

March 14, 2022

Hon. Mark Henry  
Hon. County Commissioners Court  
Galveston County Courthouse  
Galveston, Texas 77550

Re: Galveston County Game Room Regulations

Gentlemen:

In response to a request received from the Game Room Administrator, my firm has thoroughly reviewed the current Galveston County Game Room Regulations and the Administrator's proposed revisions to these regulations. Enclosed is the proposed final draft of this document for your review.

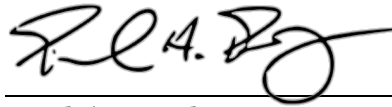
Corrections and revisions were made throughout the enclosed to ensure clarity and uniformity, and the following reflects the most significant changes:

- The procedure for how to apply for a game room permit was included. See section 2.1.
- The requirement that the hearing officer revoke a game room permit that was initially subject to suspension was removed. See section 2.3(h).
- The cycle for renewing a game room permit has been changed to align with the calendar year and the fee for obtaining a game room permit has been changed to allow for proration. See section 2.6.
- Requirements for coin-operated machines were included. See section 3.11.
- Reference to the County Legal Department was removed and was replaced with language that reflects the County's decision to outsource its legal representation. See section 3.15.

The enclosed game room regulations do not require a grandfathering provision because the revisions made will not affect or restrict current game room permit holders, but instead will clarify the already existing regulations. Grandfathering may be appropriate when an existing situation that previously complied with regulations no longer complies due to a change in the later-adopted version of said regulations. Such clause would preserve the application of the prior version for those affected by the change. Because the proposed revisions do not substantively change the game room regulations, the inclusion of a grandfathering provision is not necessary.

If you have any questions or wish to discuss this matter further, please do not hesitate to contact me or my associate, Erin Jensen.

Sincerely

A handwritten signature in black ink, appearing to read "P.A. Ready", written over a horizontal line.

Paul A. Ready



# GAME ROOM REGULATIONS

Adopted December 21, 2018  
Revised March 21, 2022

## Galveston County Game Room Regulations

### Section 1. Generally

#### 1.1 Authority to Regulate

- (a) These Regulations are promulgated pursuant to and in conformity with Chapter 234 of the Texas Local Government Code.
- (b) To promote the public health, safety, and welfare, the Galveston County Commissioners Court may regulate the operation of Game Rooms, as provided by Section 234.133 of the Texas Local Government Code.
- (c) It is the purpose of the Galveston County Commissioners Court to exercise its regulatory power, as established under Chapter 234 of the Texas Local Government Code, to establish reasonable and uniform regulation of Game Rooms in order to promote the public health, safety, and welfare, and to prohibit business activities which may enable or serve as a front for criminal activities including but not limited to organized crime, gambling, and tax evasion.
- (d) These Regulations do not legalize anything prohibited under the Texas Penal Code, or any other state or federal law or regulation.

#### 1.2 Administration

- (a) The Galveston County Commissioners Court hereby designates the Galveston County Nuisance Abatement and Game Room Manager as the Game Room Permit Administrator for Galveston County.
- (b) The Game Room Permit Administrator shall supervise, control, and operate the Galveston County Game Room Permitting Office. The Game Room Permit Administrator shall also investigate for violations of these Regulations, and may deny, issue, attach conditions to, administratively suspend, or revoke Game Room permits pursuant to these Regulations or any applicable state or federal laws or regulations.
- (c) The Game Room Permit Administrator shall oversee the enforcement of these Regulations. Any law enforcement agency or Peace Officer with competent jurisdiction may investigate for violations of and enforce these Regulations.
- (d) Under section 234.138 of the Texas Local Government Code, a Person commits an offense if the Person intentionally or knowingly Operates a

Game Room in violation of a regulation adopted under section 234.133 of the Texas Local Government Code. An offense under this section is a Class A misdemeanor.

### 1.3 Area Covered by these Regulations

- (a) Pursuant to section 233.133 of the Texas Local Government Code, these Regulations apply to enterprises located in unincorporated Galveston County, Texas.

### 1.4 Definitions

- (a) **“Amusement Redemption Machine”** means any electronic, electromechanical, or mechanical contrivance designed, made, and adopted for bona fide amusement purposes that rewards the player exclusively with noncash merchandise, prizes, toys, or novelties, or a representation of value redeemable for those items, with a wholesale value available from a single play of the game or device in an amount of not more than ten (10) times the amount charged to play the game or device once or five dollars (\$5), whichever amount is less.
- (b) **“Applicant”** means an individual, proprietorship, corporation, association, or other legal entity required to obtain a Game Room permit or Person who has applied for a Game Room permit.
- (c) **“Commissioners Court”** means the Galveston County Commissioners Court.
- (d) **“County”** means Galveston County, Texas.
- (e) **“Current Fire Inspection Report”** means the latest report issued by a Fire Safety Official following a fire inspection or a fire and life safety inspection.
- (f) **“Exception”** means an exception to the section or subsection of this rule which is approved by the Commissioners Court on a case-by-case basis.
- (g) **“Fire Safety Official”** means a Texas Commission on Fire Protection certified fire inspector or a County official having competent jurisdiction within the involved area of the County to conduct a fire and life safety inspection.

- (h) **“Gambling Device”** means a device described in Article 47.01(4) of the Texas Penal Code.
- (i) **“Game Room”** means a for-profit business located in a building or place that contains six (6) or more:
  - (1) Amusement Redemption Machines; or
  - (2) Electronic, electromechanical, or mechanical contrivances that, for consideration, afford a player the opportunity to obtain a prize or thing of value, the award of which is determined solely or partially by chance, regardless of whether the contrivance is designed, made, or adopted solely for bona fide amusement purposes.
- (j) **“Game Room Permit Administrator”** means the Galveston County Nuisance Abatement and Game Room Manager, or their designated agent(s).
- (k) **“Notice”** is deemed effective on the date the Applicant, permit holder, or agent thereof receives the written notice by hand-delivery or certified mail, or on the date the written notice is affixed to the front exterior door of the Game Room.
- (l) To **“Operate(s) a Game Room”** means to:
  - (1) engage in the business of operating a Game Room;
  - (2) cause or be a part of the operation of a Game Room;
  - (3) fund the operation of a Game Room;
  - (4) have a financial interest in a Game Room;
  - (5) receive any profit from a Game Room;
  - (6) supply machines described in subsection 1.4(i)(1)-(2) to a Game Room;
  - (7) own machines described in subsection 1.4(i)(1)-(2) located in a Game Room;

