15.C

The Office of Vince Ryan
County Attorney

December 11, 2013

Members of the Commissioners Court
1001 Preston, 9th Floor
Houston, Texas 77002

Attn: Court Members

Re: Game Room Regulations and fees

Vote of the Court:

	Yes	No	Abstain
Judge Emmett	☒	☐	☐
Comm. Lee	☐	☐	☐
Comm. Morman	☐	☐	☐
Comm. Radack	☐	☐	☐
Comm. Cagle	☐	☐	☐

13 DEC 11 AM 8:56

Dear Members of the Court:

This is to request that the following topic be placed on the Commissioners Court agenda for December 17, 2013 under the County Attorney portion of the agenda:

Request for adoption of game room regulations for Harris County pursuant to § 234.133 of the Texas Local Government Code and establishment of fees under such regulations

Thank you for your consideration of this request.

US-ors letter + 1 org regulation
James - copy
Tax office - copy
All JP's - copy
Fire Marshal
Acct - copy
Co Atty - copy letter + 1 ors Regulation
Co Judge - copy
Sheriff - copy
Const Pct 1-8 - copy
Comm Pct 1-4 - copy

Sincerely,
VINCE RYAN
County Attorney

By: Robert Soard
Robert Soard
First Assistant

Presented to Commissioner's Court

DEC 17 2013
APPROVE c/m
Recorded Vol_____Page_____

1019 Congress, 15th Floor • Houston, Texas 77002 • Phone: 713-755-5101 • Fax: 713-755-8924

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Harris County Game Room Regulations

Adopted by Commissioners Court December 17, 2013

SECTION 1. **GENERALLY**

WHEREAS, The Legislature of the State of Texas has amended Chapter 234 of the Local Government Code, authorizing certain counties, including Harris County, to regulate Game Rooms; and

WHEREAS, Harris County, Texas desires to reduce the adverse secondary effects of illicit game rooms, which were presented in hearings and reports made available to Harris County Commissioners Court;

THEREFORE, HARRIS COUNTY COMMISSIONERS COURT FINDS:

1. Illicit game rooms, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including but not limited to personal and property crimes, gambling offenses, weapon offenses, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, and litter.

2. Game Rooms should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other Game Rooms, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of Game Rooms in one area.

3. Game Rooms should have restricted hours of operation due to the increase of personal crimes such as assaults, robberies and homicides between the hours of 10:00 p.m. and 8:00 a.m.

4. Each of the foregoing negative secondary effects constitutes a harm, which Harris County has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is Harris County's rationale for these regulations, exists independent of any comparative analysis between legal Game Rooms and illicit Game Rooms. Harris County's interests in regulating Game Rooms extend to preventing future secondary effects of either current or future Game Rooms that may locate in Harris County.

1.1 **Authority to Regulate**

(a) These regulations are promulgated pursuant to and in conformity with Chapter 234 of the Local Government Code of Texas, as amended, titled County Regulation of Businesses and Occupations. The commissioners court of a county may regulate the operation of game rooms to promote the public health, safety, and welfare, according to Section 234.133 of the Local Government Code.

(b) It is the purpose of the Harris County Commissioners Court to exercise its police power, as established under Chapter 234 of the 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 or regulation.

1.2 **Administration**

(a) The Harris 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(b) of the 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 Local Government Code, the State of Texas has granted the Harris County Commissioners Court authority to promote public health, safety, and welfare.

(d) The Commissioners Court designates the Harris County Sheriff as Game Room Permit Administrator. The Harris County Sheriff shall supervise, control, and operate the Permit Office. The Harris 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.

1.3 **Area covered by regulations**

(a) These regulations apply to enterprises located in the unincorporated area of Harris County; and those within.

(b) Incorporated cities or towns in Harris County that execute cooperative agreements with Harris County.

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 or more amusement redemption machines.

(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 noncash 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) "Game room 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) "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.

(e) "Applicant" means a person, owner, corporation, partnership, or other business entity required to submit a game room application.

(f) "Sheriff" means the Sheriff of Harris County or the Sheriff's designated agent.

