

# BLANCO COUNTY GAME ROOM REGULATIONS

## PART A GENERALLY

### **Section I. Purpose**

1.1 Game Rooms, as a category of commercial uses, tend to be 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. Although they may appear initially lawful, Game Rooms tend to gravitate towards unlawful gambling over time; or may have as their intended use unlawful gambling under the guise of lawful operation.

1.2 Game Rooms should be separated from sensitive land uses (schools, residential subdivisions, and churches for example) 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.

1.3 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 8 a.m.

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

### **Section II. Authority to Regulate**

2.1 Chapter 234, Subchapter E of the Local Government Code, as amended, provides that the commissioners' court of a county may regulate the operation of Game Rooms to promote the public health, safety, and welfare.

2.2 It is the purpose of the Blanco 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 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.

2.3 These Regulations do not legalize anything prohibited under the Texas Penal Code or any other law(s) or regulation(s).

### **Section III. Administration**

3.1 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 these Regulations is a Class A misdemeanor. Any law enforcement officer is hereby authorized to enforce this law based on violation of these Regulations, but in doing so acts for his employing jurisdiction and does not become an officer or employee of Blanco County.

3.2 The Commissioners Court designates the Blanco County Precinct 1 Constable as the Game Room Permit Administrator for Blanco County. The Blanco County Precinct 1 Constable or his designees shall supervise, control, and operate the Permit Office. The Blanco County Precinct 1 Constable or his 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).

### **Section IV. Area Covered by these Regulations**

4.1 These Regulations apply to enterprises located in Blanco County, Texas.

### **Section V. Definitions**

5.1 As used in these Regulations:

- (a) **"Game Room"** means a for-profit business located in a building or place that contains six (6) or more:
  - (1) Amusement Redemption Machines; or
  - (2) electronic, electromechanical, or mechanical contrivances that, for consideration, afford a player the opportunity to obtain a prize or thing of value, the award of which is determined solely or partially by chance, regardless of whether the contrivance is designed, made, or adopted solely for bona fide amusement purposes.
- (b) **"Amusement Redemption Machine"** means any electronic, electromechanical, or mechanical contrivance designed, made, and adopted for bona fide amusement purposes that rewards the player exclusively with non-cash merchandise, prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once, or \$5, whichever amount is less.
- (c) **"Owner"** means a Person who:

- (1) has an ownership interest in, or receives the profits from, a Game Room or an Amusement Redemption Machine located in a Game Room;
  - (2) is a partner, director, or officer of a business, company, or corporation that has an ownership interest in a Game Room or in an Amusement Redemption Machine located in a Game Room;
  - (3) is a shareholder that holds more than ten (10) percent of the outstanding shares of a business, company, or corporation that has an ownership interest in a Game Room or in an Amusement Redemption Machine located in a Game Room;
  - (4) has been issued an assumed name certificate for a business that owns a Game Room or an Amusement Redemption Machine located in a Game Room;
  - (5) signs a lease for a Game Room;
  - (6) opens an account for utilities for a Game Room;
  - (7) receives a certificate of occupancy or certificate of compliance for a Game Room;
  - (8) pays for advertising for a Game Room; or
  - (9) signs an alarm permit for a Game Room.
- (d) **"Interlocal Agreement"** means a cooperative agreement between Blanco County and an incorporated municipality as described in Chapter 791 of the Government Code.
- (e) **"Cooperating City"** means an incorporated municipality that has entered into an Interlocal Cooperation Agreement with Blanco County to assist in the permitting process set forth in these Regulations, and the enforcement of these Regulations.
- (f) To **"Operate(s) a Game Room"** means to:
- (1) engage in the business of operating a Game Room;
  - (2) cause the operation of a Game Room;
  - (3) be a part of the operation of a Game Room;
  - (4) fund the operation of a Game Room;
  - (5) have a financial interest in a Game Room;
  - (6) receive any profit from a Game Room;

- (7) supply machines described in the definition of "Game Room" set out above to a Game Room;
  - (8) own machines described in the definition of "Game Room" located in a Game Room;
  - (9) receive any payment from a machine described in the definition of "Game Room" located in a Game Room;
  - (10) receive any profit from a machine described in the definition of "Game Room" located in a Game Room; or
  - (11) have machines described in the definition of "Game Room" registered in your name with the Texas Comptroller and are located in a Game Room.
- (g) **"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.
- (h) **"Applicant"** means an individual, proprietorship, partnership, limited liability company, corporation, association, and/or other legal entity required to obtain a Game Room Permit or someone who has applied for a Game Room Permit.
- (i) **"Precinct 1 Constable"** means the Precinct 1 Constable of Blanco County or the Precinct 1 Constable's designated agent.
- (j) **"Game Room Permit Administrator"** means the Precinct 1 Constable of Blanco County, or the Precinct 1 Constable's designated agent.

