

ORDINANCE NO. 2019-09

AN ORDINANCE OF THE CITY OF IOWA COLONY, TEXAS, CONTAINING FINDINGS OF FACT; CONTAINING DEFINITIONS; REGULATING USE OF STREETS BY HEAVY VEHICLES; PROVIDING EXCEPTIONS; PROVIDING FOR PERMITS, APPLICATIONS, FEES, SURETY BONDS, AND REVOCATION OF PERMITS; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT, SIGNS, AND LIABILITY FOR DAMAGES; PROHIBITING LUGGED VEHICLES; PROVIDING THAT A VIOLATION OF THIS ORDINANCE IS AN OFFENSE PUNISHABLE BY A FINE OF UP TO \$500 PER DAY; AND PROVIDING CIVIL REMEDIES AND PENALTIES, NO ELECTION OF REMEDIES, NONWAIVER BY ENFORCEMENT, AND NONLIABILITY OF THE CITY OF IOWA COLONY AND ITS AGENTS, OFFICERS, ATTORNEYS, AND EMPLOYEES; REPLACING CERTAIN PRIOR HEAVY VEHICLE ORDINANCES; PROVIDING FOR CONFLICTS IN TERMS, A SAVINGS CLAUSE, SEVERANCE CLAUSE, AND EFFECTIVE DATE.

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

1. Findings of Fact.

The City Council of the City of Iowa Colony, Texas ("the City") hereby makes the following findings of fact, each based upon good and sufficient evidence:

- a. All statements in any portion of this ordinance are true and correct.
- b. Heavy vehicles are less maneuverable than lighter vehicles, and heavy vehicles cannot stop as quickly. Heavy vehicles tend to cause more damage in a collision than lighter vehicles. Therefore, heavy vehicles are more dangerous than lighter vehicles and constitute a public and private nuisance, when operated in a manner that violates this ordinance.
- c. The costs of building and maintaining streets is a major burden upon the public.
- d. The City of Iowa Colony has no legal assurance that Brazoria County will continue to assist Iowa Colony with road maintenance.
- e. Heavy vehicles cause significant damage to streets and result in considerable costs for street maintenance and construction.
- f. Such costs should, in fairness, be borne by the persons operating such vehicles, because those are the persons who benefit from the street use causing the damage and expense.
- g. The permit fees in this ordinance place the costs of such street damage upon the persons benefiting from the use and causing the damage.

- h. The permit fees hereunder are necessary, in order for the City of Iowa Colony to have quality streets.
- i. A network of quality streets is essential to business, economic activity and development, police and fire services, ambulance and medical services, to the general health, safety, and welfare of the people of the City of Iowa Colony.
- j. This ordinance and the permit fees hereunder promote the public health, safety, and welfare.
- k. Due to the large numbers of light vehicles, such as passenger cars and light pickup trucks, and due to the minimal street damage caused thereby, the costs of administering permits for such light vehicles would exceed the benefits to the taxpayers.
- l. It is more efficient and economical not to damage the streets with heavy vehicles in the first place, rather than to damage the streets and to repair them. Therefore, it is fair and reasonable to restrict vehicles as herein provided, and to provide only the exceptions herein provided, and to restrict the availability of permits as herein provided.
- m. The exceptions in this ordinance, under which certain types of vehicles or permits are allowed, are fair, reasonable, and necessary, and are factually and legally different than the circumstances under which certain types of vehicles or permits are not allowed.
- n. Such differences include, but are not limited to, the degree of damage caused to the streets, public convenience, practicability of administration, public need for the use, whether public funds would be used to pay such permit fee anyway, and other facts and reasons stated in other parts of this ordinance or not stated herein.

2. **Definitions.**

As used in this ordinance, the following terms shall have the following meanings:

City: The City of Iowa Colony and its officers, employees, representatives, attorneys, agents, and personnel of any nature.

City Property: All roads, bridges, curbs, gutters, sidewalks, culverts, drainage structures and improvements, signs, and all other real or personal property of any nature in which the City has any interest.

