

**FORT BEND COUNTY**

**REGULATIONS FOR GAME ROOMS**



ADOPTED BY

**FORT BEND COUNTY COMMISSIONERS COURT**

**COUNTY JUDGE**

ROBERT E. HEBERT

**COUNTY COMMISSIONERS**

RICHARD MORRISON, Precinct 1

JAMES "GRADY" PRESTAGE, Precinct 2

W. A. "ANDY" MEYERS, Precinct 3

JAMES PATTERSON, Precinct 4

*Adopted September 8, 2015*

## **FORT BEND COUNTY GAME ROOM REGULATIONS**

**Effective September 8, 2015**

### **SECTION 1. STATUTORY AUTHORIZATION, PURPOSE, ADMINISTRATION, AREA OF APPLICATION, AND DEFINITIONS**

#### **1.1 Authority to Regulate**

- (a) These Regulations are promulgated pursuant to and in conformity with Chapter 234 of the Texas Local Government Code, as amended by SB 1210, 84<sup>th</sup> Legislature, Regular Session, which states that the commissioners court of a county with a population of 550,000 or more and is adjacent to a county that has a population of four million or more; by order may regulate the operation of Game Rooms to promote the public health, safety, and welfare, according to Section 234.133 of the Texas Local Government Code.
- (b) It is the purpose of the Fort Bend County Commissioners Court to exercise its police power, as established under Chapter 234 of the Texas Local Government Code to establish reasonable and uniform regulation of Game Rooms to promote the public health, safety, and welfare and to prohibit business activities which merely serve as a front for criminal activities, including but not limited to gambling and tax evasion.
- (c) These Regulations do not legalize anything prohibited under the Texas Penal Code or any other law(s) or regulation(s).

#### **1.2 Administration**

- (a) The Fort Bend County Commissioners Court hereby designates and directs any law enforcement agency to investigate for violations of these Regulations. Any Peace Officer certified by the State of Texas may enforce these Regulations.
- (b) Under Section 234.138 of the Texas Local Government Code, as amended, 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. An offense under this Section is a Class A misdemeanor.
- (c) In accordance with Section 234.133 of the Texas Local Government Code, the State of Texas has granted the Fort Bend County Commissioners Court authority to promote public health, safety, and welfare.
- (d) Except as provided in Subsection 1.2(e), the Commissioners Court designates the Fort Bend County Sheriff as Game Room Permit Administrator for Fort Bend County. The Fort Bend County Sheriff shall supervise, control, and operate the Permit Office. The Fort Bend County Sheriff shall investigate, deny, issue, attach conditions to, administratively suspend, or revoke Game Room permits pursuant to these Regulations and any applicable state law.
- (e) The Commissioners Court allows incorporated cities or towns in Fort Bend County that have executed interlocal agreements with Fort Bend County to designate their own Game Room Permit Administrator. The Game Room Permit Administrator shall supervise, control, and operate the

Permit Office. The Game Room Permit Administrator shall investigate, deny, issue, attach conditions to, administratively suspend, or revoke Game Room permits pursuant to these Regulations and any applicable state law(s).

### **1.3 Area Covered by these Regulations**

These Regulations apply to enterprises located in Fort Bend County, Texas.

### **1.4 Definitions**

As used in these Regulations:

- (a) **“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.
- (b) **“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 non-cash merchandise, prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once, or \$5, whichever amount is less.
- (c) **“Owner”** means a Person who:
  - (1) has an ownership interest in, or receives the profits from, a Game Room or an Amusement Redemption Machine located in a Game Room;
  - (2) is a partner, director, or officer 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;
  - (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;
- (d) **“Interlocal Agreement”** means a cooperative agreement between Fort Bend County and an incorporated municipality as described in Chapter 234 of the Texas Local Government Code.
- (e) To **“Operate(s) a Game Room”** means to
  - (1) engage in the business of operating a Game Room;
  - (2) cause the operation of a Game Room;
  - (3) be a part of the operation of a Game Room;
  - (4) fund the operation of a Game Room;
  - (5) have a financial interest in a Game Room;
  - (6) receive any profit from a Game Room;
  - (7) supply machines described in Subsection 1.4(a) (1)-(2) to a Game Room;
  - (8) own machines described in Subsection 1.4(a) (1)-(2) located in a Game Room;
  - (9) receive any payment from a machine described in Subsection 1.4(a) (1)-(2) located in a Game Room;
  - (10) receive any profit from a machine described in Subsection 1.4(a) (1)-(2) located in a Game Room; or
  - (11) *(reserved for future use)*
- (f) **“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; or