- (k) **"Peace Officer"** (also referred to herein as "Law Enforcement Officer") means an individual as described in Article 2.12 of the Texas Code of Criminal Procedure.
- (l) **"Person"** means an Owner, Operator, individual, employee, agent, proprietorship, partnership, corporation, limited liability company, association, or other legal entity.
- (m) **"Public Building"** means a building used by Federal, State, or local government that is open to the general public.
- (n) **"Regulation(s)"** means these Regulations of Blanco County, Texas, for the operation of Game Rooms.
- (o) **"School"** means a facility, including all attached playgrounds, dormitories, stadiums and other appurtenances that are part of the facility, used for the primary purpose of instruction or education, including primary and secondary schools, colleges, and universities, both public and private.
- (p) **"Gambling Device"** means a device described in Article 47.01(4) (A) of the Texas Penal Code.
- (q) **"Fire Safety Official"** means the Fire department official having competent jurisdiction within the incorporated area of the county to conduct a fire and life safety inspection.
- (r) **"Notice"** is deemed effective on the date written notice to an Applicant, permit holder, or agent thereof is hand delivered or posted on the front exterior door of the Game Room, or upon receipt by certified mail.
- (s) **"County Employee"** means any individual authorized by Blanco County to inspect any Game Room for compliance with these Regulations.
- (t) **"Disqualifying Offense"** means that an application will be rejected if an applicant or person managing or to manage the operation of the Game Room, or a person operating or to operate or cause the operation of the Game Room, or any person performing services at the Game Room has been convicted of or received probation on a crime involving:
  - (1) gambling, gambling promotion, keeping a gambling place, communicating gambling information, possession of gambling devices or equipment, or possession of gambling paraphernalia, including under Chapter 47 of the Texas Penal Code;
  - (2) forgery, credit card abuse, or commercial bribery as described in Chapter 32 of the Texas Penal Code;
  - (3) identity theft;

- (4) a criminal offense as described in Sections 38.03, 38.04, or 38.05 of the Texas Penal Code; any narcotics or weapons violations under State or Federal law;
- (5) engaging in organized crime in violation of Chapter 71 of the Texas Penal Code;
- (6) money laundering under Federal law or a criminal offense as described in Chapter 34 of the Texas Penal Code;
- (7) 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.

Convictions outside of the timelines set forth above may still be considered in the application review but are not absolute bars to receiving a permit.

- (u) **"Residential"** means pertaining to the use of land, for premises such as single-family homes, townhomes, patio homes, mobile homes, duplexes, habitable rooms for non-transient occupancy and which are designed primarily for living, sleeping, cooking, and eating therein. A premises which is designed primarily for living, sleeping, cooking and eating therein shall be deemed to be residential in character unless it is actually occupied and used exclusively for other purposes. This does not include permanently abandoned structures.
- (v) **"Residential Neighborhood"** means an area zoned residential, or a platted subdivision having two or more residences used for residential purposes.

## **PART B. GAME ROOM PERMITS**

### **Section VI. Permits**

6.1 **Permit Required.** It shall be unlawful for a Person to own, operate or maintain a Game Room for which a Permit has not been issued by Blanco County pursuant to these Regulations.

6.2 **Permit Timing - Existing Game Rooms.** Game Rooms already in operation on the date that these Regulations are adopted will be given a grace period of 30 days to submit an

application for a Permit. If the application for a permit is denied, the Game Room will be considered to be operating illegally effective when notice of the denial is received.

6.3 Permit Timing - New Game Rooms. A Person seeking to establish a Game Room after the date that these Regulations have been adopted shall not open or operate such a Game Room until a Permit required by these Regulations is obtained.

6.4 Display of Permit. The County Permit must be displayed in the Game Room in a prominent location.

6.5 Application for Permit. To obtain a Game Room Permit, an Application for Game Room Permit on the form promulgated by the Blanco County Precinct 1 Constable's Office must be submitted.

