

THIRD AMENDED BRAZORIA COUNTY GAME ROOM REGULATIONS

SECTION 1. GENERALLY

WHEREAS, The Legislature of the State of Texas has enacted Chapter 234 of the Local Government Code, authorizing counties to regulate Game Rooms; and

WHEREAS, Brazoria County, Texas, desires to use this authority to exercise its police power to promote the public health, safety, and welfare by establishing reasonable and uniform regulations of Game Rooms and reducing the secondary effects, including criminal activities, of illicit Game Rooms.

NOW, THEREFORE, IT IS HEREBY ORDERED by the Commissioners Court of Brazoria County, Texas, that the Third Amended Brazoria County Game Room Regulations are as follows:

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) Under Texas Local Government Code § 234.133, the Commissioners Court may promote the public health, safety, and welfare, by regulating the operation of Game Rooms.
- (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) Under Texas Local Government Code Chapter 234, subchapter E, the Commissioners Court recognizes any law enforcement agency's authority to investigate for violations of these Regulations. Any Peace Officer certified by the State of Texas may enforce these Regulations.
- (b) Under Texas Local Government Code § 234.138, a Person commits a criminal offense, a Class A misdemeanor, if the Person intentionally or knowingly Operates a Game Room in violation of a regulation adopted under § 234.133.
- (c) Under Texas Local Government Code §234.137, a Person who violates these Regulations is liable to Brazoria County for a civil penalty of \$10,000 for each violation, where each day a violation continues is a considered a separate violation.
- (d) The Commissioners Court designates the Brazoria County Sheriff as the Game Room Permit Administrator for Brazoria County. The Sheriff may designate peace officers and/or County

Employees who are employed by the Sheriff's Office to aid the Sheriff as the Game Room Permit Administrator. The Sheriff shall seek approval from the Commissioners Court prior to designating any County Employee who is not employed by the Sheriff's Office.

- (e) The Game Room Permit Administer shall supervise, control, and operate the Permit Office. The Game Room Permit Administer shall investigate, deny, issue, attach conditions to, administratively suspend, or revoke Game Room permits pursuant to these Regulations and any applicable state law(s).
- (f) Incorporated cities, towns, or villages in Brazoria County may execute Interlocal Agreements with Brazoria County to designate the Brazoria County Sheriff as the Game Room Permit Administrator within their incorporated cities, towns, or villages.

1.3 Area Covered by these Regulations

These Regulations apply to Game Rooms located in the unincorporated areas of Brazoria County, Texas. Unless otherwise specified, e.g. in an Interlocal Agreement, all references or implications to geographical locations within Brazoria County mean solely the unincorporated areas of Brazoria County.

1.4 Definitions

As used in these Regulations:

- (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 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.
- (b) **"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; an Applicant must be an Owner.
- (c) **"County Employee"** means any individual employed by Brazoria County who is authorized or approved to inspect any Game Room for compliance with these Regulations.
- (d) **"Gambling Device"** means a device described in Article 47.01(4) (A) of the Texas Penal Code.
- (e) **"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.
- (f) **“Game Room Permit Administrator”** means the Sheriff of Brazoria County or the Sheriff’s designated agent.
- (g) **“Interlocal Agreement”** means a cooperative agreement between Brazoria County and an incorporated municipality, town, or village as authorized in Chapter 791 of the Government Code.
- (h) **“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, upon receipt by certified mail, or 10 days after written notice is placed in the mailbox.
- (i) 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(e) (1)-(2) to a Game Room;
 - (8) own machines described in Subsection 1.4(e) (1)-(2) located in a Game Room;
 - (9) receive any payment from a machine described in Subsection 1.4(e) (1)-(2) located in a Game Room;
 - (10) receive any profit from a machine described in Subsection 1.4(e) (1)-(2) located in a Game Room; or
 - (11) have machines described in Subsection 1.4(e) (1)-(2) registered in your name with the Texas Comptroller located in a Game Room.