- (5) supervises or manages other persons at a Game Room in the performance of an activity listed in this Subsection.
- (g) **“Applicant”** means an individual, proprietorship, corporation, association, and/or other legal entity required to obtain a Game Room Permit or someone who has applied for a Game Room Permit.
- (h) **“Sheriff”** means the Sheriff of Fort Bend County or the Sheriff’s designated agent.
- (i) **“Game Room Permit Administrator”** means the Sheriff of Fort Bend County, the Sheriff’s designated agent, or the designated official for a cooperating municipality.
- (j) **“Current Annual Fire Inspection Report”** means a fire inspection report issued by the Fort Bend County Fire Marshal or a similar inspection by the department having competent jurisdiction within the incorporated area of the county within ninety (90) days immediately preceding the date of any application for operation of a Game Room or renewal of a Game Room permit.
- (k) **“Peace Officer”** means an individual as described in Article 2.12 of the Texas Code of Criminal Procedure.
- (l) **“Person”** means an Owner, Operator, individual, employee, agent, proprietorship, corporation, association, or other legal entity.
- (m) **“Public Building”** means a building used by Federal, State, or local government that is open to the general public.
- (n) **“Regulation(s)”** means these Regulations of Fort Bend County, Texas, for the operation of Game Rooms.
- (o) **“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.
- (p) **“Gambling Device”** means a device described in Article 47.01(4) (A) of the Texas Penal Code.
- (q) **“Fire Safety Official”** means the Fort Bend County Fire Marshal or the department official having competent jurisdiction within the incorporated area of the county to conduct a fire and life safety inspection.
- (r) **“Notice”** is deemed effective on the date written notice to an Applicant, permit holder, or agent thereof is hand-delivered or posted on the front exterior door of the Game Room, or upon receipt by certified mail.
- (s) **“County Employee”** means any individual authorized by Fort Bend County to inspect any Game Room for compliance with these Regulations.

## **SECTION 2. GAME ROOM PERMITS**

### **2.1 Application**

- (a) It shall be unlawful for a Person to Operate a Game Room, use a Game Room, or maintain a Game Room in Fort Bend County that has not been issued a permit pursuant to these Regulations. A Person who violates this Subsection 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 complete application shall be filed with the Game Room Permit Administrator. The application shall be filed on the form provided by the Game Room Permit Administrator or on an accurate and legible copy of that form. A copy of the application can be obtained from the Sheriff's Office website or from the website or other source as determined by the Game Room Permit Administrator of a cooperating municipality.
  - (1) The Applicant shall apply in person. The Applicant shall be an Owner of the Game Room. The Game Room Permit Administrator shall establish the hours when an application can be submitted.
  - (2) The Game Room Permit Administrator shall provide the fee schedule on any Permit Office website with the application form. This fee shall not exceed the annual permit fee limit of \$1,000 as established by the Commissioners Court. The application fee shall be attached to the application form.
  - (3) Incomplete applications shall not be accepted. Once a complete application has been submitted, the application process will begin.
  - (4) A receipt shall be hand delivered or sent by certified mail to the Applicant within fourteen (14) days of submission of a complete application and payment of the application fee to the Game Room Permit Administrator. A receipt showing payment of the application fee is NOT a Game Room Permit.
  - (5) Once a complete application has been received, the Game Room Permit Administrator will conduct up to three (3) inspections of the Applicant's proposed Game Room to ensure compliance with these Regulations. The Applicant must be present in person during these inspections. Furthermore, it shall be the responsibility of the Applicant to provide an interpreter if necessary during these inspection(s).
    - a. After the initial inspection, the Applicant will be informed of what corrections must be made to the proposed Game Room in order to comply with these Regulations.
    - b. A re-inspection will be performed and the Applicant will again be informed of what corrections must be made to the proposed Game Room in order to comply with these Regulations.

- c. If after the third and final inspection, the Applicant's proposed Game Room fails to comply with these Regulations, the Game Room Permit Administrator shall deny the application.
  - d. If the proposed Game Room passes inspection, the Game Room Permit Administrator shall approve the application.
- (6) The Applicant has sixty (60) days from the initial inspection to complete the inspection process. Failure to complete the inspection process within these sixty (60) days shall result in denial of the application. It is the duty of the Applicant to ensure the process is completed in the requisite sixty (60) days.
- (7) Failure to provide any information required by this Section or a determination by the Game Room Permit Administrator that inaccurate, erroneous, or incomplete information has been submitted shall be grounds for denial of the application.
- (c) In municipalities, that have executed Interlocal Agreements with the Fort Bend County Commissioners Court, the municipality shall designate an entity to receive and process Game Room applications. The municipality shall adopt a common operating procedure with requirements and processes reasonably similar to those set out by these Regulations. The municipality shall provide the application along with a description of the application and inspection process on their municipality's website.
- (d) Each complete application shall be accompanied by:
  - (1) a Current Annual Fire Inspection Report from a Fire Safety Official showing compliance with all applicable Fire Safety Codes and with all corrections ordered;
  - (2) a copy of certification of compliance with all life and safety codes issued by the appropriate entity for the proposed Game Room;
  - (3) a diagram or floorplan to include designed occupancy load prepared by a licensed architect or engineer and approved by the entity with competent jurisdiction;
  - (4) a true and correct copy of the assumed name certificate filed in the office of the Fort Bend County Clerk, bearing the file mark or stamp that evidences its filing, if the Game Room will be operating under an assumed name;
  - (5) a copy of the formative legal documents for the applicable legal entity, e.g., the Articles of Incorporation;
  - (6) a non-refundable application fee of \$1,000, the amount established by the Fort Bend County Commissioners Court;