(g) "Current annual fire inspection report" means a fire inspection report issued by the Harris County Fire Marshal within sixty (60) days immediately preceding the date of any application for operation of a game room or renewal of a game room permit.

(h) "Peace officer" means an individual as described in Article 2.12 of the Texas Code of Criminal Procedure.

(i) "Person" means an individual, partnership, corporation, association or other legal entity.

(j) "Public Building" means a building used by Federal, State, or local government that is open to the general public.

(k) "Regulation" means regulations of Harris County, Texas, for the operation of game rooms.

(l) "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, both public and private.

(m) "Gambling device" means a device described in Article 47.01(4) (a) of the Texas Penal Code.

SECTION 2. **PERMIT**

2.1 **Required**

(a) It shall be unlawful for an owner or operator of a game room to operate, use or maintain any room or place in Harris County where persons are permitted to operate a game room under the definition provided in this regulation without first securing an official permit from a game room permit administrator. A person who violates this regulation shall be assessed a civil penalty not to exceed $10,000 per violation, with each day a violation occurs or continues to occur being considered a separate violation.

(b) A completed application shall be filed with the Harris County Sheriff. The application shall be filed on the form provided by the Sheriff or on an accurate and legible copy of that form. A copy of the application can be obtained off the Sheriff's Office website http://www.hcso.hctx.net/. The applicant shall apply in person at the Sheriff's office. The Sheriff will establish the hours when an application can be submitted. A notice of deficiencies in an application will be mailed to the applicant within ten (10) business days of receipt of the application if not all the information required by these regulations has been provided in the application. A receipt shall be mailed to the applicant within ten (10) business days of submission of a complete application to the Sheriff. Any failure to provide the information required by this section or a determination by the Sheriff's Office that inaccurate, erroneous, or incomplete information has been submitted will provide grounds for denial or revocation of the application.

(c) Each application shall be accompanied by:

(1) a current annual inspection report from the Harris County Fire Marshal showing compliance with all corrections ordered;

(2) a copy of certification of occupancy or certification of compliance issued by the building official as appropriate for the proposed game room;

(3) a diagram or floor plan to include designed occupancy load, prepared by a licensed architect or engineer and reviewed by the Harris County Public Infrastructure Department.

(4) a true and correct copy of the assumed name certificate filed in the office of the Harris 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 non-refundable application fee, the amount of which shall be established by the Harris County Commissioners Court;

(6) a copy of the applicant's government-issued photo identification; and

(7) a certification that the proposed enterprise is exempt from or will be located in compliance with the distance requirements set forth by Subsection 3.9 of these regulations.

(d) The game room permit administrator shall provide the fee schedule on any Permit Office website with the application form. Any failure to provide the documents or pay the application fee required under this section will provide grounds for denial of the application.

(e) A permit may be renewed for the following year starting 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 subsection 2.1(d) of these regulations. A renewal application shall be subject to the same requirement in these regulations for a permit application.

2.2 **Grounds for denial, revocation, or suspension**

(a) Any violation of this regulation or failure to meet all requirements of this regulation, if applicable, will be a ground for denial, revocation, or suspension of a permit to operate a game room. If a game room's permit has been revoked, denied, or suspended, the game room shall not operate during the pendency of any appeal from the revocation, denial, or suspension.

(b) The game room permit shall be denied upon the finding by the Sheriff of any of the following facts:

(1) The applicant was convicted of any of the following crimes:

(i) 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;

(i) forgery, credit card abuse or commercial bribery as described in Chapter 32 of the Texas Penal Code;

(iii) a criminal offense as described in Chapter 34 of the Texas Penal Code;

(iv) criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses; or any other offense to the laws of another state or of the United States that, if committed in this state, would have been punishable as one or more of the aforementioned offenses; or

(v) a criminal offense as described in Chapter 352, Subchapter B of the Texas Local Government Code; and

(aa) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date if the conviction is of a misdemeanor offense; or

(bb) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense.