## **Section VII. Permitting Process, Submission, Permit Fee**

7.1 Submission. The Application for Game Room Permit must be submitted to the Precinct 1 Constable's office, along with any information required to be submitted as attachments to the Application.

7.2 Permit Fee. The Application for Game Room Permit must be accompanied by an Application Fee of \$1,000 made payable to Blanco County (regardless of where submitted). The Permit Fee is established and set by the Blanco County Commissioners Court as a reasonable approximation of the costs incurred in the Application review and investigation process.

7.3 Processing the Application. After the Application for a Game Room Permit is submitted, the application is reviewed and information therein vetted. A background investigation of all persons involved in the business will be conducted. All applicants or persons operating, owning, maintaining, or employed by the business must consent to a criminal and general background check by means of a form attached to the Application. If the Game Room is already in existence, calls for service, arrests, and past criminal activities at the location will be reviewed. In addition, the investigators may make unannounced inspections of the Game Room up to three (3) times while the Application is pending.

7.4 Action on Application. The Permit will be acted upon by the Game Room Permit Administrator within 30 days of receipt.

Failure to act on the application within 30 days does not operate as a waiver to deny the application; however, it may release the Applicant to pursue his state court remedies without further exhaustion of administrative remedies.

## **Section VIII. Forms**

8.1 Permit Forms. Permit forms are available at the Blanco County Precinct 1 Constable's Office. They are also available online at the webpage for the Precinct 1 Constable's Office, and may be made available on the webpage of the police department of any Cooperating City.

**Section IX. Contents of Application for Game Room Permit**

9.1 The contents and requirements of an Application for Game Room Permit are as set forth in the approved Application for Game Room Permit form on the Blanco County Website.

**Section X. Nature of Permit, Length, Renewal**

10.1 Nature of Permit. A Game Room Permit is personal to the Applicant(s) and may not be transferred, assigned, divided, or rented to any other Person. If the Game Room changes ownership, is leased-out, or is being sold to a Person under a lease-purchase, Contract for Deed or other executory contract, during which time the Person (who does not hold a Permit) will be in possession of the Game Room property, a new Permit will be required for that new Person to operate the Game Room as a Game Room. Failure to do so will result in a violation of these Regulations punishable as set forth hereinafter.

10.2 Length. A Game Room Permit issued under these Regulations is valid for a period of one (1) year after it is issued. The date of issuance shall be notated on the Permit itself.

10.3 Renewal. Not later than 60 days before a Permit is set to expire, the Permit holder shall submit a new application (on the same form and following the same procedures) for a renewal of the Game Room Permit. The Renewal Permit Fee is set at \$1,000 by the Blanco County Commissioners Court as a general approximation of the cost of reviewing and investigating the Application. The same provisions set out above apply to an application for the renewal of a Game Room Permit.

10.4 Game Room Permit Administrator. As set forth above, the Precinct 1 Constable of Blanco County or his designee is the Game Room Permit Administrator. In each Cooperating City, the police chief or his designee shall serve as the Game Room Permit Administrator subject to the limitations on a Cooperating City's authority in the permit process set forth above.

**Section XI. Denial of Game Room Permit**

11.1 Final Authority. All final denials of Applications for Game Room Permits are made by the Blanco County Precinct 1 Constable or his designee. The recommendation of denial of a permit by a Cooperating City is not final and is subject to the Precinct 1 Constable's Office determination.

11.2 Reasons for Denial. The following list provides reasons that an Application for a Game Room Permit may be denied. However, to the extent that other serious matters would justify denial but are not expressly contained herein, this list is not exhaustive:

- a) applicant failing to provide a complete Application;
- b) applicant providing false or misleading information in the Application;
- c) one or more Applicants having a Disqualifying Offense;



