinstated and shall be in full force and effect as though there has been no suspension. Such suspension or revocation may apply to all or any portion of the premises or of the operations of Permittee thereon. During such

suspension, the Permittee and its agents, servants, and employees, shall be prohibited from operating that part of the premises or operations thereon to which the suspension applies.


**SECTION F.** The City reserves the right to terminate all or any part of this permit and/or to rezone all or any part of the property at any time, with or without cause, regardless whether any person has violated this permit or any applicable law, and regardless of any other provisions. This paragraph specifically limits, restricts, and conditions this permit, and this permit is granted subject to this paragraph. In the event the City revokes this permit under this paragraph, then the existing uses on the property as to which the permit is revoked may continue, to the same extent as a lawful nonconforming use may continue after a rezoning, and subject to the same conditions and restrictions as such nonconforming use. The intent of this paragraph is to limit the Permittee's rights to those that the Permittee would have if the property herein were now simply rezoned to allow the uses herein permitted. The City's rights under this paragraph are cumulative of any other rights of the City to revoke this permit, and the City may proceed under this paragraph alone, under any other provision alone, or under multiple provisions. The procedure for revoking a permit under this paragraph shall be the same as the procedure for revoking a permit under Section E of this ordinance, except that no grounds for revocation are required. The procedure for rezoning any area subject to this permit shall be as provided by law other than this permit.

**SECTION G.** This ordinance is cumulative of and in addition to all other ordinances of the City of Iowa Colony on the same subject, and all such other ordinances are hereby expressly saved from repeal. In the event any provisions of any such other ordinance conflict with or overlap the provisions of this ordinance, whichever imposes the more stringent regulation shall control.


**SECTION H.** In the event any section or provision of this ordinance is found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction, such defective provision, if any, is hereby declared to be severable from the remaining sections and provisions of this ordinance and such remaining sections and provisions shall remain in full force and effect.

**SECTION I.** This ordinance shall take effect and be in force from and after the passage and adoption.

READ, PASSED AND ADOPTED this 18<sup>th</sup> day of February, 2019.

  
MICHAEL B. HOLTON, MAYOR  
CITY OF IOWA COLONY, TEXAS

ATTEST:

  
KAYLEEN ROSSER, CITY SECRETARY  
CITY OF IOWA COLONY, TEXAS



SEE ADDITIONAL SIGNATURES ON NEXT PAGE.


ADDENDUM TO  
ORDINANCE NO. 2019-04  
OF THE CITY OF IOWA COLONY, TEXAS

1. This Addendum is an integral part of the above captioned ordinance of the City of Iowa Colony, Texas.


2. The specific use hereby allowed and this Specific Use Permit are also subject to the following restrictions, regulations, controls, and limitations:

- a. The only generators on the premises shall be gas turbine generators.
- b. There must be landscaping buffers around the premises satisfactory to the City.
- c. There must be a border fence satisfactory to the City along Highway 6.

3. In the event of any conflict in terms, the more restrictive provision shall govern and control.

  
MICHAEL B. HOLTON, MAYOR  
CITY OF IOWA COLONY, TEXAS

ATTEST:

  
KAYLEEN ROSSER, CITY SECRETARY  
CITY OF IOWA COLONY, TEXAS

