ORDINANCE REGULATING GAME ROOMS IN ORANGE COUNTY

As Authorized By: Tex. Loc. Gov. Code § 234.133 et seq.

Adopted August 17, 2021
Amended November 3, 2026

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

WHEREAS, Orange County, Texas desires to reduce the adverse secondary effects of illicit Game Rooms, as set forth below.

NOW, THEREFORE, the Orange County Commissioners' Court hereby adopts this Ordinance regulating game rooms in Orange County.

ARTICLE I
FINDINGS OF FACT

1.01 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.

1.02 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.

1.03 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 p.m. and 8 a.m.

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

ARTICLE II
ESTABLISHMENT AND GENERAL PROVISIONS

2.01 **Authority.** These Regulations are adopted by the Commissioners' Court of Orange County, Texas, acting in its capacity as the governing body of Orange County, Texas. These Regulations are promulgated pursuant to Chapter 234 of the Local Government Code, and as specifically authorized by section 234.133 of the Texas Local Government Code.

2.02 **Purpose.** The purpose of this Ordinance is 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.

2.03 **Jurisdiction.** These Regulations shall apply to all enterprises located within the unincorporated areas of Orange County, Texas.

2.04 **Effective Date.** These Regulations became effective September 1, 2021.

2.05 **Court Findings.** In *City of Fort Worth v. Rylie*, 649 S.W.3d 246 (Tex. App.—Fort Worth 2022, pet. denied), the Second Court of Appeals, Fort Worth, held that electronic gaming machines, the Amusement Redemption Machines that include gaming machines commonly referred to as "eight-liners," are unconstitutional.

ARTICLE III
DEFINITIONS

3.01 **General.** All words and phrases not specifically defined below shall be given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only, and shall not be used in the interpretation of this Ordinance.

3.02 **Specific.** The following words, terms, and phrases shall have the ascribed meaning indicated below.

(a) "**Amusement Redemption Machine**" means any electronic, electromechanical, or mechanical contrivance designed, made, and adapted 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.

(c) "**County Employee**" means any individual authorized by Orange County to inspect any Game Room for compliance with these Regulations.

(d) "**Fire Safety Official**" means the appropriate Orange County Emergency Services District or other department official having competent jurisdiction within the applicable area of the county to conduct a fire and life safety inspection.

(e) "**Gambling Device**" means a device described in section 47.01(4) of the Texas Penal Code.

(f) "**Game Room**" means a for-profit business located in a building or place that contains six (6) or more Amusement Redemption Machines or Gambling Devices.

(g) "**Game Room Permit Administrator**" or "**Administrator"** means the Orange County Environmental Health & Code Compliance Office or its designated agent, or the designated official for a cooperating municipality.

(h) "**Gaming Device**" means and includes any Amusement Redemption Machine and any device described in section 47.01(4) of the Texas Penal Code.

(i) "**Notice**" means a written notification from the Game Room Permit Administrator or his designee. For purposes of these Regulations, Notice is deemed effective on the date written Notice to an Applicant, Owner, Operator, 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.

(j) "**Operate a Game Room**" means to:

(1) engage in, cause, be a part of, fund, have a financial interest in, or receive any profit from, the operation a Game Room;

(2) own an Amusement Redemption Machine or Gambling Device located in a Game Room, or supply such machines to a Game Room;

(3) receive any profit or payment from an Amusement Redemption Machine or Gambling Device located in a Game Room, other than as a player; or

(4) have an Amusement Redemption Machine or Gambling Device registered in Orange County or any city in Orange County where the game room is located or registered.

(k) "**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.

(l) "**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.

(m) "**Peace Officer**" means an individual as described in Article 2.12 of the Texas Code of Criminal Procedure.

(n) "**Person**" means an individual, proprietorship, corporation, company, association, firm, partnership, or other legal entity.

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

(p) "**Regulation(s)**" means these Regulations of Orange County, Texas, for the operation of Game Rooms.

