

ORDINANCE NO. 2023-02

AN ORDINANCE OF THE CITY OF IOWA COLONY, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE TO PERMIT THE **SPECIFIC USE OF CERTAIN PROPERTY NORTH OF DAVENPORT PARKWAY AND EAST OF FREEDOM FIELD STADIUM FOR A DISTILLERY BUT NOT FOR CONSUMPTION OF ALCOHOLIC BEVERAGES ON THE PREMISES**; PROVIDING FOR THE TERMINATION, REVOCATION, FURTHER RESTRICTION, AND SUSPENSION OF THIS PERMIT; AND CONTAINING RELATED PROVISIONS.

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

Section 1. Findings

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

- a. 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 the Brazoria County Appraisal District. This permit shall run with the land.
- b. The Owner of the premises subject to this zoning action or the Owner's duly authorized agent has timely filed with the City Secretary a request for this action, containing all necessary information.
- c. The Planning and Zoning Commission and the City Council of the City have each held a public hearing on this zoning action in compliance with the Zoning Enabling Act of the State of Texas, codified as Section 211.001, et seq., Texas Local Government Code, and the Zoning Ordinance.
- d. More than fifteen (15) days before the date of each of those hearings, public notice thereof 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 each of those hearings.
- e. More than ten (10) days before the date of each of those hearings, and more than thirty (30) days prior to the passage of this ordinance, written notice of each of those hearings and of the application for this zoning action was sent to the owners of the herein described property subject to this zoning action and to all owners of property located within two hundred (200') feet of that property.

f. At least 10 days before each of those hearings, notice of those hearings was posted on the property subject to this zoning action, in compliance with the Unified Development Code of the City.

g. Before the City Council hearing on this zoning action, the Planning and Zoning Commission made a written recommendation to the City Council on this zoning action.

h. After giving due regard to the nature and consideration 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 this zoning action 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 this permit are reasonable, necessary, and in the public interest; and that the use hereby allowed under the conditions and under the circumstances of this particular case will not constitute a nuisance or be detrimental to the public health, safety, morals, or welfare of the community.

i. The health, safety, morals, and general welfare of the people of the City will best be served by the adoption of this ordinance and the passage of this ordinance.

j. All requirements of law concerning this zoning action have been satisfied.

Section 2. Grant of Specific Use Permit

a. The Comprehensive Zoning Ordinance of the City 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:

Approximately 1.956 acres of land, which is Property ID No. 167464 and Geographic ID No. 0287-0008-110 in the records of the Brazoria County Appraisal District, generally located north of Davenport Parkway (County Road 64) and east of Freedom Field stadium, and more fully described in a deed recorded under File No. 2017012765 of the Official Records of Brazoria County, Texas, and by metes and bounds and by a map on Exhibit "A", which is attached hereto and incorporated herein in full.

b. The specific use authorized by this permit is the following: **production of alcoholic beverages with related warehousing, marketing, and office uses, but not for consumption of alcoholic beverages on the premises.**

Section 3. Ratification of Actions of Agents

The City Council of the City of Iowa Colony hereby ratifies and confirms any and all actions taken by the Mayor, Mayor Pro-Tem, City Secretary, City Attorney, City Manager, or any other officer or agent thereof, in connection with the granting of the zoning action evidenced by this ordinance, in giving the public notice of the above described hearings, in giving notice of those hearings, and in conducting those hearings.

Section 4. Restrictions, Regulations, Controls, and Limitations

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

- a. Neither the Permittee; any other 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.
- b. The Permittee; any other 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.
- c. Permittee; any other 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 all conditions, restrictions, and requirements in the Addendum to this ordinance.

Section 5. Revocation, Suspension, and Additional Restrictions

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.

- a. 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 that notice. The notice required shall state the grounds upon which such revocation, suspension, or further restriction is sought. That notice shall be delivered in person or mailed to Permittee or its designated agent, by registered or certified U. S. mail. That notice shall be deemed delivered upon

the earlier of: (1) actual receipt, regardless of the delivery method; or (2) the depositing of such notice in U. S. mail, properly addressed and postage prepaid.

b. Any such notices that are mailed shall be mailed to Permittee at the address, if any, of Permittee in the Brazoria County Appraisal District's 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.

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

d. 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 rather than revoked at that time, 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 6. Termination or Rezoning

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 7. Other Ordinances

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 8. Severance Clause

In the event any section or provision, of whatever size, 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 9. Effective Date


This ordinance shall take effect and be in force from and after its passage and adoption.