- (8) have machines described in subsection 1.4(i)(1)-(2) or section 2153.002(1) of the Texas Occupations Code registered in one's name with Galveston County, Texas or the Texas Comptroller located in a Game Room;
  - (9) receive any payment from a machine described in subsection 1.4(i)(1)-(2) located in a Game Room; or
  - (10) receive any profit from a machine described in subsection 1.4(i)(1)-(2) located in a Game Room.
- (m) **“Operator”** means an individual who:
- (1) operates a cash register, cash drawer, or other depository on the premises of a Game Room or of a business where the money earned or the records of credit card transactions or other credit transactions generated in any manner by the operation of a Game Room or activities conducted in a Game Room are kept;
  - (2) displays, delivers, or provides to a customer of a Game Room; merchandise, goods, entertainment, or other services offered on the premises of a Game Room;
  - (3) takes orders from a customer of a Game Room for merchandise, goods, entertainment, or other services offered on the premises of a Game Room;
  - (4) acts as a door attendant to regulate entry of customers or other persons into a Game Room;
  - (5) supervises or manages other persons at a Game Room in the performance of an activity listed in this subsection; or
  - (6) is compensated for duties associated with the operation of a game room.
- (n) **“Owner”** means a person who:
- (1) has an ownership interest in, or receives the profits or a percentage of the income from, a Game Room or an Amusement Redemption Machine located in a Game Room;

- (2) is a partner, director, or officer of a business, including a company or corporation, that has an ownership interest in a Game Room or in an Amusement Redemption Machine located in a Game Room;
  - (3) is a shareholder that holds more than ten (10) percent of the outstanding shares of a business, company, or corporation that has an ownership interest in a Game Room or in an Amusement Redemption Machine located in a Game Room;
  - (4) has been issued by the county clerk an assumed name certificate for a business that owns a Game Room or an Amusement Redemption Machine located in a Game Room;
  - (5) signs a lease for a Game Room;
  - (6) opens an account for utilities for a Game Room;
  - (7) receives a certificate of occupancy or certificate of compliance for a Game Room;
  - (8) pays for advertising for a Game Room; or
  - (9) signs an alarm permit for a Game Room.
- (o) **“Peace Officer”** means an individual as described in Article 2.12 of the Texas Code of Criminal Procedure.
  - (p) **“Person”** means an Owner, Operator, individual, employee, agent, proprietorship, corporation, association, or other legal entity.
  - (q) **“Regulation(s)”** means the Galveston County Game Room Regulations.
  - (r) **“School”** means a facility, including all attached playgrounds, dormitories, stadiums, and other appurtenances that are part of the facility, used for the primary purpose of instruction or education, including primary and secondary schools, colleges and universities, and licensed daycares, both public and private.



## Section 2. Game Room Permits

### 2.1 Application Process

- (a) It shall be unlawful to Operate, use, or maintain a Game Room in Galveston County that has not been issued a permit pursuant to these Regulations.
- (b) In order to obtain a Game Room permit, a completed application must be submitted to the Galveston Branch of the Galveston County Tax Office, located at 722 Moody Avenue, Galveston, Texas. This application must be submitted on the form provided by the Nuisance Abatement Office or on an accurate and legible copy of that form. This form can be obtained from the Nuisance Abatement Office or from the website for the Nuisance Abatement Office:

<https://www.galvestoncountytexas.gov/county-offices/nuisance-abatement/game-rooms>

- (1) The application must be submitted in person and may be submitted by either an Owner of the Game Room or by a designated proxy. The application will not be accepted if it is received by mail, fax, or sent via electronic mail.
- (2) The permit application fee must be paid at the time the application is submitted. This fee is not refundable. The Applicant shall receive a receipt at the time of the transaction showing proof of payment. A copy of this receipt will be included with the Applicant's application materials.
  - (i) The Tax Assessor-Collector shall provide the fee schedule.
  - (ii) This fee must not exceed the annual Game Room permit fee limit of \$1,000 and shall be set by the Commissioners Court in accordance with section 234.135 of the Texas Local Government Code. In the event that the application is submitted after the first month of the calendar year, this fee shall be prorated. Proration means a fee proportional to the number of days remaining in the year between the date of the application and the end of the calendar year as a fraction over 365.

- (iii) The receipt showing proof of payment of the application fee is not a Game Room permit.
    - (iv) The date listed on the Applicant's receipt shall be the recognized date of submission.
  - (3) The application, complete with the copy of the Applicant's receipt showing proof of payment, will then be delivered to the Nuisance Abatement Office for processing and review.
  - (4) Incomplete applications shall not be accepted. Once a complete application has been submitted, the review process will begin. The Game Room Permit Administrator will review the application materials and will conduct up to three (3) inspections of the Applicant's proposed Game Room for the purpose of ensuring compliance with these Regulations. The Applicant or their designee must be physically present on the premises during these inspections. It shall be the responsibility of the Applicant to provide an interpreter if necessary.
    - (i) After each inspection, the Applicant will be informed of any deficiencies or areas that must be corrected in order for the proposed Game Room to comply with these Regulations.
    - (ii) If after the third and final inspection the Applicant's proposed Game Room fails to comply with these Regulations, the Game Room Permit Administrator must deny the application.
  - (5) The Applicant shall have sixty (60) days from the initial inspection to complete the inspection process. It is the duty of the Applicant to ensure this process is completed during this timeframe. Failure to complete the inspection process within the requisite timeframe shall result in the denial of the application.
    - (i) The Game Room Permit Administrator may issue one (1) ten-day extension at their sole discretion, upon request by the Applicant.
  - (6) If the Game Room Permit Administrator determines that inaccurate, erroneous, or incomplete information has been

submitted, or if the Applicant fails to provide any information required by this section, the Game Room Permit Administrator shall deny the application.