(j) **“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.

(k) **“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 or the Texas Secretary of State 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.

- (l) **“Peace Officer”** means an individual as described in Article 2.12 of the Texas Code of Criminal Procedure.
- (m) **“Person”** means an Owner, Operator, individual, employee, agent, proprietorship, corporation, association, or other legal entity.
- (n) **“Public Building”** means a building used by Federal, State, local government, or political subdivision that is open to the general public.
- (o) **“Real Property Owner”** means a person who has an ownership interest in land or an improvement on land, or an estate or interest in land other than other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation.
- (p) **“Regulation(s)”** means these Regulations of Brazoria County, Texas, for the operation of Game Rooms.
- (q) **“School”** means a facility, including all attached playgrounds, dormitories, stadiums, sports complexes, natatoriums, gymnasiums, and any 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, both public and private.
- (r) **“Sheriff”** means the Sheriff of Brazoria County or the Sheriff’s designated agent.

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 Brazoria 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 may be obtained from the Brazoria County website.
 - (1) The Applicant shall apply in person. The Applicant shall be an Owner of the Game Room.

- (2) The Game Room Permit Administrator may provide the fee schedule on any Permit Office website with the application form. The fee of \$500.00 is non-refundable. A receipt showing that the permit/application fee has been paid to the Brazoria County Treasurer's Office shall be attached to the application form (the fact that the permit/application fee is paid is no guarantee that a permit shall be issued).
- (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 to the Game Room Permit Administrator of a complete application and receipt of payment of the permit/application fee. A receipt showing payment of the permit/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 may be performed and the Applicant may 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. The Game Room

Administrator may, but is not required to, issue up to one (1) ten (10) day extension on a case-by-case basis.

- (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) For a municipality, town, or village that has executed an Interlocal Agreement with Brazoria County, the Brazoria County Game Room Regulations will be enforced within the respective municipality, town, or village. The municipality, town, or village shall provide the County Regulations and application on the municipality's, town's, or village's website.
- (d) Each complete application shall be accompanied by:
- (1) a true and correct copy of the assumed name certificate filed in the office of the Brazoria County Clerk or the Texas Secretary of State, bearing the file mark or stamp that evidences its filing, if the Game Room will be operating under an assumed name;
 - (2) a copy of the formative legal documents for the applicable legal entity—e.g., the Articles of Incorporation;
 - (3) a receipt showing that a non-refundable application fee of \$500 (the amount established by the Brazoria County Commissioners Court) has been paid to the Brazoria County Treasurer's Office;
 - (4) a photocopy of the Applicant's driver's license or government issued photo identification (ID) card;
 - (5) 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;
 - (6) a current lease agreement with the Real Property Owner for the Game Room premises with the Applicant listed as an Owner of the Game Room, and premises lessee, or proof of property ownership;
 - (7) a list of all Owner(s), lessor(s)/lessee(s), and any non-individual/legal entity with an ownership or lease interest, along with, for all of the aforementioned (but not for employees without an ownership or lease interest), a photocopy of his/her driver's license or government issued identification and incorporation papers as applicable;

- (8) a copy of the State of Texas coin-operated machine occupation tax records and the State of Texas coin-operated machine license or registration certificate for each machine exhibited or displayed or permitted to be exhibited or displayed in the Game Room in a spread sheet format. Records shall include information detailing each machine found on the premises of the Game Room by identifying the machine by:
 - a. the serial number;
 - b. the name of manufacturer;
 - c. the type of machine;
 - d. the State of Texas Tax stamp including the year of expiration of each tax stamp required; and
 - e. the name of the individual(s), proprietorship(s), corporation(s), association(s), and/or other legal entity(s) who owns, receives profits from, and has registered the machine in their name with the Texas Comptroller and a description of their ownership and financial interest in the machine;
 - (9) the Game Room Applicant's Federal Employer Identification Number (EIN);
 - (10) 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, entered a plea of nolo contendere or guilty, or received deferred adjudication for any level of any of the offenses listed in Subsection 2.2(b)(1) of these Regulations; and
 - (11) 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 Subsections 2.1(d).
 - (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 March 26, 2024, an existing Game Room may continue to operate during the pendency of an

