

ORDINANCE NO. 2021-12

AN ORDINANCE OF THE CITY OF IOWA COLONY, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THIS CITY CONCERNING TWENTY-FOUR OPERATION OF CERTAIN COMMERCIAL USES; CONTAINING FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR CONFLICTS IN TERMS; AND PROVIDING A SAVINGS CLAUSE, A SEVERANCE CLAUSE, AND AN EFFECTIVE DATE.

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

SECTION 1.

The City Council of the City of Iowa Colony, Texas (“the City”) makes the following findings of fact and conclusions of law:

- a. After giving due regard to the nature and consideration of uses, structures, and the nature and condition of the City as a whole, and after considering all proper factors under applicable law, the City Council is of the opinion that this ordinance conforms to the requirements and intent of the City and the Comprehensive Plan of the City, and that this amendment will not constitute a nuisance or be detrimental to the public health, safety, morals, or welfare of the community.
- b. The health, safety, morals, and general welfare of the people of the City of Iowa Colony will best be served by the adoption of this ordinance.
- c. The Planning and Zoning Commission and the City Council each held a public hearing on this ordinance, and at least sixteen (16) days prior to the dates of those hearings, public notice of each 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, place, and subject of those hearings.

d. Notice of those public hearings and of the meeting at which this ordinance was passed was given in compliance with the Texas Open Meetings Act and all applicable law.

e. All requirements of law have been satisfied concerning the passage and adoption of this ordinance.

SECTION 2.

The City Council hereby ratifies and confirms any and all actions taken by the Mayor, Mayor Pro-Tem, City Manager, City Attorney, City Secretary, or any other personnel or representatives of the City in connection with this ordinance, any public hearings hereon, the notice of any public hearings or meeting concerning this ordinance, and any procedures concerning this Ordinance.

SECTION 3.

Sections 91 through 93 of the Iowa Colony Zoning Ordinance, as previously amended (“the Zoning Ordinance”) are hereby amended as follows:

“Sec. 71 District MU (Mixed Use District), (a) Permitted uses:

“REMOVE: “No store or use shall be open for business at any time between midnight and 5:00 a.m. on any day of the week, unless a special exception is granted by the Board of Adjustment.”

“ADD in its place: “No store or use shall be open for business at any time between midnight and 5:00 a.m. on any day of the week, except any store or use may apply for a Specific Use Permit to be open for business at any time on any day of the week, if the store or use complies with all of the following conditions:

1. The store or use is located and has property frontage on a Super Arterial or Major Arterial, as designated on the adopted City of Iowa Colony Major Thoroughfare Plan;
2. The store or use is located within 600 feet of the right-of-way line of a Super Arterial, as designated on the adopted City of Iowa Colony Major Thoroughfare Plan;

3. The store or use is located within the High-Density Mixed-Use (HDMU) area, as designated on the City of Iowa Colony Comprehensive Plan;
4. The store or use is generally associated with an urgency of need to operate between midnight and 5:00 a.m.;
5. The store or use will not create a disturbance of the general area around the location of the store or use;
6. The store or use is not located on property that shares a boundary line or is adjacent to single-family residential use either as an existing single-family use or as a proposed single-family use, as indicated by either an adopted Plan of Development or by an adopted general plan indicating future land uses; and
7. The store or use is not one of the following uses:
 - a. A game room or video arcade;
 - b. A tattoo parlor;
 - c. A sexually oriented business;
 - d. A bar, tavern, restaurant or other place of business serving alcoholic beverages for consumption on site;
 - e. A gun shop;
 - f. A motel, hotel, or tourist court with room rentals for less than daily use;
 - g. A pawn shop, or
 - h. A freestanding, not mixed-use, restaurant, with either sit-down dining and/or drive-thru fast food pick-up.

The City Council shall have discretion to grant or deny any specific use permit under this ordinance.

“Sec. 73 District BR (Business and Retail Use), (a) Permitted uses:

“REMOVE: “No store or use shall be open for business at any time between midnight and 5:00 a.m. on any day of the week, unless a special exception is granted by the Board of Adjustment.”

“ADD in its place: “No store or use shall be open for business at any time between midnight and 5:00 a.m. on any day of the week, except any store or use may apply for a Specific Use Permit to be open for business at any time on any day of the week, if the store or use complies with all of the following conditions:

1. The store or use is located and has property frontage on a Super Arterial or Major Arterial, as designated on the adopted City of Iowa Colony Major Thoroughfare Plan;

2. The store or use is located within 600 feet of the right-of-way line of a Super Arterial, as designated on the adopted City of Iowa Colony Major Thoroughfare Plan;

3. The store or use is located within the High-Density Mixed-Use (HDMU) area, as designated on the City of Iowa Colony Comprehensive Plan;

4. The store or use is generally associated with an urgency of need to operate between midnight and 5:00 a.m.;

5. The store or use will not create a disturbance of the general area around the location of the store or use;

6. The store or use is not located on property that shares a boundary line or is adjacent to single-family residential use either as an existing single-family use or as a proposed single-family use, as indicated by either an adopted Plan of Development or by an adopted general plan indicating future land uses; and

7. The store or use is not one of the following uses:

- a. A game room or video arcade;
- b. A tattoo parlor;
- c. A sexually oriented business;
- d. A bar, tavern, restaurant or other place of business serving alcoholic beverages for consumption on site;
- e. A gun shop;
- f. A motel, hotel, or tourist court with room rentals for less than daily use;
- g. A pawn shop, or
- h. A freestanding, not mixed-use, restaurant, with either sit-down dining and/or drive-thru fast food pick-up.

The City Council shall have discretion to grant or deny any specific use permit under this ordinance.

SECTION 4.

The Table of Contents of the Iowa Colony Zoning Ordinance, as previously amended, is hereby amended to reflect the headings, captions, and subsections enacted herein, and to correct any page numbers that change as a result of this amendment.

SECTION 5.

Subject to the amendments herein stated, the Comprehensive Zoning Ordinance and all prior amendments shall remain in full force and effect. Subject to the amendments herein stated, 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.

SECTION 6.

If any clause, phrase, provision, sentence, or part of this Ordinance, of whatever size, or the application of the same to any person or circumstance is ever for any reason adjudged invalid by a court of competent jurisdiction, then such invalidity shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid; and the City Council declares that it would have passed each and every part of this ordinance, notwithstanding the omission of any one or more such part or parts thus declared to be invalid.

SECTION 8.

This ordinance shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED on MARCH 15, 2021.

CITY OF IOWA COLONY, TEXAS

By: 

MICHAEL BYRUM-BRATSEN,
MAYOR

ATTEST:



KAYLEEN ROSSER, CITY SECRETARY