- (7) If the application for the proposed Game Room is complete and the Game Room passes the final inspection, the Game Room Permit Administrator shall approve the application and shall issue the Applicant a Game Room permit.
- (c) In order for a Game Room permit application to be considered complete, it must be accompanied by the following:
- (1) the Current Fire Inspection Report from a Fire Safety Official showing compliance with all applicable fire codes as required by the state of Texas and County, with all corrections ordered. Such report must be issued within the ninety (90) days immediately preceding the date of submission of the application for the Game Room permit or the application for the renewal of the Game Room permit;
  - (2) a copy of the document(s) that certifies that the Applicant and the Applicant's proposed Game Room are in compliance with all applicable life and safety codes. This document must be issued by the appropriate entity for the proposed Game Room;
  - (3) a diagram or floor plan, prepared by a licensed architect or engineer and approved by the entity with competent jurisdiction, that includes the net occupancy load. Such diagram must show the location of any objects, including but not limited to, Amusement Redemption Machines, coin-operated machine, furniture, any obstructions on the floor, and fire extinguishers. Such diagram must also include all exits and all paths of ingress and egress. **If any changes are to be made to the interior layout of the Game Room, the Game Room Permit Administrator must be notified prior to the commencement of the work and must receive the updated floor plan within thirty (30) days of the completion of such changes;**
  - (4) If the proposed Game Room will be operating under an assumed name, a true and correct copy of the assumed name certificate of which was filed with the Galveston County Clerk's Office. Such

copy must bear a file mark or stamp indicating that it has been filed;

- (5) If the Applicant is a legal entity, a copy of the formative legal documents for the legal entity (e.g., the Articles of Incorporation, partnership agreement, etc.) and a certificate issued by the Texas Secretary of State that shows the legal entity is in good standing;
- (6) A photocopy of the Applicant's driver's license or government-issued photo identification. If the Applicant is a legal entity, include a photocopy of the driver's license or government-issued photo identification of the individual executing the Application on the entity's behalf;
- (7) Proof as required in subsection 3.13(b) that the proposed Game Room is exempt from the requirements set forth by subsection 3.2 of these Regulations, if applicable;
- (8) Proof as required in subsection 3.13(c) that the proposed Game Room is exempt from the requirements set forth by subsection 3.4 of these Regulations, if applicable;
- (9) Proof as required in subsection 3.13(b) that the proposed Game Room is exempt from the requirements set forth by subsection 3.5 of these Regulations, if applicable;
- (10) Proof as required in subsection 3.9(d) that the proposed Game Room is exempt from or will be located in compliance with the requirements set forth by subsection 3.9 of these Regulations, if applicable;
- (11) A current lease agreement for the proposed Game Room premises with the Applicant listed as the lessee, or proof (e.g., current deed) that shows the Applicant owns the property to be used for the proposed Game Room;
- (12) A list of all Owners, Operators, employees, agents, and any other individuals, proprietorships, corporations, associations, or other legal entities acting for or acting on behalf of the Game Room along with a photocopy of their driver's license or government-issued identification and, if applicable, a copy of the formative legal documents for any legal entities;

- (13) The Applicant's Federal Employer Identification Number ("EIN");
  - (14) A notarized sworn statement by the Applicant that none of the Owners, Operators, employees, agents, or any other individual acting for or acting on behalf of the Game Room have been convicted of any of the offenses listed in subsection 2.2(b)(1) of these Regulations;
  - (15) A statement certifying that all of the contents of the application and included materials are true and correct under the penalty of perjury as defined under Section 37.02 of the Texas Penal Code. Any misrepresentation made by the Applicant on the application for a proposed Game Room is a third-degree felony offense, as defined under Section 37.10 of the Texas Penal Code; and
  - (16) Proof of compliance with subsection 3.11 of these Regulations.
- (d) Failure to provide all documents required in subsection 2.1(c) may result in the rejection of the application. Failure to provide the proof required by subsections 2.1(c)(7)-(10), as applicable, will result in the denial of the sought-after exemption.
  - (e) An existing Game Room may continue to operate during the pendency of the application period provided that a completed permit application was submitted before April 1, 2019, and upon showing proof, as described in subsection 3.9(c), that the Applicant continuously owned and operated the Game Room under the same name at the same location prior to January 1, 2019. **ALL OTHER GAME ROOMS OR PROPOSED GAME ROOMS SHALL NOT OPERATE DURING THE PENDENCY OF THE APPLICATION PERIOD. SUCH GAME ROOMS SHALL NOT OPERATE UNTIL THE APPLICATION IS APPROVED AND THE PERMIT IS ISSUED.**
  - (f) A Game Room permit is not transferable, assignable, or divisible and it is a violation of these Regulations for any Person to attempt to do so. If the ownership of a Game Room changes, the Game Room's permit shall become void. The new Owner(s) must then reapply for a Game Room permit before the Game Room may operate. It shall be considered a change of ownership if ten percent (10%) or more of an ownership interest or shares of ownership stock transfers to another Person, or a new Person becomes an Owner as defined by subsection 1.4.

- (1) The intentional or knowing transfer, assign, or divide of a Game Room permit issued pursuant to these Regulations, or any attempt to do so, shall be punishable by law. A Person who does so, or attempts to do so, shall also be assessed a civil penalty not to exceed \$10,000 per violation. Each transfer, assign, or divide of a Game Room permit, and each attempt to do so, shall be considered a separate violation.

## 2.2 Grounds for Denial, Revocation, or Suspension of a Game Room Permit

- (a) Any violation of any section or subsection of these Regulations, or a failure to meet all requirements of any section or subsection of these Regulations where applicable, shall be grounds for the denial, revocation, or suspension of a Game Room Permit.
- (b) A Game Room permit shall be denied upon a finding by the Game Room Permit Administrator of any of the following:
  - (1) An Applicant, Owner, or Operator has previously violated or been convicted of any level of offense for the following:
    - (i) Gambling, Gambling Promotion, Keeping a Gambling Place, Communicating Gambling Information, Possession of Gambling Device, Equipment, or Paraphernalia, as described in Chapter 47 of the Texas Penal Code;
    - (ii) Forgery, Credit Card or Debit Card Abuse, or Commercial Bribery, as described in Chapter 32 of the Texas Penal Code;
    - (iii) Money Laundering, as described in Chapter 34 of the Texas Penal Code; or
    - (iv) Criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses, or any other offense to the laws of another state or of the United States that if committed in this state would have been punishable as one or more of the aforementioned offenses; and,
      - A. Less than two (2) years have elapsed since the date of the violation, or of the conviction, or the date of release from confinement imposed by the conviction, whichever is the later date, if the violation or conviction was a misdemeanor offense; or