Commercial Purpose: For a purpose of a business, trade, revenue, gain, or other commercial purpose, alone or in combination with any other purpose. An agricultural or educational purpose is also a commercial purpose under this ordinance.

Construction: This term herein shall include not only construction, but also reconstruction, repair, expansion, and maintenance.

Damage or Damages: These terms shall be broadly to include all types of damage or loss of any nature, and without limiting the generality of the foregoing, these terms shall include ordinary wear and tear caused by an overweight vehicle.

Fleet: Any number of vehicles that are: (1) wholly or partly owned by the same person or entity; (2) wholly or partly used in or for the same commercial enterprise; or (3) wholly or partly used in or for the same project or undertaking or related projects or undertakings.

Guaranty of Performance: The surety bond required by this ordinance, or any other type of guaranty, financial surety, deposit, or other security as may be specifically allowed by this ordinance.

Heavy Vehicle or Overweight Vehicle shall each mean:

Either (1):

(a) A vehicle or combination of vehicles that has:

- (1) a single axle weight heavier than 20,000 pounds, including all enforcement tolerances;
- (2) a tandem axle weight heavier than 34,000 pounds, including all enforcement tolerances;
- (3) an overall gross weight on a group of two or more consecutive axles heavier than the weight computed using the following formula and rounding the result to the nearest 500 pounds.

$$W = 500 ((LN/(N-1)) + 12N + 36)$$

where:

“W” is maximum overall gross weight on the group;

“L” is distance in feet between the axles of the group that are the farthest apart; and

“N” is number of axles in the group; or

- (4) tires that carry a weight heavier than the weight specified and marked on the sidewall of the tire, unless the vehicle is being operated under the terms of a special permit.

(b) Notwithstanding Subsection (a)(3), two consecutive sets of tandem axles may carry a gross load of not more than 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets is 36 feet or more. The overall gross weight on a group of two or more consecutive axles may not be heavier than 80,000 pounds, including all enforcement tolerances, regardless of tire ratings, axle spacing (bridge), and number of axles.

Or (2):

A ready-mixed concrete truck with a tandem axle weight heavier than 46,000 pounds or a single axle weight heavier than 23,000 pounds; provided, however, that a ready-mixed concrete truck may exceed the weight limits in this section by not more than 10% if the gross weight is not heavier than 69,000 pounds and the

City or the State of Texas has issued a permit that authorizes the operation of the vehicle under this ordinance.

Heavy Vehicle Route: a Truck Route, as herein defined.

Heavy Vehicle Ordinance, Overweight Vehicle Ordinance, or Trucking Ordinance herein means this ordinance, as it may be amended from time to time. As to violations occurring before the effective date of this ordinance, the terms Heavy Vehicle Ordinance, Overweight Vehicle Ordinance, and Trucking Ordinance mean City of Iowa Colony Ordinance No. 2004-2, as previously amended by Ordinances Nos. 2014-14 and 2017-24.

Load or Trip: A load or trip means a journey or passage from either a truck route or the city limits of the City to a point within the City that is not on a truck route, and back to a truck route or to the city limits. One trip of a vehicle, regardless whether the vehicle delivers or picks up any material or item. A load or trip under this ordinance means a round trip, or if the vehicle exits by a different route than it entered, then the entry and exit together still constitute one load or trip. Nothing in this definition shall be construed to impair the requirement of a permit hereunder or the requirement to stay on a truck route, alternate truck route, temporary truck route, or other route specified in a permit hereunder.

Own or operate shall also include “lease” or “rent,” and any person leasing or renting a vehicle or project as a lessee or renter shall be an owner and operator for purposes of this ordinance, in addition to any other owner or operator. The term “own” shall include owning all or any part of the vehicle, project, or other item in question.

Project: All phases and parts of any construction project or other project, in the broadest sense of the term, by or for a single owner or group of affiliated owners, in which one or more heavy vehicles are used. Some examples, but not a complete list, of projects are: the construction of a subdivision or any public infrastructure; the development of a tract of land or a group of related tracts of land; and any other type of construction or other activity in which one or more heavy vehicles is used.