- d) one or more persons who are to be involved in the operation of the Game Room having a Disqualifying Offense;
- e) history of active involvement in businesses that have been shut down for having/operating gambling devices whether or not personally convicted;
- f) ownership or management of a business of any type that has been declared a public nuisance by a court of competent jurisdiction;
- g) the proposed location of the Game Room does not comply with the Location Restrictions of these Regulations *Caveat: A Game Room in operation prior to the passage of these Regulations may remain in its location even if the location violates the Location Restrictions of these Regulations, as a non-conforming use. However, if the non-conforming use status is lost, as set forth hereinafter, a Game Room Permit for that location becomes invalid;*
- h) for an existing business, absence of records of revenues, prizes/payouts or profits;
- i) applicant is under 18 years of age;
- j) for an existing Game Room, made the subject of the Application is found to be in violation of any laws identified as a Disqualifying Offense;
- k) applicant refusing to allow inspection of the Game Room as provided for in these Regulations;
- l) applicant refuses to cooperate with investigation of his application;
- m) failing to include the Permit Fee;
- n) having a Game Room permit in any Texas County suspended or revoked less than 180 days prior to submission of the Application;
- o) multiple convictions for offenses that would be Disqualifying Offenses but for the age of the convictions; and/or
- p) failing to obtain a Certificate of Occupancy where required by the applicable jurisdiction.

11.3 The Applicant can appeal the denial to the County Judge by making a request for such an appeal within 15 days of being notified of the denial. The Applicant must submit any rebuttal information that he desires the County Judge to consider, including signed statements, with the request for appeal. The County Judge will obtain the information asserted to support denial from the Precinct 1 Constable's Office and provide the Precinct 1 Constable's Office with the rebuttal information. The Precinct 1 Constable's Office may submit its reply to the rebuttal information within 5 business days of it receiving that information. The County Judge will review

all of the information provided to determine whether there was substantial evidence supporting the Precinct 1 Constable's (or designee's) decision. If the denial is upheld, the decision is final subject to any further review allowed by the law in the courts. If the denial is overturned, a permit shall be issued to the Applicant. The County Judge may direct additional investigation before making his decision. The County Judge must render a decision within 30 days of receiving the request for an appeal. Failure to do so does not result in a waiver to deny the permit but does release the Applicant to pursue his state court remedy without further exhaustion of administrative remedies.

An Applicant may not operate a Game Room without a Permit, including during the pendency of any appeal or any state court action.

## **Section XII. Suspension or Revocation of a Game Room Permit**

12.1 Generally. These Regulations are material and the failure to comply with these Regulations in whole or in part may result in suspension or revocation of a Person's Game Room Permit.

12.1 Grounds. The following list details reasons why a Game Room Permit may be suspended or revoked; however, to the extent that other serious matters would justify suspension or revocation, but are not expressly contained herein, this list is not exhaustive:

- a) Commission by the Applicant(s) or anyone owning or operating the Game Room of one of the offenses noted as a Disqualifying Offense during the period of the Permit;
- b) Any owner, operator, or employee of the Game Room has knowingly allowed Commission by another of one of the offenses noted as a Disqualifying Offense on the premises of the Game Room during the Permit period;
- c) The Applicant has been found to have made false or misleading statements in his Application materials;
- d) The Game Room has operated in violation of the hours of operation restrictions of these Regulations after receiving a warning for the initial or an earlier offense;
- e) The Applicant(s) have failed to make corrections required by a Fire Safety Official within 30 days after being directed to do so;
- f) The Applicant(s) have allowed the occupancy limit set by a Fire Safety or Building Official to be exceeded after being warned for the initial or an earlier violation;
- g) The Applicant(s) fail to allow any inspection or review provided for by these Regulations;
- h) The Applicant(s) fail to provide information required to be provided by these Regulations;

i) The Game Room has been declared a public nuisance by a court of competent jurisdiction;

j) Knowingly allowing prostitution, sales of illegal drugs, or illegal betting to take place on the premises of the Game Room;

(k) Applicant(s) or Operator(s) have sold or knowingly allowed the sale of alcohol without a license on the premises of the Game Room; and/or

(l) The Game Room is in violation of applicable fire or life safety codes.

### **Section XIII Process.**

13.1 Process Generally. The Game Room Permit Administrator or designee makes the determination of whether the Permit should be suspended or revoked. This decision is communicated to the Permit holder in writing. The determination shall become final unless the Permit holder appeals the decision in writing to the County Judge within 10 days of notification. The Permit holder must submit any rebuttal information that he wants the County Judge to consider with the appeal request. The Judge will review the materials reviewed by the Game Room Permit Administrator or designee, any rebuttal information submitted by the Permit holder, any reply submitted by the Game Room Permit Administrator or designee and make a decision within 30 days of receiving the appeal request. The County Judge's decision is based on whether the Game Room Permit Administrator's (or designee's) decision is supported by substantial evidence. The suspension or revocation becomes effective immediately if the County Judge upholds the decision. If the County Judge does not uphold the decision, the suspension or revocation process is dropped.