- B. Less than five (5) years have elapsed since the date of the violation, or of the conviction, or the date of release from confinement imposed by the conviction, whichever is the later date, if the violation or conviction was a felony offense.
- (2) An Applicant makes a misleading statement in the application for the Game Room permit, provides false, fraudulent, or untruthful information in the application for a Game Room permit, or withholds pertinent information from the application for a Game Room permit;
  - (3) An Applicant is under eighteen (18) years of age;
  - (4) An Applicant, Owner, or Operator has had a Game Room permit revoked within the one-hundred and eighty (180) day period immediately preceding the date the application was filed;
  - (5) An Applicant, Owner, or Operator is delinquent in the payment to the County of taxes, fees, fines, or penalties assessed or imposed upon, regarding the Operation of a Game Room;
  - (6) An application or renewal fee required by these Regulations has not been paid by the date it is due;
  - (7) An Applicant fails to complete the inspection process within the timeframe specified in subsection 2.1(b)(6); or
  - (8) An offense described in subsection 2.2(b)(1) or subsection 3.12(a) of these Regulations was committed at the Game Room or at another Game Room at the same location within one (1) year prior to the filing of the application.
- (c) If the Game Room Permit Administrator denies an application for a Game Room permit, the Game Room Permit Administrator must document the denial and provide Notice to the Applicant. Such letter must provide the reason(s) for the denial.
  - (d) The Game Room Permit Administrator shall have the authority to revoke or suspend a Game Room permit if one (1) or more of the following events or conditions have occurred:

- (1) An offense described in subsection 2.2(b)(1) or subsection 3.12(a) of these Regulations was committed at the Game Room premises;
  - (2) The Applicant made a misleading statement in the application for the Game Room permit, provided false, fraudulent, or untruthful information in the application for the Game Room permit, or withheld pertinent information from the application for the Game Room permit;
  - (3) The Game Room permit should not have been issued pursuant to these Regulations;
  - (4) An Owner, or Operator has failed to make any corrections ordered by a Fire Safety Official or the Game Room Permit Administrator;
  - (5) An Owner, Operator, employee, agent, and/or any other individual acting for, or acting on behalf of the Game Room has violated any offense described in subsection 2.2(b)(1) or section 3.12(a) of these Regulations; or
  - (6) A Person or any other Person acting for or on behalf of the Game Room commits any violation of any section or subsection of these Regulations.
- (e) If any of the events stated in subsection 2.2(d) have occurred, providing a basis for revoking or suspending a Game Room permit, the Game Room Permit Administrator must document the event and must provide Notice to the Person who holds the Game Room permit of the upcoming revocation or suspension. Such letter must provide the reason(s) for the revocation or suspension. Unless as provided under subsection 2.2(f), the revocation or suspension will become final on the seventh (7th) day after Notice is deemed effective.
- (f) In the discretion of the Game Room Permit Administrator, the suspension of a Game Room Permit shall take immediate effect upon Notice if:
- (1) an Owner, Operator, employee, agent, or any other individual acting for or acting on behalf of a Game Room has violated any offense described in subsection 2.2(b)(1) or subsection 3.12(a) of these Regulations;



- (2) a violation of any offense described in subsection 2.2(b)(1) or subsection 3.12(a) of these Regulations has occurred on the premises of the Game Room;
- (3) there is a necessity for immediate action to protect the public from injury or imminent danger; or
- (4) a Game Room permit was issued based on a misrepresentation in the application and but for the misrepresentation, the Game Room permit would not have been issued.

### 2.3 Appeal Hearings

- (a) If the Game Room Permit Administrator denies a Game Room permit application, revokes a Game Room permit, or suspends a Game Room permit, the Applicant or permit holder shall have the opportunity to make a written request for a hearing before a hearing examiner to appeal the action. The hearing examiner shall be appointed by the Commissioners Court and must not have participated in any investigation of the alleged grounds for the denial, suspension, or revocation.
- (b) All requests for such hearings must be made in writing and delivered to the Game Room Permit Administrator within fourteen (14) days of receiving Notice. The Applicant or Game Room permit holder waives the right to an appeal hearing if the request is not received timely by the Game Room Permit Administrator.
- (c) The appeal hearing must be held within forty-five (45) days of the Game Room Permit Administrator's receipt of the Applicant or permit holder's request for the hearing. The Applicant or permit holder and the Game Room Permit Administrator shall be provided the opportunity to present evidence, cross-examine witnesses, and be represented by legal counsel at the appeal hearing. The formal rules of evidence do not apply to such hearings.
- (d) It shall be the responsibility of the Applicant or permit holder to incur the cost of and to provide a court reporter if one is desired. It shall also be the responsibility of the Applicant or permit holder to incur the cost of and to provide an interpreter if one is necessary.
- (e) All involved parties must be physically present at the hearing. If the Applicant or permit holder is not physically present at the hearing, the Applicant or permit holder effectively waives their right to the hearing

and the Game Room Permit Administrator's decision to deny, revoke, or suspend the permit shall be upheld.

- (f) The hearing examiner has the power to uphold or reverse the denial, suspension, or revocation of the Game Room permit. Upon the conclusion of the hearing, the hearing examiner shall review the facts and evidence presented and shall issue a written order within twenty-one (21) days of the hearing.
- (g) If the hearing examiner determines that a suspension in lieu of a revocation is appropriate, operation of the Game Room shall be suspended for a period not to exceed one hundred and eighty (180) days. In such instance, the hearing examiner must issue a written order indicating the period of the suspension and detailing the conditions, if any, of the suspension. The suspension shall become effective on the date the hearing examiner issues the order.
- (h) If the hearing examiner determines that subsection 2.2(d)(1), 2.2(d)(2), 2.2(d)(3), 2.2(d)(4) or 2.2(d)(5) of these Regulations was violated, the Game Room Permit Administrator's decision to deny, revoke, or suspend the permit shall be upheld.
- (i) The hearing examiner's decision may be appealed by filing a petition in the district court with competent jurisdiction within thirty (30) days of the issued order. Appeals to the district court will be governed by the substantial evidence rule described in Section 2001.174 of the Texas Government Code.