- (7) a photocopy of the Applicant's driver's license or government-issued photo identification;
  - (8) proof as required in Subsection 3.13 that the proposed Game Room is exempt from the requirements set forth by Subsection 3.2 of these Regulations;
  - (9) proof as required in Subsection 3.13 that the proposed Game Room is exempt from the requirements set forth by Subsection 3.4 of these Regulations;
  - (10) proof as required in Subsection 3.13 that the proposed Game Room is exempt from the requirements set forth by Subsection 3.5 of these Regulations;
  - (11) proof as required in Subsection 3.9 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;
  - (12) a current lease agreement for the Game Room premises with the Applicant listed as an Owner of the Game Room and premises lessee, or proof of property ownership;
  - (13) a list of all Owner(s), Operator(s), employee(s), agent(s), and any other individual(s), proprietorship(s), corporation(s), association(s), or other legal entity(s) acting for, or acting on behalf of the Game Room along with a photocopy of their driver's license or government-issued identification and incorporation papers as applicable;
  - (14) *(reserved for future use)*
  - (15) the Game Room Applicant's Federal Employer Identification Number (EIN);
  - (16) a certification that none of the Owner(s), Operator(s), employee(s), agent(s), and/or any other individual(s) acting for, or acting on behalf of the Game Room have been convicted of any level of any of the offenses listed in Subsection 2.2(b) (1) of these Regulations; and,
  - (17) a certification that all of the contents of the application and the above presented materials are true and correct under the penalty of Perjury as defined under Section 37.02 of the Texas Penal Code. In addition, any misrepresentation on the application is a third degree felony offense as defined under Section 37.10 of the Texas Penal Code.
- (e) A Game Room application shall be rejected upon failure to produce all documents required in Subsection 2.1(d), except for the exemptions listed in Subsections 2.1(d) (8)-(11). Failure to provide the proof required by Subsections 2.1(d) (8)-(11) will result in denial of the specific exemption described in that particular Subsection.
  - (f) Upon proof as described in Subsection 3.9 that the Applicant continuously Owned and Operated the Game Room at the same location and under the same name prior to September 8, 2015, an

existing Game Room may continue to operate during the pendency of an application provided a completed permit application was turned in by October 31, 2015. ALL OTHER GAMES ROOMS NOT IN OPERATION BEFORE SEPTEMBER 8, 2015 SHALL NOT OPERATE DURING THE PENDENCY OF THE APPLICATION AND UNTIL THE GAME ROOM APPLICATION IS APPROVED AND THE PERMIT ISSUED.

- (g) A Game Room permit, in accordance with these Regulations, is not transferable, assignable or divisible and it is a violation of these Regulations for any Person to attempt to do so. If ownership of a Game Room changes, the Game Room shall be deemed unpermitted and the new Owner(s) must reapply and must do so before the Game Room may operate.
  - (1) A Person commits a Class A misdemeanor if they intentionally or knowingly transfer, assign, or divide a Game Room permit issued pursuant to these Regulations or attempts to do so. Further, they shall be assessed a civil penalty not to exceed \$10,000 per violation. Each permit transferred, assigned, or divided or attempted to transfer, assign, or divide is considered a separate violation.
- (h) An Applicant who submits an application under these Regulations must swear and affirm the truth of the contents therein under the penalty of Perjury as defined under Section 37.02 of the Texas Penal Code. In addition, any misrepresentation on the application is a third degree felony offense as defined under Section 37.10 of the Texas Penal Code.