Small Project: Any of the following:

- a. Construction of the infrastructure of a single subdivision on a single plat, such as a single section of a larger development, and having no more than 10 lots on that plat;
- b. Construction of one or more structures on a single tract or parcel of land, either at substantially the same time or consecutively without a pause of over one month between construction of the structures, also including one or more ditches, roads, pipelines, or utility lines of any nature located entirely on one tract or parcel of land and serving only that tract or parcel (for example, a private driveway on one tract or an individual utility spur on one tract, but not a private road serving multiple tracts or a utility line serving multiple tracts); or
- c. Construction of a ditch, road, pipeline, or utility line of any nature, regardless of the number of tracts upon which it is located, but if it falls within the definition

under paragraph ii above, then it is part of the small project under that paragraph ii, not a different small project under this paragraph c.

Truck Route: Any of the following:

- a. State Highway 6 or 288; and
- b. Any alternate truck route or temporary truck route designated by the Police Chief.

3. Restriction of Heavy Vehicles. Permits and Other Exceptions.

No person shall operate, participate in the operation of, cause to be operated, or participate in causing the operation of a heavy vehicle upon a public street for a commercial purpose, except as follows:

- a. **Truck Route.** The vehicle is then and there being operated upon a truck route, as herein defined.
- b. **Heavy Vehicle Permit.** The vehicle is then and there being operated pursuant to, and on the route specified, in and in compliance with a valid, unexpired, and unrevoked permit issued for that vehicle under this ordinance. The City Council finds that this exception is fair, reasonable, and necessary because, among other reasons, such permits provide for compensation to the public for street damage.
- c. **City Vehicle.** The vehicle is then and there owned or operated by the City of Iowa Colony. The City Council hereby finds that this exception is fair, reasonable, and necessary because, among other reasons, the City's funds will be used to pay for the street damage caused by such use, regardless whether a permit is required. Furthermore, the vehicles owned or operated by the City of Iowa Colony are used for the public benefit.
- d. **Franchise Vehicle.** The vehicle is owned by a person to whom a franchise has been heretofore or is hereafter granted by the City Council, and the vehicle in question is being used in connection with the business authorized by such franchise, and such franchise has not expired or been revoked or terminated, and the franchisee is not delinquent in the payment of franchise tax or any other taxes, assessments or lawful charges owed to the municipality. The City Council finds that this exception is fair, reasonable, and necessary because, among other reasons, such franchises promote the public good and generally require the payment of a franchise fee.
- e. **Garbage Truck.** The vehicle is then and there collecting garbage. The City Council finds that this exception is fair, reasonable, and necessary, because among other reasons, garbage trucks promote public health and sanitation, and the benefits to the public outweigh the damage to streets.
- f. **Emergency Vehicle or School Bus.** The vehicle is an emergency vehicle or school bus. The City Council finds that this exception is fair, reasonable and necessary, because among other reasons, such vehicles are for the public good and are generally operated at public expense.

- g. **State or County Vehicle.** The vehicle is being operated by the State of Texas or Brazoria County. The City Council finds that this exception is fair, reasonable and necessary, because among other reasons, such vehicles are for the public good and are generally operated at public expense.
- h. **School Vehicles for Certain Purposes.** The vehicle is being operated by a public school district for purposes of (1) construction, repair, or maintenance of school facilities as part of a small project costing less than \$30,000, whether such cost is in kind work by the school district or is purchased from others, or (2) operation of school facilities, for example deliveries of food or books. The City Council finds that this exception is fair, reasonable and necessary, because among other reasons, such vehicles are for the public good and are generally operated at public expense; and because unlike Brazoria County and the State of Texas, a school district is subject to the City's regulatory ordinances and fees. The City further finds that it is fair, reasonable, and necessary to exempt the every day operations of the school district to the extent so provided in this paragraph, but not construction projects of the school district.
- i. **Small Project Exception.** The vehicle complies with both of the following:
 - 1. The small project of which the vehicle and its load are a part involves less than fifteen loads that would require a permit under this ordinance, if not for this section; and
 - 2. Regardless of the number of Loads, the vehicle is under all of the following weight limits, which are 150% of the weight limits in the Overweight Vehicle Ordinance:
 - a. a single axle weight heavier than thirty thousand (30,000) pounds, including all enforcement tolerances;
 - b. a tandem axle weight heavier than fifty-one thousand (51,000) pounds, including all enforcement tolerances; and
 - c. an overall gross weight on a group of two or more consecutive axles heavier than the weight computed using the following formula and rounding the result to the nearest 500 pounds;