(q) "**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.

(r) "**Sheriff**" means the Sheriff of Orange County or the Sheriff's designated agent.

ARTICLE IV
ADMINISTRATION

4.01 The Orange County Commissioners Court hereby designates and authorizes any law enforcement agency to investigate for violations of these Regulations. Any Peace Officer certified by the State of Texas may enforce these Regulations.

4.02 Except as provided in section 4.03, the Commissioners Court designates the Orange County Environmental Health & Code Compliance Office as Game Room Permit Administrator for Orange County. The Administrator shall supervise, control, and operate the Permit Office, and shall investigate, deny, issue, attach conditions to, administratively suspend, or revoke Game Room permits pursuant to these Regulations and any applicable state laws.

4.03 Incorporated cities or towns in Orange County that adopt these Regulations shall designate their own Game Room Permit Administrator and procedures for investigation and enforcement.

ARTICLE V
GAME ROOM PERMITS

5.01 **Permit Required.** It shall be unlawful for a Person to Operate a Game Room in Orange County:

(a) without a valid and current permit issued pursuant to these Regulations;

(b) during the pendency of the application process; or

(c) after the permit therefor has expired or been revoked, or during any period of suspension.

5.02 **The Application and Fee.**

(a) **Form**. An application for a Game Room permit 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 required application shall be made available on the Game Room Permit Administrator's website.

(b) **Permit Application Fee**. The required permit application fee must be attached to or submitted with the application form.

(1) The permit application fee is $1,000.

(2) The permit application fee has been set by the Orange County Commissioners Court as a reasonable approximation of the costs involved in the application review and investigation process.

(3) The permit application fee is non-refundable in its entirety.

(4) An application is not considered complete, and will not be acted upon in any manner, until the required fee is paid in full.

(c) **Required Attachments**. Each complete application shall be accompanied by:

(1) a cashier's check or money order made payable to Orange County in the amount of the permit application fee.

(2) a photocopy of the Applicant's driver's license or government-issued photo identification or, if the Applicant is a legal entity, that of the individual executing the Application on the Applicant's behalf;

(3) a photocopy of the driver's license or government-issued photo identification of each individual identified in the completed application as an Owner, Operator, employee, agent, or other person acting for or on behalf of the Game Room;

(4) a sealed copy of a fingerprint-based Texas DPS and FBI criminal background report for each individual identified in the completed application as an Owner, Operator, employee, agent, or other person acting for or on behalf of the Game Room;

(5) the Game Room Applicant's Federal Employer Identification Number (EIN);

(6) either (a) a current lease agreement for the Game Room premises with the Applicant listed as the Game Room Owner and premises lessee or (b) a current deed for the Game Room premises with at least one of the Game Room Owners shown to be the property Owner;

(7) a diagram or floor plan, to include designed occupancy load, prepared by a licensed architect or engineer and approved by the entity with competent jurisdiction;

(8) a copy of the State of Texas coin-operated machine occupation tax records, the State of Texas coin-operated machine license or registration certificate, and the Orange County coin-operated machine occupation tax records 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 name of manufacturer;

(B) the serial number;

(C) the type of machine;

(D) the State of Texas Tax stamp including the year of expiration of each tax stamp required;

(E) the Orange County Tax Stamp including the year of expiration of each tax stamp required; and

(F) the name of each individual, proprietorship, corporation, association, and/or other legal entity that owns, receives profits from, and/or has registered the machine in their name with Orange County and the Texas Comptroller, and a description of their ownership and financial interest in the machine.

(9) if applicable, a copy of the formative legal documents for the Applicant and for each legal entity that has any ownership interest in the Game Room (e.g., Articles of Incorporation, Partnership Agreement, etc.);

(10) if the Game Room will be operating under an assumed name, a true and correct copy of the assumed name certificate filed in the office of the Orange County Clerk, bearing the file mark or stamp that evidences its filing;

(11) if Applicant is claiming an exemption from the Distancing Restrictions set forth by Section 6.01 of these Regulations, proof that the Game Room qualifies for such exemption pursuant to Subsection 6.01(c).