## **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 failure to meet all requirements of any Section or Subsection of these Regulations, where applicable, will be grounds for denial, revocation, or suspension of a Game Room Permit. If a Game Room's permit has been revoked, denied, or suspended, the Game Room shall not operate during the pendency of any appeal to the hearing examiner from the revocation, denial, or suspension of a Game Room permit.
- (b) **Denial of a Game Room Permit.** A Game Room permit shall be denied upon a finding by the Game Room Permit Administrator of any of the following facts:
  - (1) An Applicant, Owner, or Operator has previously violated or been convicted of any level of offense for the following crimes:
    - a. gambling, gambling promotion, keeping a gambling place, communicating gambling information, possession of gambling devices or equipment, or possession of gambling paraphernalia as described in Chapter 47 of the Texas Penal Code;
    - b. forgery, credit card abuse or commercial bribery as described in Chapter 32 of the Texas Penal Code;
    - c. a criminal offense as described in Chapter 34 of the Texas Penal Code;

- d. 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,
  - i. less than two (2) years have elapsed since the date of violation or 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,
  - ii. less than five (5) years have elapsed since the date of violation, or 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, and/or withholds pertinent information in 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 regarding the operation of a Game Room;
- (6) an application or renewal fee required by these Regulations has not been paid;
- (7) an Applicant fails to complete the inspection process within the sixty (60) day period described in Subsection 2.1;
- (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 another Game Room at the same location within one (1) year prior to the application; or
- (9) any violation of Sections 2 or 3 of these Regulations.
- (c) If the Game Room Permit Administrator denies a Game Room permit, the Game Room Permit Administrator shall document the denial and provide Notice to Applicant of the denial within twenty one (21) days of the date on which the denial was documented by the Game Room Permit Administrator. The denial letter shall provide the reason(s) for the action.
- (d) **Revocation or Suspension of a Game Room Permit.** The Game Room Permit Administrator shall have the authority and power to initiate a proceeding to revoke or suspend a Game Room permit if one (1) or more of the following events or conditions have occurred:

- (1) any violation of any of the offenses described in Subsection 2.2(b)(1) or Subsection 3.12(a) of these Regulations has occurred on the premises of the Game Room;
  - (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 a Game Room permit, and/or withheld pertinent information in the application of a Game Room permit;
  - (3) the Game Room permit should not have been issued pursuant to these Regulations;
  - (4) an Applicant, Owner or Operator has failed to make corrections ordered by a Fire Safety Official;
  - (5) an Owner, Operator, employee, agent, and/or any other individual acting for, or acting on behalf of the Game Room has violated any of these offenses contained in Subsection 2.2(b) (1) or Section 3.12(a) of these Regulations; or,
  - (6) any violation(s) of Sections 2 or 3 of these Regulations.
- (e) If any of the stated events or conditions providing a basis for revocation or suspension of a Game Room permit under Subsection 2.2(d) has occurred, the Game Room Permit Administrator shall document the violation and provide Notice to Applicant or permit holder of revocation or suspension within twenty-one (21) days of the date on which the violation was documented by the Game Room Permit Administrator. The revocation letter shall provide the reason(s) for the action. The revocation shall become final on the seventh (7th) day after delivery of Notice.
- (f) Revocation shall take immediate effect upon Notice by the Game Room Permit Administrator if:
- (1) an Owner, Operator, employee, agent, and/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, or suspends, or revokes 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 appointed by the Commissioners Court. The hearing examiner shall not have participated in any investigation of the alleged grounds for the denial, suspension, or revocation.
- (b) All requests for hearings must be in writing and delivered to the Fort Bend County Game Room Permit Administrator within fourteen (14) days upon Notice to Applicant or permit holder. The Applicant waives the right to hearing if the request is not timely received by the Game Room Permit Administrator.
- (c) The hearing shall be held within twenty-one (21) days of the receipt of request for a hearing. The Applicant or permit holder and the Game Room Permit Administrator shall be provided an opportunity to present evidence, cross-examine witnesses, and be represented by legal counsel. The formal rules of evidence do not apply.
- (d) It shall be the responsibility of the Applicant or permit holder to provide a court reporter and an interpreter if necessary for the hearing before the hearing examiner.
- (e) The Applicant or permit holder shall be present in person at the hearing. If the Applicant or permit holder is not present in person at the hearing, his or her Game Room permit shall automatically be denied or revoked.
- (f) The hearing examiner has the power to uphold or reverse the denial, suspension, or revocation of a Game Room permit. The hearing examiner shall issue a written order based on his or her determination within twenty-one (21) days of the hearing.
- (g) If the hearing examiner determines, based upon the nature of the violations, that a suspension in lieu of revocation is appropriate, operation of the Game Room shall be suspended for a period not to exceed one hundred and eighty (180) days. The hearing examiner shall issue a written order suspending the Game Room permit and attaching conditions, if applicable, and the suspension shall become effective on the date the hearing examiner issues his or her order.
- (h) Upon a finding by the hearing examiner 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 has been violated, revocation of the Game Room permit shall be mandatory.
- (i) The decision of the hearing examiner shall be final. On final decision of the hearing examiner, the losing party may appeal the decision by filing a petition in a district court in the county with jurisdiction within thirty (30) days after the date of the decision. Appeals to the district court shall be governed by the substantial evidence rule described in Section 2001.174 of the Texas Local Government Code.