application provided a completed permit application was turned in by July 1, 2024. ALL OTHER GAME ROOMS NOT IN OPERATION BEFORE MARCH 26, 2024, 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 Commissioners Court 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 been convicted of, entered a plea of nolo contendere or guilty, or received deferred adjudication for 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 any property taxes, fees, fines, or penalties assessed or imposed relating to the 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 3.10(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 determines to deny a Game Room permit, the Game Room Permit Administrator shall document the denial and provide Notice to Applicant of denial within twenty-one (21) days of the determination. The Notice of the denial shall provide the reason(s) for the determination.
- (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 has occurred:
 - (1) any violation of any of the offenses described in Subsection 2.2(b)(1) or Subsection 3.10(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 for a Game Room permit;
 - (3) the Game Room permit should not have been issued pursuant to these Regulations;
 - (4) an Owner, Operator, employee, agent, and/or any other individual acting for, or acting on behalf of the Game Room has violated any of the offenses contained in Subsection 2.2(b)(1) or Subsection 3.10(a) of these Regulations; or
 - (5) any violation(s) of Section 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 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 been convicted of, entered a plea of nolo contendere or guilty, or received deferred adjudication for any level of any of the offenses described in Subsection 2.2(b)(1) or has violated any offense described in Subsection 3.10(a) of these Regulations;
- (2) a violation of any offense described in Subsection 2.2(b)(1) or Subsection 3.10(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 the Commissioners Court. The Game Room shall not operate during the pendency of any appeal to the Commissioners Court if an application was denied, or the Game Room permit was suspended or revoked pursuant to Section 2.2(f) of these Regulations.
- (b) All requests for hearings must be in writing and delivered to the Brazoria County Game Room Permit Administrator and Commissioners Court, by delivering to the County Judge's Office, within fourteen (14) days upon Notice to Applicant or permit holder. The Applicant waives the right to a hearing if the request is not timely received by the Game Room Permit Administrator and Commissioners Court.
- (c) The hearing shall be held within sixty (60) days of the receipt of request for a hearing by the Commissioners Court. 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/or an interpreter if necessary for the hearing before the Commissioners Court.
- (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 Commissioners Court may uphold or reverse the denial, suspension, or revocation of a Game Room permit. The Commissioners Court shall issue a written order based on its determination within twenty-one (21) days of the hearing.
- (g) If the Commissioners Court 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 Commissioners Court 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 Commissioners Court issues its order.
- (h) Upon a finding by the Commissioners Court 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 Commissioners Court shall be final. On final decision of the Commissioners Court, the losing party may appeal the decision by filing a petition in a district court in Brazoria 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 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 Commissioners Court for revocation or suspension is unsuccessful, the Game Room shall not operate during the pendency of an appeal to the district court.
- (b) If the Applicant's or permit holder's appeal to the Commissioners Court 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 of a district court decision to deny a Game Room permit.

2.5 Reapplication

- (a) After a Commissioners Court'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 days (180) 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/Application 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/application fee of \$500 as established by Commissioners Court (the fact that the permit/application fee is paid is no guarantee that a permit shall be issued). The permit/application fee shall be paid to the Brazoria County Treasurer's Office and the Owner shall provide, in person to the Game Room Permit Administrator, a receipt showing that the fee was paid 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 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 who Operates a Game Room without first paying the fee and securing a Game Room permit or who Operates a Game Room after the permit 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 patrons of such premises from compliance with such law(s) or regulation(s).