$$W=1.5 \times 500 (LN/(N-1)) + 12N + 36$$

Where:

“W” is maximum overall gross weight on the group;

“L” is distance in feet between the axles of the group that are the farthest apart; and

“N” is the number of axles in the group.

j. **Clarity Required for Exception:** If for any reason the applicability of any exception under this section is unclear or cannot be readily determined, then the exception does not apply, and this section requires a permit according to the terms of this ordinance.

4. **Maximum Load Limits.** The weight limits stated in Subchapter 621B of the Texas Transportation Code are hereby adopted as the maximum weight limits for purposes of this ordinance. See also the definition of Heavy Vehicle.

5. **Weight Limits on Specific Streets.** When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time upon any of the streets or parts of streets so signed.

6. **Alternate and Temporary Truck Routes.**

a. Whenever a truck route designated by this ordinance is under repair, or otherwise temporarily out of use, the Police Chief is hereby authorized to designate alternate truck routes.

b. If no truck route provides access to the destination in the City of a heavy vehicle, then the Police Chief is hereby authorized to designate a temporary truck route.

c. If an alternate or temporary truck route is designated specifically for a certain permit or project, then that route must be stated on each permit for which it is designated, but a failure to do so shall not be a defense to a violation of this ordinance.

7. **No Through Trucks.** When signs are erected stating “No Through Trucks,” no person shall operate any commercial vehicle exceed six thousand (6,000) pounds gross weight any time upon any of the streets or parts of streets so signed, except that such vehicles may be operated thereon for the purpose of delivering or picking up materials or merchandise or for vehicle storage, and then only by entering such street at the intersection nearest the destination of the vehicle and proceeding thereon no further than the next intersection thereafter. The restriction in this section is in addition to all other requirements of this ordinance and does not excuse compliance with any other requirement of this ordinance, as all requirements of this ordinance are cumulative.

8. **Direct Route Required.**

Regardless whether this ordinance requires a permit, the operator of a heavy vehicle must use the most direct route between (1) either the city limits or a truck route designated in this ordinance, and (2) the destination of the vehicle for its business in the City, except to the extent that a different route is specified in a permit under this ordinance. This section shall not be construed to impair any requirement for a permit.

9. **Lugs, Etc. Prohibited.**

No person shall operate, participate in the operation of, or cause to be operated, or participate in causing to be operated, upon a city street, any vehicle which has lugs, studs, cleats, ridges, beads, or any other protuberance of metal which projects more than one-fourth inch

beyond the tread or traction surface of such vehicle's tires or tracks, unless bands, wooden blocks, skids, or other devices are provided which are sufficient to protect the street surface from damage by reason thereof.