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

- (a) If the Applicant's or permit holder's appeal to the hearing examiner for revocation or suspension is unsuccessful, the Game Room shall not operate during the pendency of the appeal to the district court.
- (b) If the Applicant's or permit holder's appeal to the hearing examiner for revocation or suspension is successful, the Game Room may resume operation, and may operate during the pendency of an appeal to the district court.
- (c) No Game Room may operate pending an appeal for denial of a Game Room permit to the district court.

## **2.5 Reapplication**

- (a) After a hearing examiner's final ruling of permit denial, or revocation, an Applicant may reapply for a Game Room permit after the expiration of one hundred and eighty (180) days from the date of the final ruling.
- (b) This application will be considered a new application in regard to the application timelines and fee established in Subsection 2.1 and for the distance requirements set forth in Subsection 3.9.

## **2.6 Permit Renewal; Permit Fee—Levied; Amount; Payment**

- (a) A permit may be renewed for the following year starting sixty (60) days before expiration of the current permit by filing a completed application for the permit with the Game Room Permit Administrator and paying the applicable fee set forth in these Regulations. A renewal application shall be subject to the same requirements in these Regulations as are required for a permit application. As long as the completed renewal application was submitted within this sixty (60) day period, the previous permit will remain in effect until the Game Room Permit Administrator makes a determination in accordance with these Regulations as to whether the permit will be renewed.
- (b) An Owner shall pay a non-refundable permit fee of \$1,000 as established by Commissioners Court. The permit fees shall be paid in person to the Game Room Permit Administrator upon application renewal. A receipt of payment and of renewal application submission will be hand delivered or sent by certified mail to the Owner within fourteen (14) days of the receipt of the non-refundable fee.

## **2.7 Contents of a Game Room Permit**

When the application process is complete and the proposed Game Room has met all the requirements set forth in these Regulations, the Game Room Permit Administrator shall give the Applicant a signed certificate. The certificate constitutes a permit to operate the Game Room for one (1) year from the date the permit is issued. The permit shall list the identity of the issuing Game Room Permit Administrator. The permit shall list the date of issue and the date of expiration. The permit shall list the name of the permit holder, name of the Game Room, and the physical address of the Game Room. If the permit holder is a corporation, or legal entity, then the permit shall also list the Person(s) asserting control over the legal entity. The permit shall list any applicable exemptions to the requirements of Section 3 for

which the Game Room permit holder qualified. The Game Room Permit Administrator shall keep an original signed copy of the permit for the Administrator's records.

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

- (a) A Person that Operates a Game Room without first paying the fee and securing a Game Room permit, or who Operates a Game Room after the permit therefor has been revoked or suspended, 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 a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (c) A violation of Section 2 of these Regulations is grounds for denial, suspension, or revocation of a Game Room permit.

## **2.9 Effect**

Each Applicant, Owner, Operator, employee, agent and/or any other individual acting for, or acting on behalf of a Game Room must meet and comply with all requirements of all applicable law(s). The issuance of a permit under these Regulations shall not excuse any Owner, Operator, employee, agent, and/or any other individual acting for, or acting on behalf of a Game Room, or any patron(s) of such premises from compliance with such law(s) or regulation(s).

## **SECTION 3: GAME ROOMS**

### **3.1 Inspection by Peace Officer**

- (a) **Inspection.** Peace Officers, Fire Safety Officials, and designated County Employees are authorized to inspect any business in Fort Bend County for violations of these Regulations. These Regulations do not authorize a right of entry prohibited by law. Peace Officers, Fire Safety Officials, and designated County Employees may enter a business with consent, with a warrant, or under exigent circumstances. A Game Room permit issued pursuant to these Regulations gives Peace Officers, Fire Safety Officials, and designated County Employees implied consent to enter and to inspect any Game Room for violations of these Regulations.
- (b) **Unpermitted Game Rooms.** An unpermitted business that holds itself out as a Game Room by sign, advertisement, word-of-mouth, by offering memberships, by offering for play or displaying six (6) or more machines described in Subsection 1.4(a) (1)-(2) located in the Game Room – or by any other means – is subject to inspection by any Peace Officer, Fire Safety Official, and designated County Employee and is a Game Room under these Regulations.
  - (1) Refusal to allow any Peace Officer, Fire Safety Official, and designated County Employee entry to inspect such unpermitted Game Room(s) may be considered in establishing probable cause for the issuance of a search warrant to inspect for violations of these Regulations.