(d) **Incomplete Applications**. Incomplete applications shall not be accepted. The failure to produce any documentation or item required in subsection 5.02(c) will result in the rejection of the application until such time as the missing documentation or item is produced to the satisfaction of the Game Room Permit Administrator. Failure to provide proof supporting an exemption of any kind will result in the denial of that specific exemption.

(e) **Tampering**. In addition to any other criminal offenses described herein, any misrepresentation on a permit application is a third-degree felony offense as provided under section 37.10 of the Texas Penal Code.

5.03 **The Application Process.**

(a) The application process shall commence upon the submission of a complete application, with all required attachments and the application fee, to the Game Room Permit Administrator.

(b) The Applicant shall be an Owner of the Game Room, and must apply in person. The application may be submitted at 11475-C Highway 1442, Orange, TX 77630, Monday through Friday, from 9:00 A.M. to 12:00 P.M. or from 1:00 P.M. to 5:00 P.M., excluding Federal or County holidays.

(c) Within fourteen (14) days of submission of a complete application and payment of the application fee, the Game Room Administrator shall provide the Applicant a receipt by hand delivery or certified mail. A receipt showing payment of the application fee is NOT a Game Room permit.

(d) 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 and must, if necessary, provide his or her own interpreter.

(1) The Game Room Permit Administrator shall conduct the initial inspection within twenty-one (21) days of receipt of the completed application and payment of the required fee.

(2) After the initial inspection, the Applicant will be informed of what corrections, if any, must be made to the proposed Game Room in order to comply with these Regulations.

(3) If necessary, a second inspection will be performed not less than seven (7) days nor more than twenty-one (21) days after the initial inspection. After this inspection, the Applicant will again be informed of what corrections must be made to the proposed Game Room, if any, in order to comply with these Regulations.

(4) If necessary, a third and final inspection will be performed not less than seven (7) days nor more than fourteen (14) days after the second inspection. If, after the third and final inspection, the proposed Game Room fails to comply with these Regulations, the Game Room Permit Administrator shall deny the application.

(5) If the proposed Game Room passes inspection and meets all requirements of these Regulations after any inspection, the Game Room Permit Administrator shall approve the application.

(e) 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.

(f) In municipalities which have elected to adopt these Regulations, 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. The respective Game Room Permit Administrators shall inform each other of permits granted.

5.04 **Denial of a Game Room Permit.**

(a) **Grounds**. 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, received probation or deferred adjudication for, 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) fraud, forgery, credit card abuse, identity theft, or commercial bribery as described in Chapter 32 of the Texas Penal Code;

(C) money laundering under Federal law or a criminal offense as described in Chapter 34 of the Texas Penal Code;

(D) any organized crime offense as described in Chapter 71 of the Texas Penal Code

(E) 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 prescribed period of time set forth in Subsection 5.03(d);

(8) an offense described in subsection 5.04(a)(1) or section 6.14 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 Article V or VI of these Regulations.

(b) **Denial**. If a Permit Application is denied, the Game Room Permit Administrator shall document the denial and, within twenty-one (21) days of the date on which the denial was documented, provide Notice to the Applicant of the denial, including in the Notice the reason(s) for the denial.

5.05 **Revocation or Suspension of a Game Room Permit.**

(a) 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 5.04(a)(1) or section 6.14 of these Regulations has occurred on the premises of the Game Room;

(2) in the permit application, the Applicant made a misleading statement, provided false, fraudulent, or untruthful information, or withheld pertinent information;

(3) the 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 on behalf of the Game Room has violated any of the offenses contained in subsection 5.04(a)(1) or section 6.14 of these Regulations; or

(6) any violation(s) of Article V or VI of these Regulations.