10. Heavy Vehicle Permits and Fees.

- a. **Types of Permits.** A permit under this ordinance may be either: (1) for an individual vehicle or group of less than 10 vehicles, at a fee per vehicle under the City's Fee Ordinance; or (2) a fleet permit obtained by the owner of a project for all vehicles involved in that project, at a fee per permit under the City's Fee Ordinance.
- b. **Permit Application.** An application for a permit under this ordinance shall be dated, signed, and sworn by the applicant and shall contain the following on a form provided by the City:
 1. The name, mailing address, and telephone number of the applicant for the permit.
 2. Whether the permit is to be for (a) a specific vehicle or group of vehicles or (2) a fleet permit for all vehicles in the project.
 3. The name, mailing address, and telephone number of the owner of each vehicle to be covered by the permit. However, this paragraph does not apply to an application by a project owner for a fleet permit for all vehicles on the project.
 4. If the applicant is different than the owner of the vehicle, an affidavit by the owner, appointing the applicant as the agent of the owner concerning this permit. However, this paragraph does not apply to an application by a project owner for a fleet permit for all vehicles on the project.
 5. The name of the person or company for which each vehicle will be working while under the requested permit (e.g. the person, subcontractor, contractor, or project owner hiring the vehicle for the project). However, this paragraph does not apply to an application by a project owner for a fleet permit for all vehicles on the project.
 6. The name of the owner of the project on which each vehicle will be working while under the requested permit, regardless whether the permit is a fleet permit or otherwise.
 7. A description and the location of the project on which each vehicle will be working while under the requested permit.
 8. The serial number and license plate number of each vehicle, and a description of each vehicle. However, this paragraph does not apply to an application by a project owner for a fleet permit for all vehicles on the project.

9. The weight of each vehicle when unloaded and when fully loaded. However, this paragraph does not apply to an application by a project owner for a fleet permit for all vehicles on the project.
10. The number of axles on each vehicle. However, this paragraph does not apply to an application by a project owner for a fleet permit for all vehicles on the project.
11. The exact route(s) for which the permit is sought.
12. The estimated number of trips that each vehicle will make over such route(s) during the permit period, with an explanation of the method of calculation. However, this paragraph does not apply to an application by a project owner for a fleet permit for all vehicles on the project.
13. The length of time for which the permit is requested, which shall not exceed one year.
14. Any other information concerning said permit and reasonably deemed necessary or helpful by a person charged with administering or enforcing this ordinance.
15. The application must be accompanied by a nonrefundable application fee in the amount set by the Fee Ordinance of the City, as it may be amended from time to time. This is separate from the guaranty of performance that must be provided before the permit is issued.

- c. **Vehicles Must be Listed on Permit Application.** Any vehicle not listed on the application for a permit that is approved and issued hereunder is not covered by that permit. However, this subsection does not apply to a fleet permit.
- d. **Expiration.** A permit hereunder shall expire on the date therein stated, which shall not be longer than one year from the date of issuance. If a permit fails to state an expiration date then it shall expire one year from the date of issuance.
- e. **Renewals and Renewal Fees.** Renewal of a permit shall require the same application procedure and fee as the initial permit.
- f. **Permit to Be Carried and Displayed.** A permit issued hereunder shall be carried at all times in the permitted vehicle and, upon request of any peace officer or any person administering or enforcing this ordinance, it shall be displayed to that person.
- g. **Nontransferability.** Permits hereunder are nontransferable.
- h. **Revocation or Denial of Permits and Registrations.**

1. Any violation of this ordinance or of any permit hereunder shall be grounds for any or all of the following: (1) revocation of any permit of that Permittee; and/or (2) denial of additional permits hereunder to that Permittee or the imposition of additional requirements for such permits or registration certificates.

2. Appeals from denials or revocations of permits shall be to the City Council. Appeals shall be filed with the City Secretary within 15 days after the date of the denial or revocation. A hearing shall be held within 30 days of the date the appeal is filed with the City Secretary.

11. Surety Bond.

a. Before a permit may be issued under this Ordinance, the proposed permittee shall file with the City a surety bond. The bond shall be on a form provided by the City and shall be by a surety licensed to do business as such in Texas and acceptable to the City.

b. All vehicles covered by the same permit under this ordinance, must be covered by a single bond covering the same vehicles. The amount of the bond shall be as provided in either paragraph 1 or 2, except as provided by paragraph 3 of this subsection:

1. The lesser of a or b:

a. \$500,000 for the group or fleet of vehicles; or

b. The sum of i, ii, and iii:

i. \$100,000 for each vehicle of more than 80,000 pounds gross vehicle weight;

ii. \$50,000 for each vehicle of less than 80,000 pounds of gross vehicle weight, but still a heavy vehicle, as defined in this ordinance; and

iii. \$15,000 for each ready-mixed concrete truck; or

2. Such higher amount as the City Engineer determines in his sole, good faith discretion is reasonably necessary to cover any damage that may be caused by any bonded vehicle(s) to any road, equipment, or other property of any nature of the city.

