

HILL COUNTY GAME ROOM ORDINANCE

Order of the Hill County Commissioners Court Adopting Game Room Regulations

WHEREAS, Hill County received and reviewed the Takings Impact Assessment concerning the new regulations as authorized by Chapter 234 of the Texas Local Government Code concerning the following general areas: Regulating the operation of game rooms; Restricting the location of game rooms to specified areas of the county, including the unincorporated area of the county; Prohibiting a game room location within a certain distance of a school, regular place of religious worship, or residential neighborhood; and Restricting the number of game rooms that may operate in a specified area of the county; and

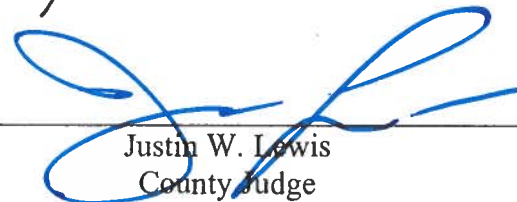
WHEREAS, Hill County scheduled a public hearing for May 11, 2021, on the proposed new regulations concerning Game Rooms; and

WHEREAS, Hill County published the public notice of the scheduled hearing on the proposed new regulations concerning Game Rooms thirty (30) days before the Commissioners Court considered the proposed regulations; and

WHEREAS, Hill County received comments and testimony at the public hearing on May 11, 2021, on the proposed regulations concerning Game Rooms; and

THEREFORE, the Hill County Commissioners Court hereby adopts the attached Hill County Game Room Regulations.


Signed this 11th day of May, 2021.


Justin W. Lewis
County Judge

Andrew Montgomery
Commissioner Pct. 1


Larry Crumpton
Commissioner Pct. 2


Scotty Hawkins
Commissioner Pct. 3


Martin Lake
Commissioner Pct. 4

**HILL COUNTY GAME ROOM REGULATIONS ADOPTED BY THE
COMMISSIONERS COURT:**

SECTION 1. GENERALLY

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

WHEREAS, Hill County, Texas desires to reduce the adverse secondary effects of illicit Game Rooms, which were presented in hearings and reports made available to Hill County Commissioners Court.

THEREFORE, HILL 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 p.m. and 10 a.m.
4. Some Illicit Game Rooms, in an apparent effort to avoid detection, operate in locations with inadequate floor space and fire exits, sometimes in locked rooms, which poses a health and safety threat to the public in the event of a fire or any other need to evacuate the premises.
5. Since most Game Room operations are inherently cash based, it is important that those who own and/or operate Game Rooms are of good character in order to protect those who play the games from cheating or other fraudulent activity, or from the other forms of criminal conduct as described herein.
6. Each of the foregoing negative secondary effects constitutes a harm, which Hill County has a substantial government interest in preventing and abating. This substantial government interest in preventing secondary effects, which is Hill County's rationale for these Regulations, exists independent of any comparative analysis between legal Game Rooms and illicit Game Rooms. Hill County's interests in regulating Game Rooms extend to preventing future secondary effects of either current or future Game Rooms that may locate in Hill County.

1.1 Authority to Regulate

- (a) These Regulations are promulgated pursuant to and in conformity with Chapter 234 of the Local Government Code, 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. A commissioner's court may: (1) restrict the location of game rooms to specified areas of the county, including the unincorporated area of the county; (2) prohibit a game room location within a certain distance to a school, regular place of religious worship or residential neighborhood; and (3) restrict the number of game rooms that may operate in a specified area of the county.
- (b) It is the purpose of the Hill 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(s) or regulation(s).

1.2 Administration

- (a) The Hill County Commissioners Court hereby designates and authorizes any Designated Agent of Hill County or law enforcement agency to investigate for violations of these Regulations. Any Peace Officer certified by the State of Texas may enforce these Regulations and exercise the inspection authority described in Texas Local Government Code Section 234.136.
- (b) Under Section 234.138 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, also allowing prosecution under Section 234.140 and other statutes that would be applicable.
- (c) In accordance with Section 234.133 of the Local Government Code, the State of Texas has granted the Hill County Commissioners Court authority to promote public health, safety, and welfare.
- (d) The Commissioners Court designates the Hill County Sheriff or their designee as GRPA (GRPA) for Hill County. The Hill County Sheriff or their designee shall supervise, control, and operate the Game Room Permit Office. The Hill County Sheriff or their designee shall investigate, deny, issue, attach conditions

to, administratively suspend, or revoke Game Room permits pursuant to these Regulations and any applicable state law(s).