The operation of the Game Room Permit Administrator's decision is stayed pending the decision of the County Judge unless the Game Room Permit Administrator finds that the decision must be put into effect immediately to protect the public health, safety or welfare from an immediate threat of harm.

13.2 District Court. The Permit holder can further appeal a suspension or revocation to District Court. However, such appeal does not stay the operation of the suspension or revocation.

13.3 Re-Application. An Applicant who has had his Application denied or his Permit revoked may not re-apply for a Game Room Permit earlier than 180 days thereafter. This will be treated as a new application for all purposes, including the location restrictions, and a new fee must be paid.

13.4 Location of a Game Room. The following location and distance restrictions apply to the location of Game Rooms.

#### 13.5 Location Restrictions.

a) a Game Room located within a municipality having zoning may only locate within

a zoning district in which the Game Room is a permitted use. If a Game Room may be located within a zoning district subject to the grant of a special use permit, the Game Room must obtain the special use permit before locating within the zoning district.

b) a Game Room shall not be located within 2,500 feet of a public or private school or a regular place of religious worship that is existing or for which plans have been filed with the applicable jurisdiction.

c) a Game Room may not be located within 2,500 feet of a Residential Neighborhood or land for which plans for a Residential Neighborhood have been filed with the applicable jurisdiction.

d) a Game Room may not be located closer than 2,500 feet of another Game Room.

13.6 Measurement. Measurements shall be made in a straight line from the nearest point of the Game Room to the nearest point on the structure(s) used for the purposes identified in 16.1 above. For a residential neighborhood, the measurement is from the closest point on the closest residential structure. If yet to be developed but plans are on file, the measurement is from nearest property line to nearest property line.

13.7 Game Rooms Existing Prior to Regulations. Game Rooms that can show that they were operating at a location prior to the passage of these Regulations may continue to operate as a non-conforming use at that location until it discontinues the business, or earlier as provided for herein. Non-conforming use status ends if: a) the operation of the Game Room ceases for a period exceeding three (3) months; b) the Game Room premises are used for purposes other than a Game Room for a period of three (3) months or more; c) if a permit required by these regulations is revoked; d) the Game Room does not maintain the permit required by these regulations, including allowing a permit to lapse by 30 days or more, or e) fire or casualty loss to the Game Room structure which renders 65% or more of the structure unusable.

#### **Section XIV Inspection by a Peace Officers and others**

14.1 Inspection. Peace Officers, Fire Safety Officials, and designated County Employees are authorized to inspect any business in Blanco County for violations of these Regulations. These Regulations do not authorize a right of entry prohibited by law. Peace Officers, Fire Safety Officials, and designated County Employees may enter a business with consent, with a warrant, or under exigent circumstances. A Game Room permit issued pursuant to these Regulations gives Peace Officers, Fire Safety Officials, and designated County Employees implied consent to enter and to inspect any Game Room for violations of these Regulations.

14.2 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 the definition of "Game Room" above 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.

- a) Refusal to allow any Peace Officer, Fire Safety Official, and designated County Employee entry to inspect such unpermitted Game Rooms may result in the issuance of a search warrant to inspect for violations of these Regulations.
- b) An unpermitted Game Room is subject to these Regulations and may be held liable for all civil and criminal penalties listed herein.

14.3 Compliance Inspection. Any Peace Officer, Fire Safety Official or designated County Employee may inspect a permitted Game Rooms located within their jurisdiction to determine whether the Game Room is in compliance with these Regulations.

14.4 Consent to Entry. For permitted Game Rooms, submission of an Application under these Regulations is consent to reasonable entry by any Peace Officer, Fire Safety Official, or designated County Employee during the Game Room's regular business hours. A Person who does not allow a Peace Officer, Fire Safety Official, or designated County Employee to inspect a Game Room during the Game Room's regular business hours commits an offense.

14.5 Any violation of this Section 18 is grounds for denial, revocation, or suspension of a Game Room permit.

## **Section XV** **Fire and Life Safety**

15.1 It shall be the duty of any Owner or Operator to ensure compliance with this Section.

15.2 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.

15.3 A Game Room or commercial establishment shall comply with all construction and fire codes and shall pay any approved fee(s) associated with a fire and life safety inspection, plan review, occupancy load calculation, or complaint.

15.4 All construction and fire code regulations will be strictly enforced and Game Rooms shall provide any Fire Safety Official or Building Official with immediate access to the premises at all times.