- (2) An unpermitted Game Room is subject to these Regulations and may be held liable for all civil and criminal penalties listed herein.
- (c) **Compliance Inspection.** Any Peace Officer, Fire Safety Official and designated County Employee may inspect a permitted Game Room located within their jurisdiction to determine whether the Game Room is in compliance with these Regulations.
- (d) **Consent to Entry.** A Person who does not allow a Peace Officer, Fire Safety Official, or designated County Employee to inspect a Game Room commits an offense. If a Person Operates a Game Room in violation of this Subsection, then they shall be assessed a civil penalty not to exceed \$10,000 per violation. Each Peace Officer, Fire Safety Official, and designated County Employee denied entry is considered a separate violation. Each day a violation occurs or continues to occur is considered a separate violation.
- (e) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (f) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

### **3.2 Game Room Sign Required**

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A Game Room shall have each outside door marked with a sign that:
  - (1) reads "GAME ROOM" in four (4) inch or larger block lettering; and,
  - (2) is legible and visible at all times from a distance of twenty five (25) feet from the outside door.
- (c) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each outside door not marked is considered a separate violation. Each day a violation occurs or continues to occur is 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 this Subsection.
- (e) A Game Room that has been issued an exemption pursuant to Subsection 3.13 of these Regulations is exempt from the Game Room sign requirements.
- (f) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

### **3.3 Fire and Life Safety**

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A Game Room shall provide doors that are readily accessible without the use of a key, special knowledge, or effort during business hours or any other hours of operation.
- (c) A Game Room or commercial establishment shall comply with fire codes required in the County, and shall pay any court-approved fee(s) associated with a fire and life safety inspection, plan review, occupancy load calculation, or complaint.
- (d) All fire code regulations required in the County will be strictly enforced and Game Rooms shall provide any Fire Safety Official with immediate access to the premises at all times.
- (e) A Game Room shall not use electronic locks to prevent entry during business hours.
- (f) A Person who Operates a Game Room in violation of this Subsection 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.
- (g) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (h) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

### **3.4 Transparent and Uncovered Windows and Doors Required**

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A Game Room shall provide at least one (1) window in the front of the building and at least one (1) other window on one (1) other side meeting the criteria set forth in Subsection (c), allowing a clear and unobstructed view of all machines described in Subsection 1.4(a) (1)-(2) located in the Game Room.
- (c) 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(a) (1)-(2) in a Game Room unless the required transparent walls or windows of the Game Room:
  - (1) are located on at least two (2) sides of the Game Room, and each machine described in Subsection 1.4(a) (1)-(2) located therein is visible through such walls or windows; and
  - (2) at the lowest point are not more than four (4) feet above the adjacent sidewalk or ground level; and

- (3) at the highest point are at least eight (8) feet higher than the adjacent sidewalk or ground level; and,
- (4) are at least four (4) feet wide.
- (d) A Game Room shall provide transparent uncovered glass in each exterior Game Room window or door.
- (e) It shall be unlawful for a Person to cover or tint a Game Room window or door, or otherwise block a window or door so as to obscure the view of any machine described in Subsection 1.4(a) (1)-(2) located in a Game Room, or the interior of the location from a sidewalk through a Game Room window or door.
- (f) A Person who Operates a Game Room in violation of this Subsection 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.
- (g) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (h) A Game Room that has been issued an exemption pursuant to Subsection 3.13 of these Regulations is exempt from the Game Room windows requirements.
- (i) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

### **3.5 Hours of Operation**

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A Game Room shall operate only between the hours of 8 a.m. and 10 p.m.
- (c) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each hour of a day that a Game Room is operating during prohibited hours in violation of these Regulations is 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 this Subsection.
- (e) A Game Room that has been issued an exemption pursuant to Subsection 3.13 of these Regulations is exempt from the Game Room hours of operation requirements.
- (f) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

### **3.6 Display of a Game Room Permit**

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A Game Room shall post or display a current Game Room permit in plain sight in a common area accessible to the public without having to enter into a controlled area of the business.
- (c) A Person who Operates a Game Room in violation of this Subsection 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.
- (d) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (e) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