1.3 Area Covered by these Regulations

Pursuant to Section 234.133 of the Texas Local Government Code, the Regulations apply to all areas of Hill County, Texas. This includes both the incorporated and unincorporated areas of Hill County, Texas.

1.4 Definitions

As used in these Regulations:

- (a) **"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.
- (b) **"Amusement Redemption Machine"** has the meaning assigned by Texas Local Government Code Section 234.131(1). An Amusement Redemption Machine may dispense a representation of value redeemable for a non-cash merchandise prize, which may include a Gift Certificate or Bingo Product issued by and redeemable at a charitable bingo hall licensed by the Texas Lottery Commission at the same address as the redeeming Game Room. Pursuant to 16 TAC § 402.211 (d), such a redemption in this County would be a noncash merchandise prize in compliance with Texas Penal Code Section 47.01(4) (B).
- (c) **"Commissioners Court"** means the Commissioners Court of Hill County, Texas.
- (d) **"County"** means Hill County, Texas.
- (e) **"County Employee"** means any individual authorized by Hill County to inspect any Game Room for compliance with these Regulations.
- (f) **"Current Annual Fire Inspection Report"** means a fire inspection report issued by the Hill County Fire Marshal or a similar inspection by the department having competent jurisdiction within the incorporated area of the county within ninety (90) days immediately preceding the date of any application for operation of a Game Room or renewal of a Game Room permit.
- (g) **"Fire Safety Official"** means the Hill County Fire Marshal or the department official having competent jurisdiction within the incorporated area of the county to conduct a fire and life safety inspection.

HILL COUNTY GAME ROOM ORDINANCE

- (h) **"Machine or amusement machine"** All machines that vend or dispense music or are operated for skill or pleasure. A machine in an independent cabinet with a separate central control mechanism shall be considered a separate machine in regard to occupation tax requirements. A machine that is no longer functional, and that has been permanently taken out of service, will not be considered to be a coin-operated machine operated for music, skill, or pleasure. In this context permanently taken out of service means that it is no longer financially practical to operate the machine and the machine will be used only for parts. This is as defined by Title 34 Part 1 Chapter 3 Subchapter W Rule § 3.601(a) (4) of the Texas Administrative Code and only applies to a Bona Fide Amusement Redemption Machine.
- (i) **"Video game"** An electronic mechanism played for skill or pleasure by means of images on a screen. Each cabinet that holds a game of skill or pleasure by means of images on a screen constitutes an independent operation subject to the occupation tax. This is as defined by Title 34 Part 1 Chapter 3 Subchapter W Rule § 3.601(a) (9) of the Texas Administrative Code and only applies to a Bona Fide Amusement Redemption Machine.
- (j) **"Gambling Device"** means a device described in Article 47.01(4) (A) of the Texas Penal Code
- (k) **"Game Machine"** means any device described by Texas Local Government Code Section 234.131(2), (A) and (B), and includes "sweepstakes machines" or other devices that afford a player a chance to win a prize for consideration (either payment, purchase or donation) even if some chances are afforded to players without making any purchase or donation.
- (l) **"Game Room"** has the meaning assigned by Texas Local Government Code Section 234.131(2).
- (m) **"Game Room Owner"** has the meaning assigned by Texas Local Government Code Section 234.131(3).
- (n) **"Game Room Permit Administrator (GRPA)"** means regulatory body assigned by the Commissioners court. Such as Sheriff, Constable, Fire Marshall, code enforcement officer, any designated agent authorized by Hill County
- (o) **"Operate(s) a Game Room"** means to:
1. be an Owner or Operator of a Game Room as those terms are defined by Subsection 1.4(k) and 1.4(n) of the Regulations;
 2. engage in the business of operating a Game Room, including as a Game Room Owner;
 3. cause the operation of a Game Room, including as an Operator;

4. be a part of the operation of a Game Room, including as an Operator;
 5. fund the operation of a Game Room, including as a Game Room Owner;
 6. have a financial interest in a Game Room, including as a Game Room Owner;
 7. receive any profit from a Game Room, including as a Game Room Owner;
 8. receive any payment from a Game Machine described in Subsection 1.4(i) in a Game Room;
 9. receive any profit from a Game Machine described in Subsection 1.4(i) in a Game Room; or
 10. have Game Machines described in Subsection 1.4(i) registered in Hill County or in a Game Room licensed in Hill County.
- (p) **"Operator"** has the meaning assigned by Texas Local Government Code Section 234.131(4).
- (q) **"Notice"** is deemed effective on the date written notice to an Applicant permit holder, or agent thereof is hand delivered or posted on the front exterior door of the Game Room, or upon receipt by certified mail. If certified letter is not signed for and not picked up from the post office after notice has been posted at the establishment, lack of due diligence shall be considered as notice of the contents of the letter.
- (r) **"Peace Officer"** means an individual as described in Article 2.12 of the Texas Code of Criminal Procedure.
- (s) **"Person"** means an Owner, Operator, individual, employee, agent, proprietorship, corporation, association, or other legal entity.
- (t) **"Public Building"** means a building used by Federal, State, or local government that is open to the general public.
- (u) **"Regulations"** means these Regulations of Hill County, Texas, for the operation of Game Rooms.
- (v) **"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.