15.5 A Game Room shall not use electronic locks to prevent entry during business hours.

15.6 Any violation of this Section 19 is grounds for denial, revocation, or suspension of a Game Room permit.

## **Section XVI** **Hours of Operation**

16.1 It shall be the duty of any Owner or Operator to ensure compliance with this Section.

16.2 A Game Room shall operate only between the hours of 8 a.m. and 10 p.m.

16.3 Any violation of this Section is grounds for denial, revocation, or suspension of a

Game Room permit.

## **Section XVII Recordkeeping**

17.1 The Owner and Operator are responsible for maintaining the records required in this Section and producing them to a peace officer or a County employee assigned to review the records (hereinafter "Authorized Persons")

17.2 The Occupation Tax permit/stamp issued by the State Comptroller's Office shall be affixed to each machine. [Chapter 2153, Subchapter I, Texas Occupations Code].

17.3 Any license or registration required to be issued by the State Comptroller's Office must be maintained at the Game Room and made available for inspection by Authorized Persons. [Chapter 2153, Subchapter D, Texas Occupations Code].

17.4 A roster of Game Room employees must be kept which gives the name, address, telephone number, and date of birth of each employee. Such must be made available for inspection by Authorized Persons.

17.5 A record showing the daily revenue generated by each machine shall be maintained. Each day's record must be maintained for at least 90 days. In addition, a daily record showing payments or prizes won from play of each machine shall be kept. Each day's record must be maintained for a period of at least 90 days. Such must be made available for inspection by Authorized Persons.

17.6 A record showing the daily net revenue of each machine shall be maintained. "Net Revenue" means the amount that the revenue from patrons playing the machines exceeds the dollar value of payouts or prizes won from each machine. This daily record must be maintained for a period of 180 days. Such must be made available for inspection by Authorized Persons.

17.7 Any reports made to the State Comptroller must be maintained for a period of at least two (2) years unless the Comptroller's Office requires that they be maintained for a longer period. Such must be made available for inspection by authorized persons.

17.8 Invoices/Receipts showing the amount paid for all prizes available to win from playing the games, and a listing of individual prizes and their cost to the Owner/Operator shall be maintained. No retention is required except that on request by an Authorized Person the Owner or Operator must be able to produce information relating to the prizes then currently available to win.

17.9 Information showing whether end of day cash on hand is deposited with a financial institution, otherwise secured, or distributed/divided amongst owners and/or operators. Such information must be made available for inspection by Authorized Persons.

17.10 Any receipt or register tape showing cash picked up or turned over to an Owner at the Game Room site. Such information must be made available for inspection by Authorized Persons, and must be retained for 180 days.

17.11 Any complaints about the Game Room received from the public must be maintained for a period of one (1) year and must be made available for inspection by an Authorized Person.

17.12 A Person who Operates a Game Room in violation of this Section shall be assessed a civil penalty not to exceed \$10,000 per violation. Each day the record is missing and/or is deficient is considered a separate violation.

17.13 Any violation of this Section is grounds for denial, revocation, or suspension of a Game Room permit.

### **Section XVIII Game Room Memberships**

18.1 It shall be the duty of any Owner or Operator to ensure compliance with this Section.

18.2 Game Room memberships are prohibited for any purpose.

18.3 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.

18.4 Game Rooms shall not issue membership cards to any individual for any purpose.

18.5 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.

### **Section XIX Illegal Machines**

19.1 It shall be unlawful for a Game Room to keep, exhibit, operate, display, or maintain any gambling device that is prohibited by the constitution of this state or Chapter 47 of the Texas Penal Code, **GAMBLING**.

19.2 Additionally, a civil penalty not to exceed \$10,000 shall be placed on a Person who Owns or Operates a Game Room for any machine lawful under these Regulations located in the Game Room but which is used and/or has been used for illegal gambling.

19.3 If a law enforcement agency determines through an investigation(s) that a Game Room operation violates Chapter 47 of the Texas Penal Code, then every machine described in the definition of Game Room in these Regulations shall be considered in violation of this Section. A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each day a violation occurs or continues to occur is considered a separate violation.

19.4 Any violation of this Section is grounds for mandatory denial and/or mandatory revocation of a Game Room permit.

19.5 An individual's compliance with these Regulations, including Operating a Game Room under a permit issued pursuant to these Regulations, is not a defense to prosecution for an

offense under Chapter 47 of the Texas Penal Code.