(b) If any of the stated events or conditions providing a basis for revocation or suspension of a Game Room permit under subsection 5.04(a)(1) has occurred, the Game Room Permit Administrator shall document the violation and shall, within twenty-one (21) days of the date on which the violation was documented, provide Notice to Applicant or permit holder of revocation or suspension, including in the Notice the reasons for the action.

(1) Except as provided below, the revocation shall become final on the seventh (7th) day after the Notice is delivered or posted.

(2) Revocation shall take effect immediately upon Notice by the Game Room Permit Administrator if:

(A) an Owner, Operator, employee, agent, and/or any other individual acting for or on behalf of a Game Room has violated any offense described in subsection 5.04(a)(1) or section 6.14 of these Regulations;

(B) a violation of any offense described in subsection 5.04(a)(1) or section 6.14 of these Regulations has occurred on the premises of the Game Room;

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

(D) a Game Room permit was issued based on a misrepresentation in the application and but for the misrepresentation the permit would not have been issued.

5.06 **Additional Grounds for Denial, Revocation, or Suspension of Permit.** 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.

5.07 **Appeal.** 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 right to make a written request for an appeal 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.

(a) A request for hearing must be in writing and delivered to the Orange County Judge within fourteen (14) days of delivery or posting of the contested Notice of denial or revocation.

(1) If in person, the request should be delivered to 123 S. 6th Street, Orange, Texas, Monday through Friday, from 9:00 A.M. to 12:00 P.M. or from 1:00 P.M. to 5:00 P.M., excluding Federal or County holidays.

(2) If mailed, the request should be sent to 123 S. 6th Street, Orange, TX 77630, and must be postmarked no later than the 14th day after delivery or posting of the Notice.

(3) The Applicant or permit holder waives the right to hearing if the request is not timely received by the Game Room Permit Administrator.

(b) An appeal hearing shall be held within twenty-one (21) days of the receipt of a timely request for hearing.

(1) The hearing examiner shall provide Notice of the setting to the Applicant or permit holder and the Game Room Permit Administrator not less than seven (7) days prior to the date of the hearing.

(2) The hearing shall not be continued or reset beyond the twenty-one (21) days except by agreement of the hearing examiner, the Applicant or permit holder, and the Game Room Permit Administrator.

(c) The Applicant or permit holder shall be present in person at the hearing. If the permit holder is a legal entity, at least one individual Owner of the Game Room must be present. 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.

(1) The Applicant or permit holder and the Game Room Permit Administrator shall each be provided an opportunity to present evidence, cross-examine witnesses, and be represented by legal counsel.

(2) In an appeal hearing, neither the formal rules of evidence nor of civil discovery apply.

(3) 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.

(d) The hearing examiner shall issue a written order based on his or her determination within twenty-one (21) days of the hearing.

(1) The hearing examiner has the power to uphold or reverse the denial, suspension, or revocation of a Game Room permit.

(2) 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.

(3) Upon a finding by the hearing examiner that any provision of Subsection 5.05(a) of these Regulations has been violated, revocation of the Game Room permit shall be mandatory.

(e) On final decision of the hearing examiner, the losing party may appeal the decision by filing a petition in a District Court in Orange County within thirty (30) days after the date of the written order described above. Appeals to the District Court shall be governed by the substantial evidence rule described in Section 2001.174 of the Texas Government Code.

(1) 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.

(2) 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 the appeal to the District Court.

(3) No Game Room may operate pending an appeal of the denial of a Game Room permit to the District Court.

5.08 **Re-Application.** An Applicant or permit holder who has had an application denied or permit revoked may not apply for a new Game Room Permit earlier than one hundred eighty (180) days from the date of Notice of denial or revocation. Any re-application will be treated as a new application for all purposes.

5.09 **Issuance 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, and shall keep an original signed copy of the certificate for the Administrator's records.

(a) **Duration**. The certificate constitutes a permit to operate the Game Room for one (1) year from the date the permit is issued.