- (w) **"Sheriff"** means the Sheriff of Hill County or the Sheriffs designated agent.
- (x) **"Constable"** means the Constable of Hill County or the Constables designated agent.
- (y) **"Fire Marshall"** means the Fire Marshall of Hill County or the Fire Marshall's Designated agent.
- (z) **"Designated Agent"** means any Designated Agent, Peace officer, Fire Marshall, Code enforcement officer, or county employee Authorized by Hill County

SECTION 2. GAME ROOM PERMITS

2.1 Application

- (a) It shall be unlawful for a Person to Operate a Game Room or maintain a Game Room as a Game Room Owner or Operator in Hill County that has not been issued a permit pursuant to these Regulations.
- (b) A complete application shall be filed with the GRPA. The application shall be filed on the form provided by the GRPA. A copy of the application can be obtained from the GRPA office.
 - (1) The Applicant shall apply in person. The Applicant shall be an Owner of the Game Room. The GRPA shall establish the hours when an application can be submitted.
 - (2) The GRPA shall provide the fee schedule on GRPA Office website with the application form. This fee shall not exceed the annual permit fee limit of \$1,000.00 as established by the Commissioners Court. The application fee shall be attached to the application form.
 - (3) Incomplete applications shall not be accepted. Once a complete application has been submitted, the application process begins.
 - (4) A receipt shall be hand delivered or sent by certified mail to the Applicant within fourteen (14) days of submission of a complete application and payment of the application fee to the GRPA. A receipt showing payment of the application fee is NOT a Game Room permit.
 - (5) Once a complete application has been received, the GRPA 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).

HILL COUNTY GAME ROOM ORDINANCE

- i. 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.
 - ii. A re-inspection will be performed and the Applicant will again be informed of what corrections must be made to the proposed Game Room in order to comply with these Regulations.
 - iii. If after the third and final inspection the Applicant's proposed Game Room fails to comply with these Regulations, the GRPA shall deny the application.
 - iv. If the proposed Game Room passes final inspection, the GRPA shall approve the application.
- (6) The Applicant has sixty (60) days from the initial inspection to complete the inspection process. Applicant shall request inspections that may be conducted at the convenience of the GRPA. Failure to complete the inspection process within these sixty (60) days shall result in denial of the application. It is the duty of the Applicant to ensure the process is completed in the requisite sixty (60) days.
- (7) Failure to provide any information required by this Section shall be grounds for denial of the application. If the GRPA determines that inaccurate, erroneous, or incomplete information has been submitted, such a filing shall be grounds for denial of the application.
- (c) Each complete application shall be accompanied by:
 - (1) a Current Annual Fire Inspection Report from a Fire Safety Official showing compliance with all applicable Fire Safety Codes and with all corrections ordered;
 - (2) a true and correct copy of the assumed name certificate filed in the office of the Hill County Clerk, bearing the file mark or stamp that evidences its filing, if the Game Room will be operating under an assumed name;
 - (3) a copy of the formative legal documents for the applicable legal entity- e.g., the Articles of Incorporation, including proof that applicant is authorized to do business in the State, if applicant is a foreign business organization;