3. However, the amount of the bond must be double the amount that would otherwise apply, if the permittee or the proposed principal on the bond has, within 365 days before the bond is required: (a) failed to timely post a required bond under the Heavy Vehicle Ordinance; (b) failed to timely obtain a required permit under the Heavy Vehicle Ordinance; or (c) otherwise violated the Heavy Vehicle Ordinance; whether any of the foregoing were on the same project to which the double bond amount applies or another project.

4. The bond must be kept in effect from issuance through at least one year after the permit expires, or for such lesser time as the City Engineer may determine in writing, in his sole, good faith discretion. A reduction of the effective life of the bond shall never be implied, and it may be done only by a writing signed by the City Engineer and expressly,

specifically stating that it shortens the effective life of the bond. However, nothing herein shall be construed to shorten the time for a claim or suit as stated herein or in the bond. The permit shall terminate immediately and automatically upon the termination or expiration of the bond for any reason.

5. The surety bond must include a condition that the owners of the project shall jointly and severally pay to the City any damage to a highway, road, or any other property or equipment of any nature of the City caused by any of the bonded vehicles. The City shall not be required to establish which bonded vehicle caused which damage or amount of damage; rather, all owners of the project and all persons participating in any way in the operation, or participating in any way in causing the operation, of any vehicle(s) covered by the bond shall be jointly and severally liable to the City for all damage caused by any of the bonded vehicles to any highway, road, equipment, or other property of the City of any nature whatsoever. This section shall not be construed to reduce any liability of any person under any other provision of this ordinance or any other source.

12. Administration and Enforcement.

a. The Building Official, the City Engineer, and any peace officer with jurisdiction in this City are authorized to administer and enforce this ordinance. Any person administering or enforcing this ordinance shall have the authority to require an applicant or any person operating a permitted vehicle, to submit the vehicle to being weighed at any reasonable times, as a condition of granting a permit hereunder, and at any times thereafter.

b. In the absence of the Building Official or City Engineer or during a vacancy in the office of Building Official or City Engineer, the Mayor shall have the authority of the Building Official or City Engineer.

c. In addition to any other authorized persons, the Mayor is hereby authorized to take any action or make any decision on behalf of the City pursuant to this ordinance, unless this ordinance specifies another City official or body.

13. Signs.

The Police Chief is authorized and directed to cause signs to be placed upon City streets concerning the restrictions in this ordinance.

14. Liability for Damages.

a. For purposes of all parts of this ordinance, persons participating in any way in a violation of this ordinance are hereby defined to include, but are not limited to: (1) each driver, owner, lessor, lessee, trucking company, subcontractor, contractor, and owner of a vehicle involved in the violation; and (2) each owner of the project on which that vehicle was working at the time of the violation.

b. Each person participating in any way in any violation of any provision of this ordinance shall be jointly and severally liable for damage to city property of any nature caused by any vehicle that the person operated, participated in the operation of, caused the operation of, or participated in causing the operation of, in violation of this ordinance.

c. For purposes of all parts of this ordinance, persons operating, participating in the operation of, causing the operation of, or participating in causing the operation of a vehicle are hereby defined to include, but are not limited to: (1) each driver, owner, lessor, lessee, trucking company, subcontractor, and contractor of the vehicle for use in the project on which the vehicle was working at the time in question; and (2) each owner of the project on which that vehicle was working at the time in question.

d. (1) Each person operating, participating in the operation of, causing the operation of, or participating in causing the operation of any vehicle for which a permit is required hereunder, whether such permit has been granted or not; (2) each permittee hereunder of such vehicle; and (3) each owner of the project in which such vehicle is used; shall be jointly and severally liable to the City for any damage to city property of any nature caused by the operation of that vehicle in that project, regardless whether there is a violation of this ordinance.

e. The civil liability provided by this section applies regardless of whether the person is ever charged or convicted of a crime of violating this ordinance.

f. The liability provided by this ordinance is joint and several among all persons liable for the damage in question.