(b) **Contents**. The permit shall list:

(1) the identity of the issuing Game Room Permit Administrator;

(2) the date of issue and the date of expiration;

(3) the name of the permit holder and, if the permit holder is a legal entity, then all persons asserting ownership in or control over the legal entity;

(4) the name and physical address of the Game Room; and

(5) any applicable exemptions to the requirements of Article VI for which the permit holder qualified.

(c) **Effect.** The issuance or possession of a permit notwithstanding, each Applicant, Owner, Operator, employee, agent and/or any other individual acting for or on behalf of a Game Room must meet and comply with all requirements of all applicable laws. Neither the issuance nor possession of a permit under these Regulations shall excuse any Person from compliance with any other laws or regulations.

(d) **No Transfer or Assignment.** A Game Room permit issued under these 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 in any way, the Game Room shall immediately be deemed unpermitted and the new Owner(s) must reapply before the Game Room may operate.

5.10 **Permit Renewal.** 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) A renewal application shall be subject to the same requirements in these Regulations as are required for a permit application.

(b) The fee for a renewal application shall be the same as that required for a new permit application, and shall be attached to the renewal application form.

(c) As long as the completed renewal application was submitted and fee paid within the sixty (60) day period immediately preceding expiration, 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.

ARTICLE VI
RULES AND REGULATIONS FOR GAME ROOMS

6.01 **Distancing Restrictions.**

(a) A Game Room in operation shall not be located:

(1) within 1,500 feet from any existing or planned school, regular place of religious worship, or residential neighborhood. “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.

(b) For the purposes of this restriction, 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 (a) above.

(c) A Game Room is exempt from the distancing restrictions provided in this section upon proof that the Applicant continuously owned and operated the Game Room at the same location and under the same name prior to the initial effective date of these Regulations.

(1) All applications claiming a distance exemption under this Subsection must have been submitted on or before the thirtieth (30^{th}) day following the effective date of these Regulations.

(2) 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.

6.02 **Game Room Signs.** A Game Room shall have each outside door marked with a sign that reads "GAME ROOM" in four inch (4") or larger block lettering. Each sign must be legible, unobstructed, and visible at all times from a distance of twenty-five feet (25') from the outside door.

6.03 **Transparent and Uncovered Windows and Doors.** A Game Room shall have a minimum of two (2) transparent windows or doors, each allowing a clear and unobstructed view of each Gaming Device located in the Game Room.

(a) At least one (1) window or door shall be in the front of the building and at least one (1) other exterior window or door shall be on any other side of the building.

(1) Each exterior window and door of a Game Room shall have transparent uncovered glass.

(2) It shall be unlawful for a Person to tint, cover, or otherwise block any Game Room window or door in such a manner that obscures in any way the view of the interior of the Game Room or of any Gaming Device located therein.

(b) The exterior front window of a Game Room and at least one other exterior window on any other side of the building must be:

(1) at the lowest point, not more than four feet (4') above the adjacent sidewalk or ground level;

(2) at the highest point, not less than eight feet (8') higher than the adjacent sidewalk or ground level; and

(3) at least four feet (4') wide.

6.04 **Display of Game Room Permit.** 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.

6.05 **Prohibited Employment.**

(a) It shall be unlawful for any individual to Operate a Game Room if that person has ever been previously convicted of, entered a plea of nolo contendere or guilty, or received deferred adjudication for any offense set forth in 5.04(a)(1).

(b) 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 on behalf of a Game Room.

6.06 **Memberships Prohibited.** Game Room memberships are prohibited for any purpose.

(a) 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.

(b) A Game Room 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.

6.07 **Hours of Operation.** A Game Room shall operate only between the hours of 8 a.m. and 10 p.m.