HILL COUNTY GAME ROOM ORDINANCE

- (4) a non-refundable application fee of \$1,000.00 -- if the Applicant holds a current license issued by the Texas Lottery Commission that includes a criminal background check, the fee is waived and the GRPA may rely upon the Lottery Commission license in lieu of a criminal background check;
- (5) a photocopy of the Applicant's driver's license or government-issued photo identification;
- (6) proof as required in Subsection 3.14 that the proposed Game Room is exempt from the requirements set forth by Subsections 3.2, 3.3, 3.4, 3.6, 3.7 and 3.8 of these Regulations;
- (7) the name, mailing and physical address and telephone number of the Game Room's single financial institution of record, as required by Subsection 4.1, which will handle all deposits and withdrawals for proceeds and expenses of the operation of the Game Room;
- (8) the intended hours of operation of the Game Room and the name, residence addresses and telephone numbers of the manager or other individual to be principally in charge of the operation of the Game Room;
- (9) proof as required in Subsection 3.3 that the proposed Game Room is exempt from, or will be located in compliance with, the requirements set forth by Subsection 3.3 of these Regulations.
- (10) a list of all Owner(s), Operator(s), employee(s), agent(s), and any other individual(s), proprietorship(s), corporation(s), association(s), or other legal entity(s) acting for, or acting on behalf of the Game Room along with a photocopy of their driver's license(s) or government-issued identification and incorporation papers as applicable, and a brief description of the amusement, gaming or similar business history and experience five (5) years prior to the date of application for each Game Room Owner, including, but not limited to, whether or not such individual has previously operated in this or another county or state, whether such operation was under a license or permit, and whether the applicant has ever had such license or permit denied, revoked, or suspended and the reasons therefore;
- (11) a copy of the State of Texas coin-operated machine occupation tax records, 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.
- (12) the Game Room Applicant's Federal Employer Identification Number (EIN);

- (13) a certification that none of the Owner(s), Operator(s), employee(s), agent(s), and/or any other individual(s) acting for, or acting on behalf of the Game Room have been convicted of any level of any of the offenses listed in Subsection 2.2(b) (1) of these Regulations; and
 - (14) 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.
- (d) A Game Room application shall be rejected upon failure to produce all documents required in Subsections 2.1(c), except for the exemptions listed in Subsections 2.1(c) (8)-(11). Failure to provide the proof required by Subsection 2.1(c) (7)-(10) will result in denial of the specific exemption described in that Subsection.
 - (e) A GAME ROOM SHALL NOT OPERATE DURING THE PENDENCY OF THE APPLICATION AND UNTIL THE GAME ROOM APPLICATION IS APPROVED AND THE PERMIT ISSUED. Game Rooms existing upon the effective date of this regulation will be given no more than 30 days within which to make application for the necessary permit in order to continue operating. Game Rooms which fail to make the necessary application with the 30-day period will be prohibited from further operation until such permit is issued.
 - (f) 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.
 - (g) 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

HILL COUNTY GAME ROOM ORDINANCE

Game Room shall not operate during the pendency of any appeal to the hearing examiner from the revocation, denial, or suspension of a Game Room permit.

- (b) **Denial of a Game Room Permit.** A Game Room permit shall be denied upon a finding by the GRPA of any of the following facts:
- (1) An Applicant, Owner, or Operator has previously violated or been convicted of any level of offense for the following crimes:
- 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;
 - ii. 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; and
 - A. 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
 - B. 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 has had a Game Room, or other similar license or permit revoked or suspended by any state or local agency outside this County within two (2) years immediately prior to the date of the application;

- (4) an Applicant is under eighteen (18) years of age;
 - (5) an Applicant, Owner, or Operator has had a Game Room permit denied within the one hundred and eighty (180) day period immediately preceding the date the application was filed, or revoked within the one (1) year period immediately preceding the date the application was filed;
 - (6) an Applicant, Owner, or Operator is delinquent in the payment to Hill County of taxes, fees, fines, or penalties assessed or imposed regarding the operation of a Game Room;
 - (7) an application or renewal fee required by these Regulations has not been paid;
 - (8) an Applicant fails to complete the inspection process within the sixty (60) day period described in Subsection 2.1;
 - (9) an offense described in Subsection 2.2(b) (1) or Subsection 3.12(a) of these Regulations was committed at the Game Room or another Game Room at the same location within one (1) year prior to the application; or
 - (10) any violation of Sections 2 or 3 of these Regulations.
- (c) If the GRPA denies a Game Room permit, the GRPA shall document the denial and provide Notice to Applicant of the denial within twenty-one (21) days of the date on which the denial was documented by the GRPA. The denial letter shall provide the reason(s) for the action.
- (d) **Revocation or Suspension of a Game Room Permit.** The GRPA 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 3.12(a) of these Regulations has occurred on the premises of the Game Room;
 - (2) the Applicant made a misleading statement in the application for the Game Room permit, provided false, fraudulent, or untruthful information in the application for a Game Room permit, and/or withheld pertinent information in the application for a Game Room permit;
 - (3) the Game Room permit should not have been issued pursuant to these Regulations;
 - (4) an Applicant, Game Room Owner, or Operator has had a Game Room, or other similar license or permit revoked or suspended by any federal, state or local agency;

- (5) an Applicant, Game Room Owner, or Operator has failed to make corrections ordered by a Fire Safety Official;
 - (6) a Game Room 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 3.12(a) of these Regulations; or
 - (7) 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 GRPA 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 GRPA. 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 GRPA if:
- (1) an Owner, Operator, employee, agent, and/or any other individual acting for, or acting on behalf of a Game Room has violated any offense described in Subsection 2.2(b) (1) or Subsection 3.12(a) of these Regulations;
 - (2) a violation of any offense described in Subsection 2.2(b) (1) or Subsection 3.12(a) of these Regulations has occurred on the premises of the Game Room;
 - (3) there is a necessity for immediate action to protect the public from injury or imminent danger; or
 - (4) a Game Room permit was issued based on a misrepresentation in the application and but for the misrepresentation the Game Room permit would not have been issued.