### **3.7 Recordkeeping**

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.  
A Game Room shall maintain onsite, and produce to any Peace Officer, Fire Safety Official, and/or designated County Employee for inspection:
  - (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 application for work with the Game Room, a copy of the I-9 filed as part of Employment Eligibility Verification for the Department of Homeland Security, and a photograph of the employee; and
  - (2) a daily register that contains the name, date of birth, state identification number or social security number, and job function of each employee present at the establishment that day. Every Owner, Operator, employee, agent, and/or any other individual acting for or acting on behalf of the Game Room is required to sign the daily register with the information required above immediately upon entering the Game Room.
  - (3) *(reserved for future use)*
- (b) A Game Room shall preserve the daily register required by Subsection (b) (2) for ninety (90) days after the date the register was made. The register must be maintained at the Game Room, it must be accessible by any Person on duty at the Game Room, and must be made available to any Peace Officer, Fire Safety Official, and/or designated County Employee upon request.
- (c) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each record required under this Subsection that is missing and/or is deficient is considered a separate violation. Each day the record is missing and/or is deficient is 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 this Subsection.
- (e) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

### **3.8 Prohibited Employment**

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) It shall be unlawful for any Owner, Operator, employee, agent, and/or any other individual acting for, or acting on behalf of a Game Room to have been previously 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).
- (c) It is the responsibility of any Owner or Operator to conduct a criminal background check on every Owner, Operator, employee, and/or any other individual acting for, or acting on behalf of a Game Room.
- (d) Failure to comply with any of the requirements of this Subsection shall result in a violation and be punishable by a civil penalty assessed against any Owner or Operator not to exceed \$10,000 per violation. Every prohibited Owner, Operator, employee, and/or any other individual acting for, or acting on behalf of a 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) and/or not subjected to a criminal background check is considered a separate violation. Each day a violation occurs or continues to occur is considered a separate violation.
- (e) An Owner or Operator commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (f) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room Permit.

### **3.9 Distancing Restrictions**

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) 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. “Planned” means that steps have been taken toward the facility’s or structure’s development including but not limited to a permit received, a plat approved, design work started, a bond received, or an order approved by a governmental entity’s governing body; or,

- (2) within a distance of 2,000 feet from where two (2) or more other Game Rooms are located.
- (c) 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 (b) above.
- (d) Game Rooms are exempt from these distancing restrictions upon proof that the Applicant continuously owned and operated the Game Room at the same location and under the same name prior to September 8, 2015. If the Game Room changes its name, its Owner and/or adds another Owner after this date, or if its permit was suspended or revoked, or its permit was denied renewal, or if the permit is allowed to lapse, then the Game Room will be considered a new Game Room and not exempt from the distancing requirements. All applications claiming a distance exemption under this Subsection must have been submitted on or before October 31, 2015.
- (e) A Person who Operates a Game Room in violation of this Subsection 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.
- (f) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (g) The following Game Rooms are exempt from the distancing requirements set forth in this Subsection:
  - (1) Game Rooms that meet the requirements of Subsection 3.13(c) below; and,
  - (2) Game Rooms that meet the requirements of Subsection 3.9(d) above.
- (h) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

### **3.10 Game Room Memberships**

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) Game Room memberships are prohibited for any purpose.
- (c) A Game Room shall not restrict entry to a Game Room and/or prohibit the participation in any activity inside a Game Room by a patron through the requirement of a Game Room membership.
- (d) Game Rooms shall not issue membership cards to any individual for any purpose.
- (e) Game Rooms shall not have, make use of, employ, and/or require check-in procedures of any kind prior to entering or before exiting a Game Room.

- (f) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each person denied entry is considered a separate violation. Each membership card issued is considered a separate violation. Each individual subjected to any check in procedure prior to entering or before exiting a Game Room is considered a separate violation. Each day a violation occurs or continues to occur is considered a separate violation.
- (g) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (h) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

### **3.11 (*reserved for future use*)**

### **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 this state or Chapter 47 of the Texas Penal Code, GAMBLING.
- (b) Additionally, a civil penalty not to exceed \$10,000 shall be placed on a Person who Operates a Game Room for any machine described in Subsection 1.4(a) (1)-(2) located in the Game Room that is being used and/or has been used for illegal gambling.
- (c) If a law enforcement agency determines through an investigation(s) that a Game Room was in operation violating Chapter 47 of the Texas Penal Code, then every machine described in Subsection 1.4(a) (1)-(2) located in the Game Room shall be considered in violation of this Subsection. A Person who Operates a Game Room in violation of this Subsection 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.
- (d) Any violation of this Subsection is grounds for mandatory denial and/or mandatory revocation of a Game Room permit.
- (e) 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.

### **3.13 Requirements to Qualify for Food and Beverage Sales or Charitable Bingo Exemptions**

A Game Room Permit Applicant or Holder may apply for multiple exemptions:

- (a) Any exemption granted must be clearly stated on the Game Room Permit.
- (b) **Charitable Bingo Exemption.** An Applicant is qualified for a charitable bingo exemption if the Applicant can show a valid and current Texas Lottery Commission Charitable Bingo License as

described in Chapter 2001 of the Texas Occupations Code. An original certificate or copy of this license presented with the complete Game Room permit application at the time of application or permit renewal is sufficient to make this showing.