(2) The applicant makes a misleading statement in the application for the game room permit;

(3) The applicant is under eighteen (18) years of age;

(4) The applicant has had a game room permit revoked within the one-hundred eighty (180) day period immediately preceding the date the application was filed;

(5) An applicant 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) The application or renewal fee required by these regulations has not been paid; or

(7) The applicant has not had the required fire and life safety inspection by the Harris County Fire Marshal within the 60-day period immediately preceding the date the application was filed.

(c) The Sheriff shall have the authority and power to initiate a proceeding to revoke or suspend a game room permit if one or more of the following events or conditions have occurred:

(1) any violation of any of the offenses contained in subsection 2.2(b) (1) of this regulation has occurred on the premises;

(2) the applicant provided false, fraudulent or untruthful information on the original or renewal application form;

(3) the game room permit should not have been issued pursuant to these regulations;

(4) the owner or operator has failed to make corrections ordered by a Fire Marshal's Order; or

(5) the owner is convicted of a criminal offense contained in subsection 2.2(b) (1) of this regulation.

2.3 **Issuance or denial**

(a) The Sheriff will wait to issue a game room permit until final disposition of any charge of any of the crimes listed in subsection 2.2(b)(1) that is pending or arises during the investigation period. No temporary game room permit shall be issued before there is a final determination of the criminal charge.

(b) If the Sheriff denies a game room permit, he will give the applicant written notice of the basis for denial.

2.4 **Revocation or Suspension**

(a) If any of the stated events or conditions providing a basis for revocation or suspension of a game room permit under subsection 2.2(c) has occurred, the Sheriff shall forward to the game room permit holder or its designated agent a written notice of revocation. The notice shall set out the reasons for the action. The revocation shall become final on the fifth (5th) day after issuance of notice.

(b) The enterprise or its designated agent shall have the opportunity to appear before a hearing examiner appointed by the Commissioners Court upon written request submitted to the Sheriff within ten (10) business days of delivery of the notice of revocation. The hearing examiner shall not have participated in any investigation of the alleged grounds for the revocation. The hearing shall be held within fourteen (14) business days of the request for hearing and the enterprise and the Sheriff shall be provided an opportunity to present evidence, cross-examine witnesses and be represented by legal counsel. The rules of civil evidence for a non-jury trial shall apply.

(c) Upon finding that the facts presented at the hearing support a finding that grounds exists for revoking or suspending the game room permit, the hearing examiner may request that the parties present relevant evidence to show whether suspension or revocation of the game room permit is more appropriate. Reasonable conditions may be attached to a game room permit by the hearing examiner based on the evidence presented at the hearing.

(d) If the hearing examiner determines that a game room permit should be revoked, the hearing examiner shall issue a written order revoking the game room permit, effective immediately.

(e) 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 permit may be suspended for a period not to exceed six (6) months. The hearing examiner shall issue a written order suspending the game room permit and attaching conditions, if applicable, effective upon notice to the owner.

(f) Upon the finding that subsection 2.2(c) (3), 2.2(c) (4), or 2.2(c) (5) of these regulations has been violated, revocation of the game room permit shall be mandatory.

(g) Revocation shall take immediate effect upon notice by the Sheriff, subject to reinstatement resulting from an appeal when:

(1) there is a necessity for immediate action to protect the public from injury or imminent danger; or

(2) 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.

2.5 **Hearings**

(a) A request for hearing must be in writing and delivered to the game room permit administrator within twenty days of the denial, revocation, or suspension. The applicant waives the right to hearing if the request is not timely received by the administrator.

(b) The applicant may re-apply for a game room permit if changes are made to bring the proposed game room into compliance with this regulation.

(c) The decision of the hearing officer shall be final.

(1) 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 within 30 days after the date of the decision.

(2) An appeal under this section is under the substantial evidence rule, and the judgment of the district court is appealable as in other civil cases.

2.6 **Permit fee—Levied; amount**

There shall be levied and collected from a game room owner an annual permit fee of up to $1,000 as established by Commissioners Court.