2.3 Appeal

- (a) If the GRPA denies a Game Room permit application, or suspends or revokes a Game Room permit, the Applicant or permit holder shall have the opportunity to make a written request for a hearing before a hearing examiner appointed by the Commissioners Court. The hearing examiner shall not have participated in any investigation of the alleged grounds for the denial, suspension, or revocation.

HILL COUNTY GAME ROOM ORDINANCE

- (b) All requests for hearings must be in writing and delivered to the Hill County GRPA within fourteen (14) days upon Notice to Applicant or permit holder. The Applicant waives the right to hearing if the request is not timely received by the GRPA.
 - (c) The hearing shall be held within twenty-one (21) days of the receipt of request for a hearing.
 - (d) The Applicant or permit holder and the GRPA 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.
 - (e) 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.
 - (f) 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.
 - (g) The hearing examiner has the power to uphold or reverse the denial, suspension, or revocation of a Game Room permit. The hearing examiner shall issue a written order based on his or her determination within twenty-one (21) days of the hearing.
 - (h) 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.
 - (i) Upon a finding by the hearing examiner that Subsection 2.2(d) (1), 2.2(d) (2), 2.2(d) (3), 2.2(d) (4), or 2.2(d) (5) of these Regulations has been violated, revocation of the Game Room permit shall be mandatory.
- G) The decision of the hearing examiner shall be final. On final decision of the hearing examiner, the losing party may appeal the decision by filing a petition in a District Court in the county with jurisdiction within thirty (30) days after the date of the decision. Appeals to the District Court shall be governed by the substantial evidence rule described in Section 2001.174 of the Local Government Code.

2.4 Game Room Operation During Pendency of Appeals to District Court

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

2.5 Reapplication

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

2.6 Permit Renewal; Permit Fee Levied; Amount; Payment

- (a) A permit may be renewed for the following year starting sixty (60) days before expiration of the current permit by filing a completed application for the permit with the GRPA 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. If the completed renewal application was submitted within this sixty (60) day period, the previous permit will remain in effect until the GRPA makes a determination in accordance with these Regulations as to whether the permit will be renewed.
- (b) An Owner shall pay a non-refundable annual permit fee of \$1,000.00. The permit fees shall be paid in person to the GRPA 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 nonrefundable 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 GRPA 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 GRPA. 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 GRPA shall keep an original signed copy of the permit for the Administrator's records.

2.8 Civil Remedies and Penalties

- (a) Any violation of these Regulations is grounds for denial, suspension, or revocation of a Game Room permit.
- (b) Any violation of these Regulations is subject to a civil penalty of \$10,000.00 for each violation, plus all reasonable attorney's fees, court costs and investigatory costs, pursuant to Texas Local Government Code Section 234.137(c). Such penalty to be forfeited to Hill County, Texas. Each day that a violation continues constitutes a separate ground for recovery.
- (c) The Commissioners Court of Hill County, Texas may bring a legal action to enjoin violations of these Regulations and seek judgment for any civil penalties.

2.9 Criminal Penalty

- (a) Operating a game room in violation of these Regulations constitutes a Class A misdemeanor.
- (b) Each day that a violation continues constitutes a separate offense under these Regulations.

2.10 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 Peace Officer

- (a) **Inspection.** GRPA or Designated Agent of Hill County are authorized to inspect any business in Hill County during its hours of operation for violations of these

Regulations pursuant to Texas Local Government Code Section 234.136. 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 outside of hours of operation with consent, with a warrant, or under exigent circumstances. A Game Room permit issued pursuant to these Regulations gives Peace Officers, Fire Safety Officials, and designated County Employees implied consent to enter and to inspect any Game Room for violations of these Regulations.