6.08 **Name Tags.** Each employee of a Game Room is required to wear a clearly displayed name tag affixed to the upper left chest area of the employee's clothing. The name tag shall be at least 3"x5" in size and shall state the employee's correct legal first and last name, and shall state his/her position (e.g. Manager) on a separate line. The lettering shall be clearly visible, in a font size of at least 36.

6.09 **Inspection.**

(a) **Inspection**. Peace Officers, Fire Safety Officials, and designated County Employees are authorized to inspect any business in Orange 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.

(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 Gaming Device 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 Rooms 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) **Permitted Game Rooms**. 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 the Game Room. Any Peace Officer, Fire Safety Official, or other 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) **Offense to Deny Inspection**. A Person who does not allow a Peace Officer, Fire Safety Official, or designated County Employee to inspect a Game Room commits an offense.

6.10 **Fire and Life Safety.**

(a) A Game Room shall provide doors that are readily accessible without the use of a key, buzzer, or special knowledge or effort, during business hours or any other hours of operation.

(b) A Game Room or commercial establishment shall comply with all construction and fire codes, and shall pay any court-approved fees 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 and Game Rooms shall provide any Fire Safety Official with immediate access to the premises at all times.

(d) A Game Room shall not use electronic locks to prevent entry during business hours.

6.11 **Recordkeeping.** A Game Room shall maintain onsite, accessible by any Person on duty at the Game Room, and shall produce to any Peace Officer, Fire Safety Official, and/or designated County Employee for inspection upon demand:

(a) 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.

(1) If the employee was hired after the date of issuance of the then-current permit, the employee's file must also include his or her fingerprint-based Texas DPS and FBI criminal background report.

(2) If an employee's criminal background reports were submitted to the Game Room Permit Administrator as part of the application for the then-current permit, the employee's file does not need to contain a copy of same.

(b) a copy of the Orange County and 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, the Orange County Tax Stamp to include the year of expiration of each tax stamp required, and the name of each Person that owns, receive profits from, or has 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 daily roster that contains the legal name, date of birth, and job function of each employee present at the establishment that day.

(1) Every Owner, Operator, employee, agent, or other individual acting for or acting on behalf of the Game Room is required to sign the daily register with the information required above each day immediately upon entering the Game Room.

(2) A Game Room shall preserve each daily roster for not less than ninety (90) days.

6.12 **Financial Institution Requirements**. Each Game Room must have only one financial institution of record.

(a) All outgoing payments must be by a check or electronic funds transfer from its bank of choice. All revenue must be deposited into their bank of choice.

(b) To change banks of choice, it is required that the change must be reported to Orange County within fifteen business days.

(c) The foregoing notwithstanding, in the event that a Game Room changes banking institutions, there shall be a 120-day grace period wherein both banking institutions may be listed with Orange County in order to allow for closing out of the older account.

6.13 **Occupation Tax Permits**. A Game Room shall obtain occupation tax permits from the Orange County Tax Assessor-Collector and the State of Texas Tax Assessor-Collector for each Gaming Device located in the Game Room.

(a) The annual fee to be paid to the Orange County Tax Assessor-Collector will be twenty-five (25) percent of the State's annual fee per machine.

(b) All Machine tax permit applications are required to indicate the location on the application where the Gaming Devices are physically located.

(c) A Game Room shall allow a Peace Officer, Fire Safety Official, and designated County Employee entry to the Game Room to inspect for violations of the Subsection.

6.14 **Illegal Machines.** 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.

(a) If a law enforcement agency determines through an investigation that a Game Room was in operation violating Chapter 47 of the Texas Penal Code, then every Gaming Device located in the Game Room shall be considered in violation of this Subsection.

(b) Any violation of this Subsection is grounds for mandatory denial and/or mandatory revocation of a Game Room permit.

(c) 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.

(d) An individual's compliance with these Regulations, including Operating a Game Room under a permit issued pursuant to these Regulations, is not a defense to:

(1) prosecution for an offense under Chapter 47 of the Texas Penal Code; or

(2) a seizure or forfeiture action under Chapters 18 or 59 of the Texas Code of Criminal Procedure.