#### 2.4. Game Room Operation During Pendency of Appeals to District Court

- (a) If the permit holder's appeal to the hearing examiner to reverse the revocation or suspension of the Game Room permit is not successful, the Game Room shall not operate during the pendency of the appeal to the district court.
- (b) If the permit holder's appeal to the hearing examiner to reverse the revocation, or suspension of the Game Room permit is successful, the Game Room may resume operation immediately and may continue to operate during the pendency of the appeal to the district court.
- (c) If the Applicant's appeal to reverse the denial of a Game Room permit is unsuccessful, the Game Room shall not operate during the pendency of the appeal to the district court, unless it is the initial application or an application for the renewal of a Game Room permit for a Game Room

which had been allowed to continue operation under section 2.1(e) of these Regulations.

## 2.5 Reapplication After Appeals Process

- (a) After the hearing examiner issues the order confirming the denial or revocation of the Game Room permit, the Applicant may reapply for a Game Room permit after the expiration of one hundred and eighty (180) days from the date the order was issued.
- (b) Such application shall be considered a new application and must comply with the application requirements, fees, and timelines as set forth by subsection 2.1 of these Regulations. A Game Room subject to the reapplication process under subsection 2.5(a) is disqualified from obtaining the exemption otherwise available in subsection 3.9(c) of these Regulations.

## 2.6 Permit Renewal; Permit Fee-Levied; Amount; Payment

- (a) In order to renew a Game Room permit, the permit holder must submit a completed application by December 1st of the calendar year. This application to renew the Game Room permit must be complete and should not have any deficiencies. So long as the application to renew the Game Room permit is submitted by December 1st and is complete, the existing Game Room permit shall remain in effect until the Game Room Permit Administrator makes a determination as to whether the permit will be renewed.
- (b) To renew a Game Room permit, the permit holder must again follow the procedure detailed in subsection 2.1(b)(1)-(3) of these Regulations.
- (c) The Game Room Permit Administrator will review the Applicant's application materials.
  - (1) If the Game Room Permit Administrator determines that inaccurate, erroneous, or incomplete information has been submitted, or if the permit holder fails to provide any information required by this section, the Game Room Permit Administrator shall deny the application for renewal.
  - (2) If the application for the renewal of the Game Room permit is complete and the Game Room passes the final inspection, the Game Room Permit Administrator shall approve the application and shall renew the Game Room permit.

- (d) In order for the application to renew a Game Room permit to be considered complete, it must be accompanied by the following:
  - (1) All requirements set forth in subsection 2.1(c)(1)-(16) of these Regulations. A copy of a previously submitted version of the following documents will be sufficient, so long as the document is to-date and accurate:
    - (i) those listed in subsection 2.1(c)(1);
    - (i) those listed in subsection 2.1(c)(3)-(13); and
    - (ii) those listed in subsection 2.1(c)(16); and
  - (2) The fee set forth by subsection 2.1(b)(2) of these Regulations.

## 2.7 Contents of a Game Room Permit

- (a) After the Game Room Permit Administrator has reviewed and approved the application materials for a Game Room permit or for a renewal of the Game Room permit, the Game Room Permit Administrator shall give the permit holder a signed certificate. This certificate shall constitute a permit to operate the Game Room and shall be valid for the remainder of the calendar year.
- (b) The Game Room permit must contain the following information:
  - (1) The name of the Game Room Permit Administrator issuing the permit;
  - (2) The date of issue and the date of expiration;
  - (3) The name of the permit holder and, if the permit holder is a corporation or other legal entity, the individual(s) asserting control over the legal entity;
  - (4) The name and physical address of the Game Room; and
  - (5) Any applicable exemptions to the requirements of Section 3 of these Regulations for which the permit holder has qualified for.
- (c) The Game Room Permit Administrator must keep an original signed copy of the permit for their records.

## 2.8 Penalty for Operating a Game Room without a Permit

- (a) A Person that Operates a Game Room without securing a Game Room permit pursuant to these Regulations, or who Operates a Game Room after the permit therefor has been revoked, suspended, or has expired, shall be assessed a civil penalty not to exceed \$10,000 per violation. Each day a violation occurs or continues to occur is considered a separate violation.
- (b) A Person commits an offense if they intentionally or knowingly Operate a Game Room in violation of these Regulations.

## 2.9 Effect

- (a) Each Applicant, Owner, Operator, employee, agent, or any other individual acting for or on behalf of a Game Room must comply with all applicable state or federal laws or regulations.
- (b) The issuance of a permit pursuant to these Regulations shall not excuse any Owner, Operator, employee, agent, or any other individual acting for or on behalf of a Game Room, or any patron of such premises from compliance with such laws or regulations.

## Section 3. Game Rooms

### 3.1 Authority to Inspect

- (a) A Game Room permit issued pursuant to these Regulations authorizes Peace Officers, Fire Safety Officials, and designated County employees to enter and to inspect any Game Room for violations of these Regulations during the Game Room's regular hours of operation.
  - (1) If the Game Room is closed during its regular hours of operation and the Game Room Permit Administrator wishes to access the premises, the Game Room Permit Administrator must notify the Game Room Owner of the request and must allow the Game Room Owner the opportunity to comply with the request by providing them with at least one (1) hour to open the Game Room for the inspection. Such notification may be issued via email or telephone.
- (b) Peace Officers, Fire Safety Officials, and designated County employees are authorized to inspect any business in the County for violations of

these Regulations. These Regulations do not authorize a right of entry prohibited by law.

- (c) An unpermitted business that holds itself out as a Game Room by sign, advertisement, word-of-mouth, offering memberships, by displaying or offering for play six (6) or more machines described in subsection 1.4(i)(1)-(2) inside of the business, or by any other means, is subject to inspection by any Peace Officer, Fire Safety Official, or the Game Room Permit Administrator. Such businesses shall be considered a Game Room under these Regulations.
  - (1) Peace Officers, Fire Safety Officials, and the Game Room Permit Administrator may enter a non-permitted business with consent, with a warrant, or under exigent circumstances, or as otherwise allowed by law.
  - (2) The refusal to allow a Peace Officer, Fire Safety Official, or the Game Room Permit Administrator entry to inspect an unpermitted Game Room may be taken into consideration when determining probable cause for the issuance of a search warrant to inspect the premises for violations of these Regulations.
  - (3) Unpermitted Game Rooms are subject to these Regulations. Owners and Operators of unpermitted Game Rooms may be held liable for the civil and criminal penalties listed herein.
- (d) Any Peace Officer, Fire Safety Official, or the Game Room Permit Administrator may inspect any permitted Game Room located within their jurisdiction to ensure compliance with these Regulations.
- (e) Each Peace Officer, Fire Safety Official, and Game Room Permit Administrator denied entry shall be considered a separate violation.