- (b) **Unpermitted Game Rooms.** An unpermitted business that holds itself out as a Game Room by sign, advertisement, word-of-mouth, by offering memberships, by offering for play or displaying six (6) or more machines described in Subsection 1.4(i) located in the Game Room-or by any other means-is subject to inspection by GRPA or Designated Agent of Hill County pursuant to Texas Local Government Code Section 234.136 and is a Game Room under these Regulations.
- (1) Refusal to allow any Designated Agent of Hill County 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) **Compliance Inspection.** GRPA or Designated Agent of Hill County may inspect a permitted Game Rooms located within their jurisdiction to determine whether the Game Room is in compliance with these Regulations pursuant to Texas Local Government Code Section 234.136.
- (d) **Consent to Entry.** A Person who does not allow a Designated Agent of Hill County to inspect a Game Room commits an offense and may be assessed a civil penalty not to exceed \$10,000 per violation. Each Peace Officer, Fire Safety Official, and Designated County Employee denied entry is considered a separate violation. Each day a refusal of access occurs or continues to occur is considered a separate violation.
- (e) **Application Inspection & Exemption Inspection.** GPRA or Designated Agent of Hill County will perform an application inspection and/or an exemption inspection of requested application and/or application exemption(s); inspection will include facility and/or Bona Fide Redemption machine compliance

3.2 Location of Game Rooms; Restrictions in Incorporated Territory and Unincorporated Areas

Game Rooms operating any Game Machines described by Texas Local Government Code and as we defined in this Regulation may only be operated on premises located entirely in Unincorporated Territory of Hill County. Only Game Rooms that operate Amusement Redemption Machines and no other Game Machines may operate on premises located in whole or in part in Incorporated Territory of Hill County. This restriction does not prohibit a Game Room located on the same premises in the Incorporated Territory of the County as a Charitable Bingo Hall that has been licensed by the Texas Lottery Commission and conducted bingo sessions for at least five (5) years in the location prior to applying for a Game Room Permit. There shall be no more than two (2) game rooms that may operate within the specified area of Hill County as define in this Regulation. Any exemptions given for Bona Fide Amusement Redemption Machine, Bingo Hall Operator, or Food & Beverage sales do not apply to the two (2) game room limit.

3.3 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 2,500 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 2,500 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) Once a Game Room Permit has been issued for a location, it shall not be a ground for non-renewal that a school, regular place of worship, or residential neighborhood is constructed or moved within 2,500 feet of the pre-existing Game Room Permitted location.

3.4 Game Room Sign and Name Tags Required

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A Game Room shall have each outside door marked with a sign that:

HILL COUNTY GAME ROOM ORDINANCE

- (1) reads "GAME ROOM" in four (4) inch or larger block lettering; and
 - (2) is legible and visible at all times from a distance of twenty-five (25) feet from the outside door.
- (c) Each employee 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" x 5" in size and shall state the employee's correct legal first name and last name and shall state his/her position (i.e. Manager) on a separate line. The lettering shall be clearly visible, in a font size of at least 36. A Texas Lottery Commission registration badge worn by an employee in a licensed Charitable Bingo Hall satisfies this name tag requirement.

3.5 Fire and Life Safety

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A Game Room shall provide doors that are readily accessible without the use of a key, special knowledge, or effort during business hours or any other hours of operation.
- (c) A Game Room or commercial establishment shall comply with all construction and fire codes and shall pay any court-approved fee(s) associated with a fire and life safety inspection, plan review, occupancy load calculation, or complaint.
- (d) All 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.
- (e) A Game Room shall not use electronic locks to prevent entry during business hours.
- (f) Game Rooms shall have at least one marked fire exit for every twenty-five Game Machines in operation on the premises.

3.6 Transparent and Uncovered Windows and Doors Required

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A Game Room shall provide at least one (1) window in the front of the building and at least one (1) other window on one (1) other side meeting the criteria set forth in Subsection (c), allowing a clear and unobstructed view of all machines described in Subsection 1.4(i) located in the Game Room.

- (c) It shall be unlawful for a Person to exhibit or display, or to permit to be exhibited or displayed, for commercial use any machine described in Subsection 1.4(i) in a Game Room unless the required transparent walls or windows of the Game Room:
- (1) are located on at least two (2) sides of the Game Room, and each machine described in Subsection 1.4(i) located therein is visible through such walls or windows; and
 - (2) at the lowest point are not more than four (4) feet above the adjacent sidewalk or ground level; and
 - (3) at the highest point are at least eight (8) feet higher than the adjacent sidewalk or ground level; and
 - (4) are at least four (4) feet wide.
- (d) A Game Room shall provide transparent uncovered glass in each exterior Game Room window or door.
- (e) It shall be unlawful for a Person to cover or tint a Game Room window or door, or otherwise block a window or door so as to obscure the view of any machine described in Subsection 1.4(i) located in a Game Room, or the interior of the location from a sidewalk through a Game Room window or door. Any window tint must allow at least 69% visible light transmission.