SECTION 3. GAME ROOMS

3.1 Inspection by a Peace Officer

- (a) **Inspection of Permitted Game Rooms.** Peace Officers and designated County Employees are authorized to inspect any permitted Game Room in Brazoria County for violations of these Regulations. These Regulations do not authorize a right of entry prohibited by law. Peace Officers 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 and designated County Employees implied consent to enter and to inspect any Game Room for violations of these Regulations, laws, or other Commissioners Court orders or regulations. If a properly permitted Game Room is closed during normal business hours, the Game Room Administrator has the right of entry for inspection upon giving the Owner/Operator one (1) hour notification; said notification may be through email, phone, or verbally in person.
- (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(e) (1)-(2) located in the Game Room—or by any other means—is subject to inspection by any Peace Officer and/or designated County Employee and is a Game Room under these Regulations.
 - (1) Refusal to allow any Peace Officer and/or 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 and/or designated County Employee may inspect a permitted Game Rooms 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 or designated County Employee to inspect a Game Room violates these Regulations. 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 or Designated County Employee denied entry is considered a separate violation. Each day a violation occurs or continues to occur being considered a separate violation.
- (e) 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 next to or above each outside door 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, which shall be reasonably determined, in good faith, by the Game Room Permit Administrator or his/her designee.
- (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) 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 fire exist doors sufficient to allow quick exit in the event of an emergency.
- (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.

3.4 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.

3.5 Recordkeeping

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A permitted Game Room shall maintain onsite, and produce to any Peace Officer and/or designated County Employee for inspection:
 - (1) a daily register that contains the name and a copy of the driver's license or government issued identification of every Owner present at the establishment that day; and

- (2) a copy of the State of Texas tax record forms detailing each machine found on the premises of the Game Room by identifying the machine by name of manufacturer, serial number, type of machine, the serial number of the State of Texas Tax stamp to include the year of expiration of each tax stamp required, and the name of the individual(s), proprietorship(s), corporation(s), association(s), or other legal entity(s) that owns, receive profits from, and have registered the machine in their name with the Texas Comptroller with a brief description of their ownership and financial interest in the machine in a spread sheet format.
- (c) 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 and/or designated County Employee upon request.
- (d) 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.
- (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.

3.6 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.

3.7 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 March 26, 2024. 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 July 1, 2024.

- (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 3.7(d) above.
- (h) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

3.8 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) 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.
- (f) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (g) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

3.9 Machines Located in a Game Room

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.

- (b) A Game Room shall obtain an occupation tax permit from the State of Texas for each Machine described in Subsection 1.4(e) (1)-(2) located in the Game Room.
 - (1) All Machine tax permit applications are required to indicate the location on the application where the Machines described in Subsection 1.4(e) (1)-(2) are physically located.
 - (2) Whenever a machine described in Subsection 1.4(e) (1)-(2) is found not to be in compliance as to tax permits, it shall be locked by any Peace Officer and cannot be used until the Owner purchases a tax permit for the machine.
 - (3) A Game Room shall allow a Peace Officer and/or designated County Employee entry to the Game Room to inspect for violations of the Subsection.
- (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 machine described in Subsection 1.4(e) (1)-(2) located in the Game Room that is not registered with a valid current year tax stamp decal from the State of Texas prominently displayed on each machine will be 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) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit

3.10 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(e) (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(e) (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.

3.11 Requirements to 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 Chapter. 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.

3.12 Owners 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.

3.13 Injunction and Civil Penalty

- (a) The Brazoria County Criminal District Attorney's Office 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.
- (b) Brazoria 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 Brazoria County.
- (c) Nothing in these Regulations affects the ability of the Brazoria County Criminal District Attorney's Office to prosecute any violation of a state law(s) or regulation(s).

SECTION 4. CUMULATIVE EFFECT OF REGULATIONS; SEVERABILITY

4.1 Cumulative Effect

Authority under these Regulations is cumulative of other authority that Brazoria County and its incorporated municipalities, towns, or villages 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.