### 3.2 Game Room Sign Requirements

- (a) Each outside door of the Game Room must have a sign attached to it or attached adjacent to it that:
  - (1) reads “GAME ROOM” in block lettering that is twelve (12) inches or larger, and “Open to the public, must be 21 years of age or older,” in block lettering that is four (4) inches or larger; and
  - (2) is legible and visible at all times from a distance of fifty (50) feet from the outside door.

- (b) In addition to the Game Room sign, the physical address of the Game Room must be posted in a place so that it is visible from the public road. The letters and numbers of the physical address must be written in lettering that is at least four (4) inches tall and in a contrasting color to the background of the posting.
- (c) Each outside door not marked in accordance with these Regulations shall be considered a separate violation.
- (d) A Game Room that has been issued an exemption pursuant to subsection 3.13 of these Regulations is exempt from the requirements set forth in this subsection, section 3.2.

### 3.3 Fire and Life Safety

- (a) All Game Rooms must be equipped with doors that are readily accessible without the use of a key or special knowledge or effort during business hours and all other hours of operation. Entry to the Game Room during business hours and other hours of operation must not be prevented by the use of a lock or similar method. All doors used for patron entry must be able to be opened from the outside.
- (b) Each Game Room must comply with all applicable fire codes adopted by the State of Texas that are required in the County. Such codes will be strictly enforced. The Owner of the Game Room shall be financially responsible for any fees associated with maintaining compliance including but not limited to any court-approved fees regarding inspections, plan reviews, occupancy load calculations, complaints, and the like.
- (c) To ensure compliance with this subsection, Fire Safety Officials must be granted immediate access to the Game Room premises at any time and upon request.
- (d) Each outside door not equipped in accordance with these Regulations shall be considered a separate violation.

### 3.4 Transparent and Uncovered Windows and Doors Requirements

- (a) All Game Rooms must be equipped with at least one (1) window on the front of the building and at least one (1) other window on one (1) other side of the building. Such windows must meet all criteria set forth in

subsections 3.4(b)–(c) and must allow for a clear, unobstructed view of all machines described in 1.4(i)(1)-(2) located therein.

- (b) With the exception of pre-existing Game Rooms as defined in section 2.1(d) which may be approved on a case-by-case basis by the Game Room Permit Administrator, it shall be unlawful for a Person to exhibit or display, or to permit to be exhibited or displayed for commercial use any machine described in subsection 1.4(i)(1)-(2) unless each exterior window required by subsection 3.4(a) is transparent and:
  - (1) allows for the unobstructed view of all machines described by subsection 1.4(i)(1)-(2) that are located inside of the Game Room;
  - (2) is at the lowest point not more than four (4) feet above the adjacent sidewalk or ground level;
  - (3) is at the highest point at least six and one half (6.5) feet higher than the adjacent sidewalk or ground level; and
  - (4) is at least four (4) feet wide.
- (c) Each exterior Game Room window or door must be equipped with transparent, uncovered glass.
  - (1) The Game Room door must be at least fifty percent (50%) transparent on the top half of the door as to allow for a clear, unobstructed view of the entrance/exit and of all machines described in subsection 1.4(i)(1)-(2) located inside of the Game Room.
- (d) It shall be unlawful for a Person to cover or tint a Game Room window or door, or to otherwise block a window or door so as to obscure the view of any machine described in subsection 1.4(i)(1)-(2) located inside of a Game Room. It shall also be unlawful for a Person to cover or tint a Game Room window or door, or to otherwise block a window or door so as to obscure the view of the interior of the Game Room from the sidewalk through a Game Room window or door.
  - (1) Any tint applied to a window or door must allow for at least 69% visible light transmission.
- (e) A Game Room that has been issued an exemption pursuant to subsection 3.13 of these Regulations is exempt from the Game Room window requirements.



### 3.5 Hours of Operation

- (a) A Game Room may operate only between the hours of 8 a.m. and 12 a.m.
- (b) Each hour of a day that a Game Room Operates in violation of subsection 3.5(a) shall be considered a separate violation.
- (c) A Game Room that has been issued an exemption pursuant to subsection 3.13 of these Regulations is exempt from the requirements set forth in subsection 3.5(a).

### 3.6 Display of Game Room Permit

- (a) The Game Room permit must be posted or displayed in plain sight in a common area of the Game Room, of which must be accessible to the public without having to enter into a controlled area of the Game Room. Such permit must be unexpired and otherwise valid.

### 3.7 Recordkeeping

- (a) The following records must be maintained on site at each Game Room and made available to any Peace Officer, Fire Safety Official, or the Game Room Permit Administrator for inspection upon request:
  - (1) a record for each employee that contains the name, address, date of birth, state identification number or social security number, job function, W-2 or W-4 form, a copy of the employee's completed application for work for the Game Room, a copy of the employee's completed I-9 of which was filed with the Department of Homeland Security, and a photograph of the employee; and
  - (2) a daily register that contains the name, current date, each time of entry and exit, and job function of each Owner, Operator, employee, agent, and of any other individual acting for or acting on behalf of the Game Room.
- (b) The Game Room shall preserve the register required by subsection (a)(2) for ninety (90) days after the date the register was made. Such register must be accessible by any person on duty at the Game Room.
- (c) Each record required under this subsection that is missing or is deficient shall be considered a separate violation. Each day that the record is missing or is deficient shall be considered a separate violation.