15. No De Minimus Violations. No violation of this ordinance shall be considered de minimus.

16. Offenses and Penalties.

a. No person shall operate, participate in the operation of, cause to be operated, or participate in causing to be operated any vehicle in violation of any provision of this ordinance.

b. No person shall participate in any way in violating any provision of this ordinance.

c. Any violation of any portion of this ordinance shall be a misdemeanor punishable upon conviction by a fine not to exceed \$500. Each day or portion of a day that a violation continues, occurs, or recurs shall be a separate offense.

17. Civil Remedies and Penalties.

Any and/or all of the following civil remedies may be imposed for violation of any provision of this Ordinance: injunctive relief, declaratory relief, monetary damages, attorney's fees and all other expenses incurred in enforcing the City's rights or the violator's obligations or liabilities, costs of court, interest as provided by law, and all other remedies at law or in equity.

18. Cumulative Obligations and Remedies/No Election of Obligations or Remedies.

a. All obligations, prohibitions, and offenses under this ordinance or under any other applicable laws are cumulative. No such obligations, prohibitions, or offenses shall be construed to limit any other such obligations, prohibitions, or offenses.

b. All remedies and penalties in favor of the City or against any person other than the City under this ordinance, or under any other applicable laws are cumulative. The pursuit or receipt by the City of any one or more penalties or remedies shall not constitute an election of remedies, and shall not prevent the City from pursuing and receiving any and all other remedies and penalties of any nature whatsoever.

c. Without the limiting the generality of the foregoing, the City may pursue a criminal prosecution hereunder without pursuing civil remedies for a violation hereof; the City may pursue civil remedies without pursuing a criminal prosecution; or the City may do both.

19. Nonwaiver of Immunity.

Nothing herein, in any document issued pursuant hereto, or in any action, omission, or condition pursuant hereto shall ever be construed as a full or partial waiver of governmental immunity, official immunity, or any other immunity of the City.

20. Nonwaiver by Nonenforcement.

The failure or omission of the City, upon one or more occasions, to enforce any right, obligation, or remedy hereunder, under any permit issued hereunder, or under any other applicable laws shall never be construed as a waiver of the Village's right to strictly enforce such right, obligation, or remedy, and the City may resume such strict enforcement without advance notice.

21. Non-Liability of City.

Neither the City of Iowa Colony, nor any of its agents, officers, attorneys, or employees shall have any liability of any nature to any person other than the City of Iowa Colony, for any act, omission, or condition in any way directly or indirectly related to the subject matter of this ordinance.

22. Conflicts in Terms.

In the event of any conflict in the terms of this ordinance, or between the terms of this ordinance and any other ordinance, the more restrictive provision shall govern and control.

23. Repeal and Savings Clause.

a. This ordinance replaces Ordinance Nos. 2002-4, 2014-14, 2017-24, and 2019-08, but those ordinances shall remain in full force and effect as to any violations thereof occurring before the effective date of this ordinance. All other ordinances and portions of ordinances of the City shall remain in full force and effect.

b. Any permit application filed under Ordinance No. 2019-08 and any permit granted under that ordinance shall be deemed an application or permit, respectively, under this ordinance.


24. Severance Clause.

If any portion, of any size, of this ordinance is for any reason invalid, then the remainder of this ordinance shall remain valid.

25. Effective Date.

This ordinance shall be effective as of the date of its passage and approval.

PASSED AND ADOPTED this 8th day of April, 2019.



Michael B. Holton, Mayor
City of Iowa Colony, Texas

ATTEST:



Kayleen Rosser, City Secretary