ARTICLE VII
DUTIES; CIVIL AND CRIMINAL PENALTIES

7.01 **Duty.** It shall be the duty of each Owner and Operator to ensure compliance with each provision of these Regulations.

7.02 **Effect on Permit.** Any violation of these Regulations shall be grounds for denial, revocation, or suspension of a Game Room permit.

7.03 **Criminal Offense.** Pursuant to section 234.138 of the Texas Local Government Code, a Person commits an offense if they intentionally or knowingly Operate a Game Room in violation of these Regulations, which have been adopted under Section 234.133 of the Local Government Code.

(a) An offense under this Section is a Class A misdemeanor, punishable by a fine not to exceed $4,000 per violation, confinement in a jail not to exceed one year, or both, pursuant to section 12.21, Texas Penal Code.

(b) Pursuant to section 234.140, Texas Local Government Code, a person who is subject to prosecution under 234.138 may also be prosecuted under any other statues or laws that would be applicable.

7.04 **Civil Enforcement**. Pursuant to Section 234.137 of the Local Government Code the County is authorized to bring suit in a District Court to enforce any and all civil remedies available to it, including but not limited to the following:

(a) **Injunction.** The County 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 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 Orange County.

(b) **Civil Penalty.** In addition to criminal prosecution and injunctive relief, a Person who Operates a Game Room in violation of these Regulations shall be assessed a civil penalty not to exceed $10,000 per violation.

(1) This civil penalty is explicitly permitted by Section 234.137 of the Local Government Code.

(2) Each day a violation occurs or continues to occur shall be considered a separate violation for purposes of assessing civil penalties under these Regulations.

(3) The County may bring suit in District Court to recover civil penalties authorized by statute.

ARTICLE VIII
MISCELLANEOUS PROVISIONS

8.01 **Grace Period**. A Game Room that is already in operation on the effective date of these Regulations shall be given a grace period of thirty (30) days to commence the application process pursuant to Section 5.03 of these Regulations.

(a) Subsection 5.01(b) of these Regulations notwithstanding, in the event that the application process is commenced on or before the thirtieth (30^{th}) day following the effective date of these Regulations, the grace period shall be extended until a permit is either denied pursuant to Subsection 5.03(d)(4) or approved pursuant to Subsection 5.03(d)(5) of these Regulations.

(1) In the event that Game Room's permit application is denied pursuant to Subsections 5.03(d)(4), the grace period expires immediately upon the provision of the Notice described in Subsection 5.04(b) of these Regulations, and the Game Room will be considered to be operating in violation of these Regulations as of the first day immediately following the date the Notice is delivered or posted.

(2) Pursuit by the Game Room of relief through the Appeal process set forth in Section 5.07 of these Regulations shall not, under any circumstances, further extend the grace period.

(b) In the event that the application process is not commenced on or before the thirtieth (30^{th}) day following the effective date of these Regulations, the Game Room will be considered to be operating in violation of these Regulations as of the first day immediately following the expiration of the grace period.

8.02 **No Legalization.** Nothing in these Regulations is intended to, nor shall it be construed to, legalize or permit anything prohibited under the Texas Penal Code, the Texas Constitution, or any other laws or regulations.

8.03 **Notice.** Notice under these Regulations 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. If a certified letter is not signed for and/or not picked up from the post office after notice has been posted at the establishment, lack of due diligence shall be deemed notice of the contents of the letter.

8.04 **Cumulative Effect.** Authority under these Regulations is cumulative of other authority that Orange County and its incorporated municipalities have to regulate Game Rooms and does not limit that authority.

8.05 **Construction, Precedents, and Interpretation.** These Regulations shall be construed liberally to accomplish their purpose, as stated herein. In the event of any conflict between these Regulations and a State law, rule adopted pursuant to State law, or a municipal ordinance, the stricter of the two provisions shall prevail.

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