3.8 Prohibited Employment

- (a) It shall be unlawful for any Owner, Operator, employee, agent, or any other individual acting for or acting behalf of a Game Room to have been convicted of, entered a plea of nolo contendere or guilty, or have received deferred adjudication for any offense set forth in subsection 2.2(b)(1).
- (b) It shall be the responsibility of the Game Room Owner(s) to conduct a complete criminal history check of each Owner, Operator, employee, and any other individual acting for or acting on behalf of the Game Room.
  - (1) Such inquiries must be made upon hiring said individual, and must be repeated annually, no later than one month after the anniversary of the individual’s official date of hire.
  - (2) Such inquiries require the submission of the individual’s fingerprints to the Texas Department of Public Safety or to the Federal Bureau of Investigation.
- (c) Every Owner, Operator, employee, or any other individual acting for or acting on behalf of the Game Room that was convicted of, entered a plea of nolo contendere or guilty or received deferred adjudication for any offense set forth in subsection 2.2(b)(1) shall be considered a separate violation.
- (d) Every Owner, Operator, employee, and any other individual acting for or acting on behalf of the Game Room not subjected to a complete criminal history check shall be considered a separate violation.

3.9 Distancing Restrictions.

- (a) A Game Room in operation shall not be located:
  - (1) within 1,500 feet from any existing or planned School, regular place of religious worship, or residential neighborhood; or
    - (i) “Planned” shall mean that steps have been taken toward the development of the facility or structure, including but not limited to receiving a permit, obtaining approval for a plat, beginning design work, receiving a bond, or receiving an order of approval from the governing body of a governmental entity.

- (ii) “Neighborhood” shall mean a platted subdivision or property contiguous to and within 300 feet of a platted subdivision. “Plated subdivision” has the meaning assigned by Section 343.002 of the Texas Health and Safety Code.
- (2) within a distance of 2,000 feet from where two (2) or more other Game Rooms are located.
- (b) For the purposes of this subsection, measurements shall be made in a straight line from the nearest portion of the building or appurtenances used by the Game Room to the nearest portion of the building or appurtenances that are used for the purposes identified in subsection 3.9(a).
- (c) An Applicant may request an exemption to the requirements set forth by subsection 3.9(a) upon including proof with their application for a Game Room permit that the Applicant continuously Owned and Operated the Game Room at the same location and under the same name prior to January 1, 2019.
  - (1) If the Game Room changed its name, changed its ownership as described by subsection 2.1(f) of these Regulations, added another Owner after this date, or if the Game Room’s permit was suspended or revoked, or such permit was denied renewal, or such permit expired or lapsed, then the Game Room shall be considered a new Game Room and cannot qualify for the exemption allowed by subsection 3.9(c).
  - (2) In order to qualify for this exemption, the application for the Game Room must have been submitted on or before April 1, 2019 and must have claimed the exemption allowed by subsection 3.9(c).
- (d) In addition to the Game Rooms described in subsection 3.9(c) of these Regulations, Game Rooms that meet the requirements of subsection 3.13(c) of these Regulations are exempt from the distancing requirements set forth by this subsection.

### 3.10 Game Room Memberships

- (a) Game Room memberships are prohibited for any purpose.
- (b) Match play is prohibited for any purpose.

- (c) Owners and Operators may not restrict entry to the Game Room or prohibit the participation in any activity inside the Game Room by a patron through the requirement of a membership, or like requirement, for the Game Room.
- (d) Owners or Operators of Game Rooms shall not issue membership cards, key fobs, or any other item that is used to “check in” any individual for any purpose.
- (e) The Game Room shall not have, make use of, employ, or require a “check in” procedure of any kind prior to entering or before exiting the Game Room, except as required by subsection 3.7(a)(2).
- (f) Each person denied entry is considered a separate violation.
- (g) Each individual subjected to any “check in” procedure prior to entering or before exiting the Game Room shall be considered a separate violation.

### 3.11 Machines Located in a Game Room.

- (a) It shall be the responsibility of the Game Room Owner to ensure that each coin-operated machine located on the Game Room premises remains in compliance with Chapter 2153 of the Texas Occupations Code, as amended, as applicable.
- (b) It shall be the responsibility of the Game Room Owner to obtain all necessary licenses and permits as required by Chapter 2153 of the Texas Occupations Code, as amended.
- (c) Each coin-operated machine, as defined by Section 2153.002(1) of the Texas Occupations Code, located inside the Game Room must have an occupation tax permit from the State of Texas and from the County affixed to it.
  - (1) Each tax stamp must be visible and located on a prominent portion of the machine.
- (d) Each machine described in subsection 1.4(i)(1)-(2) that is also a coin-operated machine as defined by Section 2153.002(1) of the Texas Occupations Code that is located within the Game Room that is not registered or does not have the current tax permit from the State of Texas and the County prominently displayed on the machine will be considered a separate violation.

- (e) It shall be the responsibility of the Applicant to ensure that evidence of compliance with this subsection is included with the application for the Game Room permit, as required by section 2.1(c)(16) of these Regulations. In the event that the Applicant has not yet received the permits required by section 3.11(c), the Applicant must include evidence with their application for a Game Room permit that the Applicant has submitted an application to receive such permits from the State of Texas and the County and that the issuance of such permits remains pending.

### 3.12 Illegal Machines

- (a) It shall be unlawful for a Game Room to keep, exhibit, operate, display, or maintain any Gambling Device that is prohibited by the Constitution of the State of Texas or by Chapter 47 of the Texas Penal Code, as amended.
- (b) If a law enforcement agency with competent jurisdiction determines that a Game Room was or is operating in violation of Chapter 47 of the Texas Penal Code, as amended, then every machine described in subsection 1.4(i)(1)-(2) shall be considered a violation of this subsection.
- (c) Each machine described in subsection 1.4(i)(1)-(2) that is being used or has been used for illegal gambling, as determined by subsection 3.12(b), shall be considered a separate violation.
- (d) An individual's compliance with these Regulations, including Operating a Game Room under a permit issued pursuant to these Regulations, is not a defense to prosecution for an offense under Chapter 47 of the Texas Penal Code, as amended.

### 3.13 Food and Beverage Sale and Charitable Bingo Exemption Requirements.

- (a) An Applicant or permit holder may apply for multiple exemptions. Any exemption granted must be clearly stated on the Game Room permit.
- (b) Charitable Bingo Exemption. To qualify for a charitable bingo exemption, the Applicant must obtain and include with their application materials for a Game Room permit or for the renewal of their Game Room permit, a valid Texas Lottery Commission Charitable Bingo License, as described by Chapter 2001 of the Texas Occupations Code, as amended.