- (c) **Food and Beverage Sales Exemption.** An Applicant is qualified for a Food and Beverage Sales exemption if the Applicant meets all requirements of Subsections (1-7) below:

(1) The following words and terms, when used in this Subsection, shall have the following meaning unless the context clearly indicates otherwise:

- a. **“Food or Beverage Service”** means cooking or assembling food on premises, primarily for on premises consumption. Commercially pre-packaged 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;
- b. **“Entrée”** means main dish of a meal;
- c. **“Multiple Entrées ”** means no fewer than eight different entrées per meal period must be available to customers; and,
- d. **“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 for a Food and Beverage Sales exemption if the following conditions are satisfied:

- a. with respect to the operation of a Game Room, the Applicant's primary business on the premises is Food or Beverage Service;
- b. Multiple Entrées are available to customers;
- c. Food Service Facilities are maintained on the premises;
- d. the hours of operation for sale and Food or Beverage Service are the same as the hours of operation of the Game Room; and
- e. at least fifty-one (51) percent of the Game Room's total net income is derived from the sale of food or beverages.

(3) An Applicant for a Food and Beverage Sale Exemption shall submit a sworn statement attesting that Food or Beverage Service is maintained on the premises and is the primary business on the premises. The Applicant shall furnish the following:

- a. the menu or, if no menu is available, a listing of the food and beverage items;
- b. hours of operation of Food or Beverage Service;

- c. sales data or, if not available, projection of sales. The projection or data should include sufficient breakdown of revenues of food, alcoholic beverages, and Game Room operation proceeds;
  - d. listing of equipment used in preparation of Food or Beverage Service versus the equipment used in operation of a Game Room;
  - e. copies of floor plans of the licensed premises indicating areas devoted primarily to the preparation of Food or Beverage Service and those devoted primarily to operation of a Game Room;
  - f. if alcoholic beverages are served, the TABC license or permit as applicable with the TABC Food and Beverage Certificate as applicable; and
  - g. the Food Service permit from the appropriate entity.
- (4) Applicants for renewal of Food and Beverage Sales Exemptions shall resubmit the information required in Subsection 3.13(c)(3)(a-g) above.
  - (5) Failure to meet all requirements of this Subsection or accurately maintain required records is grounds for denial or revocation of a Food and Beverage Sales Exemption.
  - (6) In verifying that the exemption holder is maintaining Food or Beverage Service as the primary business on the premises, the Game Room Permit Administrator may examine all books, papers, records, documents, supplies, and equipment of the exemption holder.
  - (7) Recordkeeping requirements for holders of food and beverage sales exemptions include:
    - a. each holder of a food and beverage sales exemption shall maintain records to reflect separate totals for beverage sales, food sales, and other major sales categories at the location, including proceeds from machines described in Subsection 1.4(a) (1)-(2) located in the Game Room. Purchase invoices must be maintained to reflect the total purchases of beverages, food, and other major purchase categories;
    - b. complimentary food and beverages, including alcoholic beverages, shall not be calculated in determining whether the premise meets the fifty-one (51) percent or more food or beverage sales threshold;
    - c. all records are required to be maintained for four (4) years and made available to authorized representatives of the Game Room Permit Administrator upon reasonable request; and
    - d. in examining the food or beverage sales, the Game Room Permit Administrator may compute and determine the percentage of food and beverage sales upon the basis of information filed with the Game Room Permit Administrator or held by the permit holder, but if such information is insufficient, the computation and

determination of the percentage of sales may be based upon any records or information which is available.

### **3.14 Owner(s) of an Illegal Game Room**

It is not a defense to prosecution under this Section if an individual does not have the DBAs in his/her name and/or does not lease the property in his/her name.

### **3.15 Injunction and Civil Penalty**

The County Attorney or its Agent is authorized to sue in district court for an injunction to prohibit the violation or threatened violation of these Regulations adopted under Section 234.133 of the Texas Local Government Code. The County is entitled to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, including reasonable attorney's fees, court costs, mediation fees and investigatory costs. This civil remedy is cumulative of all other remedies available to Fort Bend County.

## **SECTION 4: CUMULATIVE EFFECT OF REGULATIONS; SEVERABILITY**

### **4.1 Cumulative Effect**

Authority under these Regulations is cumulative of other authority that Fort Bend County and its incorporated municipalities have to regulate Game Rooms and does not limit that authority.

### **4.2 Severability Clause**

If a Section or Subsection of these Regulations, or certain applications of a Section or Subsection, is found unconstitutional, the remaining Sections or Subsections, or applications of those Sections or Subsections, will continue in force as law.