3.7 Hours of Operation

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A Game Room shall operate only between the hours of 10 a.m. and 10 p.m.

3.8 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, along with a list of all Game Room Owners connected with the Game Room.

3.9 Recordkeeping

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A Game Room shall maintain onsite, and produce to any Peace Officer, Fire Safety Official, and/or designated County Employee for inspection:
- (1) a record for each employee that contains the name, address, date of birth, state identification number or social security number, job function, W-2 or W-4 form, a copy of application for work with the Game Room, a copy of the I-9 filed as part of Employment Eligibility Verification for the Department of Homeland Security, and a photograph of the employee;
 - (2) a daily register that contains the name, date of birth, state identification number or social security number, and job function of each employee present at the establishment that day. Every Owner, Operator, employee, agent, and/or any other individual acting for or acting on behalf of the Game Room is required to sign the daily register with the information required above immediately upon entering the Game Room;
 - (3) a daily "representation of value" as those terms are defined by this Subsection 1.4(b) of the Regulation; a register that contains a list of all non-cash merchandise, bingo Products or gift certificate prizes not to exceed \$5 in value per play redeemed each day.
 - (4) a copy of State of Texas tax record forms detailing each machine found on the premises of the game room by identifying the machine by name of the 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 name of the individual(s), proprietorship(s), corporation(s), association(s), or other legal entity(s), that owns, receive profit from, and 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.
 - (5) A Game Room shall preserve the daily register required by Subsection (b)(2) for ninety (90) days after the date the register was made. The register must be maintained at the Game Room, it must be accessible by any Person on duty at the Game Room, and must be made available to any Peace Officer, Fire Safety Official, and/or designated County Employee upon request.

3.10 Prohibited Employment

HILL COUNTY GAME ROOM ORDINANCE

- (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.

3.11 Game Room Membership

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

3.12 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. Tax Assessor-Collector for each Machine described in Subsection 1.4(i) 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(i) are physically located.

3.13 Maximum Number of Machine

No Game Room in this County may operate more than fifty Game Machines. A Bona Fide Amusement redemption Machine is not subject to maximum number of machines if such proof is provided and in compliance with Sec. 234.131(1) of the Local Government Code and information as required from this Regulation in Subsection

2.1(14) and 3.1(e). A Game Room located on the same premises as a Charitable Bingo Hall licensed by the Texas Lottery Commission may operate no more than four (4) Game Machines for each bingo session conducted per week based on an average number of sessions conducted over the five years in the location prior to applying for a Game Room Permit or renewal. It shall be a violation of these Regulations 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. Each machine and each day it is kept, exhibited, operated, displayed, or maintained is a separate violation.

3.14 Requirements to Qualify for Exemptions

A Game Room permit holder may apply for multiple exemptions.

- (a) Any applicant filing for an exemption must indicate which exemption they are filling for on the game room permit application.
- (b) Any exemption granted must be clearly stated on the Game Room permit.
- (c) **Bona Fide Amusement Redemption Machines.** An Applicant is qualified for a Bona Fide Amusement Redemption machine exemption from the Regulations in Subsections 3.2, 3.3, 3.4, 3.6, 3.7, 3.8, and 3.14 if the Applicant can show proof of compliance with Sec. 234.131(1) of the Local Government Code and information as required from this Regulation in Subsection 2.1(14)
- (d) **Charitable Bingo Exemption.** An Applicant is qualified for a charitable bingo exemption from the Regulations in Subsections 3.2, 3.3, 3.4, 3.6, 3.7 and 3.8 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, and that bingo sessions have been conducted at the location on at least a weekly basis for at least one (1) year prior to the filing of the Application. An original certificate or copy of this license and a copy of the Lottery Commission Quarterly Bingo Reports presented with the complete Game Room permit application at the time of application or permit renewal is sufficient to make this showing. A Game Room that has a Charitable Bingo Exception from Subsection 3.7 may only operate a Game Room when the bingo hall is open and on days a charitable bingo session is being conducted.
- (e) **Food and Beverage Sales Exemption.** An Applicant is qualified for a Food and Beverage Sales exemption from the Regulations in Subsections 3.2, 3.3, 3.4, 3.6, 3.7 and 3.8 if the Applicant meets all requirements of Subsections (1)(7) below:
 - (1) The following words and terms, when used in this Subsection, shall have the following meaning unless the context clearly indicates otherwise:

HILL COUNTY GAME ROOM ORDINANCE

- i. Food or Beverage Service - cooking or assembling food on premises, primarily for on premises consumption. Commercially pre-packaged items which require no heating, cooking, or assembly and which may be purchased off-premises do not constitute food or beverage service under this section;
- ii. Entree - main dish of a meal;
- iii. Multiple Entrees – no fewer than eight different entrees per meal period must be available to customers; and iv. Food Service Facilities – a portion of the licensed premises where food is stored and prepared primarily for on premises consumption.