READ, PASSED AND ADOPTED ON THIS DATE: JANUARY 23, 2023

CITY OF IOWA COLONY, TEXAS

By: 
MICHAEL BYRUM-BRATSEN, 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. 2023-02
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: **Consumption of alcoholic beverages on the premises is hereby prohibited , but “consumption” in this ordinance shall not mean tasting in the course and scope of production, including testing and quality control, or of non-retail marketing.**

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

CITY OF IOWA COLONY, TEXAS

By: 
MICHAEL BYRUM-BRATSEN, MAYOR

ATTEST:

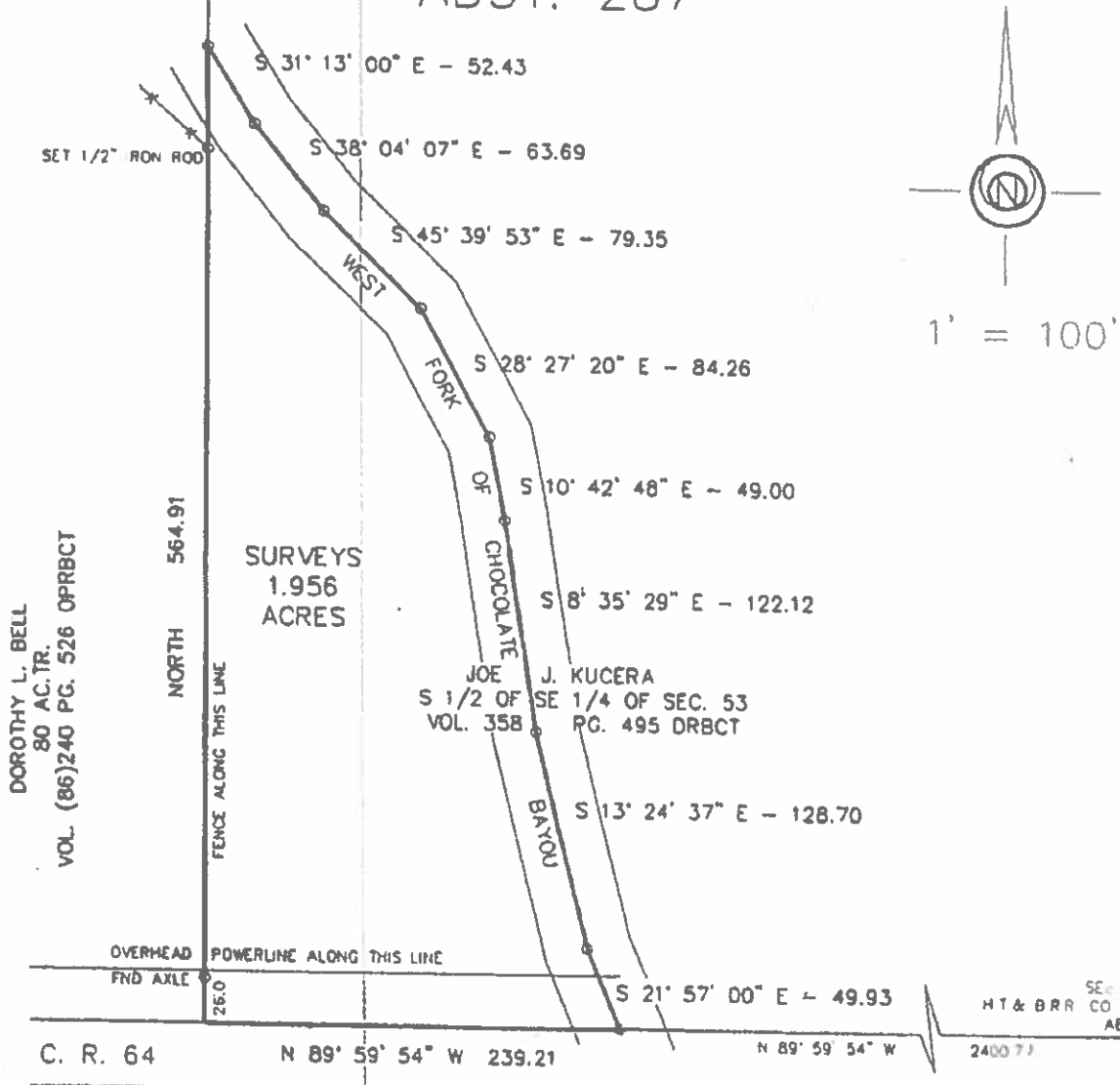

KAYLEEN ROSSER, CITY SECRETARY



IOWA COLONY/ORDINANCE/SPECIFIC USE PERMIT (FERRELL-STEEL TRACT)

**EXHIBIT “A”
PROPERTY DESCRIPTION AND MAP**

H. T. & B. R. R. CO. SURVEY ABST. 287



W. H. DENNIS SURVEY ABST. 511

CASE NO. 2003 AL 513913-P
AMERICAN TITLE COMPANY

SURVEY MAP SHOWING BOUNDARIES ON 1.956 ACRES OF LAND, OUT OF 80.0 ACRES OF LAND, BEING THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 53, H. T. & B. R. R. CO. SURVEY, ABSTRACT 287, BRAZORIA COUNTY, TEXAS, AS RECORDED IN VOLUME 358, PAGE 495, DEED RECORDS, BRAZORIA COUNTY, TEXAS.

This survey was made on the ground on July 1, 2003, under my supervision and conforms to the Texas Professional Land Surveying Practices Act and the General Rules of Procedures and Practices of the Texas Board of Professional Land Surveying, as revised July 1999