2.7 **Permit fee—Payment; receipt constitutes permit**

The permit fees provided for in subsection 2.6 of this Code shall be paid to the Sheriff. When the application process is complete, the Sheriff shall give the applicant a signed receipt. The receipt constitutes a permit to operate the game room for one year from the date the permit is issued.

2.8 **Violations**

(a) Any owner or operator using or maintaining any place for which a permit is required without first paying the fee and securing a permit therefor, or who operates, uses or maintains such place after the permit therefor has been revoked or suspended, shall be assessed a civil penalty not to exceed $10,000 per violation, with each day a violation occurs or continues to occur being considered a separate violation.

(b) An owner or operator commits a Class A misdemeanor offense if the owner or operator intentionally or knowingly operates a game room in violation of this subsection.

2.9 **Effect**

Each permittee under this article must meet and comply with all requirements of law applicable to the premises or any activity conducted thereon and the issuance of a permit under this article shall not excuse the permittee, his agents or employees or any patrons of such premises.

SECTION 3. **GAME ROOMS AND AMUSEMENT REDEMPTION MACHINES**

3.1 **Inspection by law enforcement officer**

(a) INSPECTION: A peace officer is authorized to inspect any business in Harris County for violations of these game room regulations. This regulation does not authorize a right of entry prohibited by law. Peace officers may enter a business with consent, with a warrant, or under exigent circumstances. A game room permit granted under these regulations gives peace officers implied consent to enter to inspect.

(b) UNPERMITTED GAME ROOMS: An unpermitted business that holds itself out as a "game room," by sign, advertisement, word-of-mouth, by offering memberships – or by any other means – is subject to inspection by any peace officer. Refusal to allow law enforcement entry to inspect such unpermitted "game rooms" may be considered in establishing probable cause for the issuance of a search warrant to inspect for violations of these game room regulations.

(c) COMPLIANCE INSPECTION. A peace officer or county employee may inspect a permitted game room located within his agency's jurisdiction to determine whether the game room, amusement redemption machines, or records required to be kept under Recordkeeping subsection 3.7, comply with these regulations.

(d) CONSENT TO ENTRY. Any owner or operator of a game room or other person who does not allow a law enforcement officer to inspect a game room, an amusement redemption machine, or records mandated to be kept under subsection 3.7 of these regulations as required under the Texas Local Government Code Section 234.136 commits an offense. If a person violates this subsection, then that person shall be assessed a civil penalty not to exceed $10,000 per violation, with each day a violation occurs or continues to occur being considered a separate violation.

(e) An owner or operator commits a Class A misdemeanor offense if the owner or operator intentionally or knowingly operates a game room in violation of this subsection.

3.2 **Game room sign required**

(a) It shall be the duty of any owner or operator of a game room to mark each outside door to a game room with a sign that:

(1) states "GAME ROOM" in four inch or larger block lettering; and

(2) is legible and visible at all times from a distance of 25 feet from the outside door.

(b) If an owner or operator violates this subsection, then that person shall be assessed a civil penalty not to exceed $10,000 per violation, with each day a violation occurs or continues to occur being considered a separate violation.

(c) An owner or operator commits a Class A misdemeanor offense if the owner or operator intentionally or knowingly operates a game room in violation of this subsection.

(d) The following game rooms are exempt from the signage requirement set forth in this subsection:

(1) game rooms located within businesses that derive over fifty percent (50%) of total income from the sale of food or beverages, including alcohol and liquor sales; or

(2) is a location at which charitable bingo is conducted under a license issued by the Texas Lottery Commission.

3.3 **Fire and life safety**

(a) It shall be the duty of any owner or operator of a game room to 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.

(b) It shall be the duty of the owner or operator of a game room, or commercial establishment, to comply with all construction or fire codes, and to pay any court-approved fee associated with a fire and life safety inspection, plan review, occupancy load calculation, or complaint.

(c) All construction and fire code regulations will be strictly enforced with available access to any representative of the Harris County Fire Marshal's Office at all times.

(d) No game room shall use electronic locks to prevent entry during business hours.

(e) If an owner or operator violates this subsection, he or she shall be shall be assessed a civil penalty not to exceed $10,000 per violation, with each day a violation occurs or continues to occur being considered a separate violation.