- (1) The Applicant may provide either the original or a legible photocopy of the Texas Lottery Commission Charitable Bingo License in order to fulfill this requirement.
  - (2) Game Rooms that qualify for the charitable bingo exemption, shall be exempt from the requirements set forth by subsection 3.2.
  - (3) Game Rooms that qualify for the charitable bingo exemption shall be exempt from the requirements set forth by subsection 3.5.
- (c) Food and Beverage Sales Exemption.
- (1) The terms defined in this subsection shall be understood to mean the following, unless the context of which the term is used clearly indicates otherwise:
    - (i) “Food or Beverage Service” means cooking or assembling food on premises, primarily for on-premises consumption. Commercially prepackaged items which require no heating, cooking, or assembly and which may be purchased off-premises do not constitute Food or Beverage Service under this section.
    - (ii) “Entrée” means a main dish of a meal.
    - (iii) “Multiple Entrées” means no fewer than eight different Entrées per meal period.
    - (iv) “Food Service Facilities” means a portion of the licensed premises where food is stored and prepared primarily for on-premises consumption.
  - (2) An Applicant is qualified to receive a food and beverage sales exemption if the Applicant satisfies the following conditions:
    - (i) The Applicant’s primary business on the premises must be to provide Food or Beverage Service;
    - (ii) Multiple Entrées must be available to customers;
    - (iii) The Applicant maintains Food Service Facilities on the premises;

- (iv) The hours of operation for the Food or Beverage Service are the same as the hours of operation for the Game Room on the premises; and
  - (v) At least fifty-one percent (51%) of the Game Room's total net income is derived from the Food or Beverage Service sales.
- (3) An Applicant for a food and beverage sales exemption must submit a sworn statement with their application materials attesting that Food or Beverage Service is maintained on the premises and is the primary business on the premises. The Applicant must also include the following with their application materials for a Game Room permit or for the renewal of their Game Room permit:
- (i) the menu detailing the Food or Beverage Service or, if no menu is available, a listing of the food and beverage items available;
  - (ii) the hours of operation of the Food or Beverage Service;
  - (iii) the sales data or, if the sales data is not available, a statement detailing the projected sales. The sales data or the statement detailing the projected sales should include a sufficient breakdown of the revenues earned from the Food or Beverage Service sales and the proceeds earned from the Operation of the Game Room;
  - (iv) a list of the equipment used for the preparation of the Food or Beverage Service and a list of the equipment used for the Operation of the Game Room;
  - (v) a copy of the floor plan for the premises that indicates the area(s) devoted primarily for the preparation of Food or Beverage Service and the area(s) devoted primarily for the Operation of a Game Room;
  - (vi) if alcoholic beverages are to be served, a copy of all applicable Texas Alcoholic Beverage Commission licenses and permits; and
  - (vii) a copy of the food service permit issued by the Galveston County Health District and the State of Texas.

- (4) Applicants who wish to renew a food and beverage exemption must submit the information required in subsection 3.13(c)(3) with their renewal application.
- (5) The failure to meet the requirements listed in this subsection or to accurately maintain the required records shall be grounds for the denial or revocation of a food and beverage sales exemption.
- (6) The Game Room Permit Administrator may examine all books, papers, records, documents, supplies, and equipment of the exemption holder, for the purpose of verifying that the exemption holder is maintaining Food or Beverage Service as the primary business on the premises.
- (7) Permit holders with an exemption issued under 3.13(c) of these Regulations must adhere to the following recordkeeping requirements:
  - (i) The establishment's sales' records must reflect separate totals for the following: Food or Beverage Service sales, proceeds from machines described in 1.4(i)(1)-(2), and all other notable sales categories;
  - (ii) The establishment's purchase records must reflect separate totals for the following: Food or Beverage Service sales, and all other notable purchase categories;
  - (iii) Complimentary food and beverages, including alcoholic beverages, may not be included in the calculation that determines whether the premises satisfies the "fifty-one percent (51%) or more Food or Beverage Service sales" threshold, as required by subsection 3.13(c)(2)(v) of these Regulations;
  - (iv) The computation and determination of the percentage of sales may be based upon the basis of information filed with the Game Room Permit Administrator or held by the permit holder, or, if such information is insufficient, may be based upon any records or information which is available; and
  - (v) All records are required to be maintained for four (4) years and must be made available to the Game Room Permit Administrator upon reasonable request.



- (8) Game Rooms that qualify for the food and beverage exemption shall be exempt from the requirements set forth by subsection 3.4.

### 3.14 Owners of an Illegal Game Room

- (a) It is not a defense to prosecution under this section if an individual does not have the “Doing Business As” (“DBA”) in their name or does not lease the involved property in their name.

### 3.15 Injunction and Penalties

- (a) Any attorney duly engaged by and authorized to represent the County in such matters as assigned is authorized to sue in district court for an injunction to prohibit the violation or threatened violation of these Regulations and may seek civil penalties for violators of these Regulations.
  - (1) These Regulations shall not impact the authority or limit the ability of the County’s Criminal District Attorney to pursue or prosecute any action for which may be authorized to under the Texas law.
- (b) The County is entitled to recover the reasonable expenses that were incurred while seeking injunctive relief, civil penalties, or both against a violator of these Regulations. These fees include but are not limited to the following: reasonable attorney’s fees, court costs, mediation fees, and investigatory costs. These remedies shall be cumulative of all other remedies available to the County.
- (c) A Person who Operates a Game Room in violation of these Regulations shall be assessed a civil penalty not to exceed \$10,000 per violation. Each day a violation occurs or continues to occur shall be considered a separate violation.
- (d) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of these Regulations.
- (e) It shall be the duty of any Owner or Operator to ensure compliance with these Regulations.
- (f) Any violation of these Regulations shall be grounds for denial, revocation, or suspension of a Game Room permit.

## Section 4. Cumulative Effect of Regulations and Severability

### 4.1 Cumulative Effect

- (a) Authority granted under these Regulations shall be cumulative of all other authority held by the County and its incorporated municipalities with regard to the regulation of Game Rooms and these Regulations may not limit such authority.

### 4.2 Severability

- (a) In the event that a section or subsection of these Regulations, or a particular application of a section or subsection of these Regulations is found to be unlawful, the remaining sections, subsections, and applications of the sections and subsections shall continue in force as law.