(2) An Applicant is qualified for a Food and Beverage Sales exemption if the following conditions are satisfied:

- i. with respect to the operation of a Game Room, the Applicant's primary business on the premises is Food or Beverage Service;
- ii. multiple entrees are available to customers;
- iii. Food Service Facilities are maintained on the premises;
- iv. The Game Room does not operate outside the hours of operation for sale and Food or Beverage Service and
- v. at least 51 percent of the Game Room's total net income is derived from the sale of food or beverages.

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

- i. the menu or, if no menu is available, a listing of the food and beverage items;
- ii. hours of operation of Food or Beverage Service;
- iii. sales data or, if not available, projection of sales. The projection or data should include sufficient breakdown of revenues of food, alcoholic beverages, and Game Room operation proceeds;
- iv. listing of equipment used in preparation and Food or Beverage Service versus the equipment used in operation of a Game Room;

HILL COUNTY GAME ROOM ORDINANCE

- v. copies of floor plans of the licensed premises indicating areas devoted primarily to the preparation and Food and Beverage Service and those devoted primarily to operation of a Game Room;
 - vi. if alcoholic beverages are served, the TABC license or permit as applicable with the TABC food and beverage certificate as applicable; and
 - vii. the Food Service permit from the appropriate entity.
- (4) Applicants for renewal of Food and Beverage Sales Exemptions shall resubmit the information required in Subsection 3.16(c) (3) (a)-(g) above.
- (5) Failure to meet all requirements of this Subsection or accurately maintain required records is grounds for denial or revocation of a Food and Beverage Sales Exemption.
- (6) In verifying that the exemption holder is maintaining Food or Beverage Service as the primary business on the premises, the GRPA may examine all books, papers, records, documents, supplies, and equipment of the exemption holder.
- (7) Recordkeeping requirements for holders of food and beverage sales exemptions include:
- i. each holder of a food and beverage sales exemption shall maintain records to reflect separate totals for beverage sales, food sales, and other major sales categories at the location, including proceeds from machines described in Subsection 1.4(i) located in the Game Room. Purchase invoices must be maintained to reflect the total purchases of beverages, food, and other major purchase categories;
 - ii. complimentary food and beverages, including alcoholic beverages, shall not be calculated in determining whether the premises meets the 51 percent or more food or beverage sales threshold;
 - iii. all records are required to be maintained for four years and made available to authorized representatives of the GRPA upon reasonable request; and

HILL COUNTY GAME ROOM ORDINANCE

- iv. in examining the food or beverage sales, the GRPA may compute and determine the percentage of food and beverage sales upon the basis of information filed with the GRPA or held by the permit holder, but if such information is insufficient, the computation and determination of the percentage of sales may be based upon any records or information which is available.

3.15 Owners of an Illegal Game Room

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

3.16 Exemption from Location Restrictions and Distancing Restrictions

Game Rooms are exempt from the location restrictions (*see* Section 3.2) and distancing restrictions (*see* Section 3.3) upon proof that the Applicant including the Game Room, Charitable Bingo Hall, Food & Beverage, & Bona Fide Amusement Redemption Machine Owner(s)/Operators continuously owned and operated at the same location and under the same name prior to _____ and in compliance with Sec. 234.131(1) of the Local Government Code and from this Regulation. If the Game Room changes its name, its Owner, and/or adds another Owner after the effective 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 location restrictions and distancing restrictions. All applications claiming a distance exemption under this section must have been submitted on or before the 30th day after effective date.

SECTION 4. FINACIAL REQUIREMENTS**4.1****Records**

- (a) Each game room must have only one financial institution of record. All out going payments must be by a check 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 Hill County within fifteen business days.
- (c) Each game room is only allowed to have one (1) bank of choice at any given time.
 - (1) Exception: during the transfer period if both banking institutions are listed there may be a one hundred twenty-day (120) period to close

one banking institution while the new bank of choice is being opened.

SECTION 5. CUMULATIVE EFFECT OF REGULATIONS; SEVERABILITY

5.1 Cumulative Effect

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

5.2 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 to be enforced as Law.