(f) An owner or operator commits a Class A misdemeanor offense if the owner or operator intentionally or knowingly operates a game room in violation of this subsection.

3.4 **Transparent, uncovered windows and doors required**

(a) Any building, facility, or other place that contains six or more amusement redemption machines must have at least one window in the front of the building meeting the criteria set forth in subsection (b), allowing a clear and unobstructed view of all amusement redemption machines.

(b) It shall be unlawful for any person to exhibit or display, or to permit to be exhibited or displayed, for commercial use any amusement redemption machine in a game room unless the required transparent walls or windows of the game room:

(1) Are located on at least two sides of the game room, and each amusement redemption machine located therein is visible through such walls or windows; and

(2) At the lowest point are not more than four feet above the adjacent sidewalk or ground level; and

(3) At the highest point are at least eight feet higher than the adjacent sidewalk or ground level; and

(4) Are at least four feet wide.

(c) It shall be the duty of any owner or operator of a game room to provide transparent glass in each exterior game room window or door.

(d) It shall be unlawful for any owner or operator or any other person with permission of or at the direction of an owner or operator to cover or tint a game room window or door, or otherwise block or obscure the view of any amusement redemption machine from a sidewalk through a game room window or door.

(e) If an owner or operator violates this subsection then that person shall be assessed a civil penalty not to exceed $10,000 per violation, with each day a violation occurs or continues to occur being considered a separate violation.

(f) An owner or operator commits a Class A misdemeanor offense if the owner or operator intentionally or knowingly operates a game room in violation of this subsection.

(g) The following game rooms are exempt from the windows requirement set forth in this subsection:

(1) game rooms located within businesses that derive over fifty percent (50%) of total income from the sale of food or beverages, including alcohol and liquor sales; or

(2) game rooms who have this requirement waived in writing by the Sheriff or his designee upon a showing that having windows inconsistent with those prescribed by this subsection would not affect public health or safety; or

(3) is a location at which charitable bingo is conducted under a license issued by the Texas Lottery Commission.

3.5 **Hours of operations**

(a) A game room may operate between the hours of 8 a.m. and 10 p.m.

(b) The owner or operator of a game room shall be assessed a civil penalty not to exceed $10,000 for each hour a game room is open during regulated non-operating hours in violation of this regulation.

(c) An owner or operator commits a Class A misdemeanor offense if the owner or operator intentionally or knowingly operates a game room in violation of this subsection.

(d) The following game rooms are exempt from the hours of operation requirement set forth in this subsection:

(1) game rooms located within businesses that derive over fifty percent (50%) of total income from the sale of food or beverages, including alcohol and liquor sales; or

(2) game rooms who have this requirement waived in writing by the Sheriff or his designee upon a showing that maintaining hours of operation inconsistent with those prescribed by this subsection would not affect public health or safety; or

(3) is a location at which charitable bingo is conducted under a license issued by the Texas Lottery Commission, during a Bingo Occasion, as that term is defined by Texas Occupations Code Chapter 2001.

3.6 **Game room permits**

(a) It shall be the duty of any owner or operator of a game room to keep posted or displayed within the game room in plain sight in a common area accessible to the public without having to enter into a controlled area of the business a current game room permit.

(b) Failure to post or display the original current game room permit will result in the owner or operator of the game room being assessed a civil penalty not to exceed $10,000 per violation.

(c) An owner or operator commits a Class A misdemeanor offense if the owner or operator intentionally or knowingly operates a game room in violation of this subsection.

3.7 **Recordkeeping**

(a) It shall be the duty of any owner or operator of a game room to maintain on the premises:

(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 DHS, and a photograph of the employee;

(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; and

(3) a copy of the Harris County and State of Texas tax record forms detailing each machine found on the premises by identifying the machine by name of manufacturer, serial number, type of machine and the serial number of the State of Texas Tax stamp and the Harris County Tax Stamp to include the year of expiration of each tax stamp required.

(b) An owner or operator who violates subsection (a), above, shall be assessed a civil penalty of no greater than $10,000 for each record required under these subsections that is missing.

(c) The game room shall preserve the daily register required by subsection (a) (2) for 90 days after the date the register was made. An owner or operator who violates this regulation may be assessed an administrative penalty in the amount of $500 for each register required to be preserved that is missing.

(d) An owner or operator commits a Class A misdemeanor offense if the owner or operator intentionally or knowingly operates a game room in violation of this subsection.

3.8 **Prohibited employment**

(a) It shall be unlawful for any person owning or operating a game room to knowingly employ any person who has been previously convicted of, entered a plea of nolo contendere or guilty, or received deferred adjudication for an offense involving any gambling violations set forth in the Chapter 47 of the Texas Penal Code.

(b) It is the responsibility of the owner or operator to conduct a criminal background check on each potential employee.

(c) Failure to comply with any of the requirements of this section shall result in a violation and be punishable by a civil penalty assessed against an owner or operator not to exceed $10,000 per prohibited employee working at the game room and/or per employee working at the game room without being subjected to a criminal background check.

(d) Each day a violation continues or occurs constitutes a separate violation for purposes of imposing a penalty.

3.9 **Distancing restrictions**

(a) A game room in operation shall be located:

(1) a minimum of one thousand five hundred (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; and

(2) not within a distance of two thousand (2,000) feet from where two (2) or more other game rooms are located.

(b) This subsection shall apply only to property uses in existence at that location at least 30-days prior to the date of application.

(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 enterprise to the nearest portion of the building or appurtenances that is used for the purposes identified in subsection (a) above.

(d) Game rooms in operation before these regulations go into effect are exempted from these distancing restrictions so long as the game room remains in the exempted location.

(e) If an owner or operator violates this subsection then that person shall be assessed a civil penalty not to exceed $10,000 per violation, with each day a violation occurs or continues to occur being considered a separate violation.

(f) The following game rooms are exempt from the distancing requirements set forth in this subsection:

(1) game rooms located within businesses that derive over fifty percent (50%) of total sales from the sale of food or beverages, including alcohol and liquor sales; or

(2) game rooms who have this requirement waived in writing by the Sheriff or his designee upon a showing that a game room whose location is inconsistent with those prescribed by this subsection would not affect public health or safety; or

3.10 **Game room memberships**

(a) A game room owner or operator shall not restrict entry to a game room or prohibit the use of an amusement redemption machine by a patron through the requirement of a game room membership.

(b) If an owner or operator violates this subsection then that person shall be assessed a civil penalty not to exceed $10,000 per violation, with each person denied and each day a violation occurs or continues to occur being considered a separate violation.

(c) An owner or operator commits a Class A misdemeanor offense if the owner or operator intentionally or knowingly operates a game room in violation of this subsection.

3.11 **Amusement redemption machines**

(a) It shall be the duty of any owner or operator of a game room to obtain a permit for each amusement redemption machine on their premises from the Harris County Tax Assessor-Collector.

(1) The annual fee will be 25% of the State's annual fee per machine.

(2) All amusement-redemption-machine permit applications are required to indicate the location on the application where the amusement redemption machine is physically located.

(3) Whenever a machine is found not to be in compliance as to permits, it shall be locked by the Tax Assessor-Collector Office and cannot be used until the owner purchases a permit for the machine at a cost of $100.00, regardless of which quarter of the year the unlock fee is paid, and then pays an "unlock fee" of $5.00 per machine.

(4) If a compliance officer is not allowed entrance during business hours, a civil penalty not to exceed $10,000 for each date of denial will be assessed upon an owner or operator.

(b) Harris County may assess an owner or operator of a game room a civil penalty not to exceed $10,000 if any amusement redemption machine does not display a current registration decal on it. Furthermore, Harris County shall be able to assess a civil penalty not to exceed $10,000 on the owner or operator for

each machine that is not registered with a valid current year video tax stamp decal prominently displayed on each machine.

(c) An owner or operator commits a Class A misdemeanor offense if the owner or operator intentionally or knowingly operates a game room in violation of this subsection.

3.12 **Illegal machines**

(a) These regulations shall not be construed to authorize or permit the keeping, exhibition, operation, display, or maintenance of 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 the owner or operator of a game room for any machines used for illegal gambling.

(c) If a law enforcement agency determines through investigation that a game room was in operation violating the Texas Penal Code Chapter 47, GAMBLING, then every machine or gambling device in the game room will be considered in violation. A civil penalty not to exceed $10,000 per machine may be assessed upon an owner or operator of the game room.

3.13 **Owners of an illegal gaming facility**

It is not a defense to prosecution under this section if an owner does not have the DBAs in his/her name, and/or the leases or property in their names, but solely that each party has an ownership interest in the business.

3.14 **Injunction and Civil Penalty**

The County Attorney is authorized to sue in district court for an injunction to prohibit the violation or threatened violation of these game room regulations adopted under Texas Local Government Code § 234.133. The County is entitled to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, including reasonable attorney's fees, court costs, and investigatory costs.

THE STATE OF TEXAS §

COUNTY OF HARRIS §

The Commissioners Court of Harris County, Texas, met in regular session at its regular term at the Harris County Administration Building in the City of Houston, Texas, on DEC 17 2013, with all members present except None.

A quorum was present. Among other business, the following was transacted:

ORDER ADOPTING GAME ROOM REGULATIONS

Commissioner Cagle introduced an order and moved that Commissioners Court adopt the order. Commissioner Morman seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Ed Emmett	[✓]	[ ]	[ ]
Comm. El Franco Lee	[✓]	[ ]	[ ]
Comm. Jack Morman	[✓]	[ ]	[ ]
Comm. Steve Radack	[✓]	[ ]	[ ]
Comm. R. Jack Cagle	[✓]	[ ]	[ ]

The meeting chair announced that the motion had duly and lawfully carried, and this order was duly and lawfully adopted. The order adopted follows:

The County Attorney has drafted the attached proposed Game Room Regulations for Commissioners Court consideration pursuant to § 234.133 of the Texas Local Government Code.

Two public hearings were conducted for the purpose of receiving public comments regarding the proposed regulations, the transcripts of which were provided to Commissioners Court.

Therefore, **IT IS ORDERED** as follows:

1. The attached proposed Game Room Regulations are hereby adopted.
2. The effective date for the Game Room Regulations is March 1, 2014.
3. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.

Presented to Commissioner's Court

DEC 17 2013

APPROVE CIM

Recorded Vol____ Page____

THE STATE OF TEXAS §

COUNTY OF HARRIS §

The Commissioners Court of Harris County, Texas, met in regular session at its regular term at the Harris County Administration Building in the City of Houston, Texas, on DEC 17 2013, with all members present except none.

A quorum was present. Among other business, the following was transacted:

ORDER ADOPTING GAME ROOM PERMIT APPLICATION FEES

Commissioner Cagle introduced an order and moved that Commissioners Court adopt the order. Commissioner Morman seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Ed Emmett	[✓]	[ ]	[ ]
Comm. El Franco Lee	[✓]	[ ]	[ ]
Comm. Jack Morman	[✓]	[ ]	[ ]
Comm. Steve Radack	[✓]	[ ]	[ ]
Comm. R. Jack Cagle	[✓]	[ ]	[ ]

The meeting chair announced that the motion had duly and lawfully carried, and this order was duly and lawfully adopted. The order adopted follows:

FINDINGS:

Harris County has adopted Game Room Regulations pursuant to § 234.133 of the Texas Local Government Code. After reviewing the opinion, recommendation, and analysis submitted by the Sheriff, a permit fee of $1,000 per applicant, including each renewal, is based on the cost of processing the application and investigating the applicant.

Therefore, **IT IS ORDERED** as follows:

1. A fee of $1,000 is authorized and shall be imposed for each game room permit application.
2. A fee of $1,000 is authorized and shall be imposed for each game room permit application renewal.
3. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.

Presented to Commissioner's Court

DEC 17 2013

APPROVE C/m

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