## **Chapter XX Exemptions from Permit Requirement**

20.1 Charitable Bingo Exception. A business having a current and valid Texas Lottery Commission Charitable Bingo License as described in Chapter 2001 of the Texas Occupation Code is exempt from the Permit requirement of these Regulations as long as the game machines fall within the coverage of the license.

20.2 Food and Beverage Exemption. If the provision of game machines is secondary to the sale of food and beverages, and 51% or more of the business' revenues are derived from the sale of food and beverages, the business may qualify for a food and beverage exemption from the Permit requirement of these Regulations.

20.3 The owner will be required to testify in a sworn affidavit that the primary purpose of the business is the sale of food and beverages and that 51% or more of the business' revenues come or will come from the sale of food and beverages. **Warning:** attempts to avoid the Permit requirement of these Regulations by falsely representing the matters contained in the affidavit will be a violation of these Regulations and other laws. If food and beverage revenues at any time fall below 51% of total revenues, the representations of the owner will be considered false, and the owner must agree to this in the affidavit itself.

20.4 Other matters:

- a) Free play or game credits provided with the purchase of food and/or beverages will be counted as game machine revenue at the normal cost of the plays;
- b) No part of the food and beverage revenue calculation can have anything to do with the game machines or their use;
- c) Food and beverages cannot consist of purely snack-bar-type items;
- d) A menu of entree selections must exist;
- e) Food must be prepared by employees of the business in a kitchen or food preparation area;
- f) A legitimate inventory of food and drink must be maintained;
- g) A stove, oven and/or grill top and a refrigeration unit must be contained in the kitchen/food preparation area;
- h) The non-kitchen/food preparation area must have more room devoted to tables and/or booths for dining than the area occupied by the game machines;
- i) The business must be subject to restaurant inspections by the Waco-Blanco County Health Department;
- j) If a license is required for the establishment to sell food, a valid license must be presented;
- k) If a business sells or intends to sell alcoholic beverages, a valid permit or license must be presented;
- l) Complimentary food and/or beverages will not be included as food and beverage sales;
- m) Records breaking down the sales by category of food and beverage and game machine revenues must be kept and maintained for four (4) years and must be



available for inspection by Authorized Persons upon request. "Other revenues" are not included in the calculation and comparison; just food and beverage revenues and game machine revenues.

If the Game Room Permit Administrator finds that the owner or applicant is exempt, no Game Room Permit will be required. However, if future inspections indicate that the establishment is primarily a Game Room, a permit will be required, and each day of operation after such determination is communicated in writing to the owner or operator shall be a violation of these Regulations.

20.5 Movie Theatres. Small arcades in legitimate movie theatres showing movies on movie screens are not required to obtain a Game Room Permit where movie ticket sales and concession stand sales combined account for 51% or more of the theatres' revenue.

20.6 Other Businesses. A children's' arcade where the majority of the end users are 18 and under does not require a Game Room Permit if it is contained within a mall or is in a commercially zoned area near other child/family entertainment establishments, and closes no later than 10:00 pm.

## **Chapter XXI Enforcement by Cooperating Cities/ Agencies**

21.1 Joint Interests. Any peace officer enforcing these Regulations is acting on behalf of their employing jurisdiction. Because these regulations encompass municipalities, municipalities have an interest in seeing that they are enforced to protect the health, safety and welfare of their citizens. However, nothing herein is intended to create a mutual assistance agreement or make another agency's officer an employee or officer of Blanco County.

21.2 Coordination with the Blanco County Precinct 1 Constable. Investigations of Game Rooms for any offense should be coordinated with the Blanco County Precinct 1 Constable. This is important to keep one agency from interfering with an investigation already underway by another agency. In addition, cooperation and coordination will be important in the future to assure that these Regulations provide the benefits and protections intended.

21.3 Offense. The violation of these Regulations is a State Law Offense--§234.138, *Texas Local Government Code*, and is classified as a Class "A" misdemeanor. Therefore, the charge on any charging instrument should refer to an offense under §234.138 of the *Texas Local Government Code* - operating a Game Room in violation of County Regulations-Class "A" misdemeanor.

## **Chapter XXII Violation of Regulations an Offense.**

22.1 A violation of any Regulation contained herein is an Offense under state law, being 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. See §234.138, *Texas Local Government Code* and §12.21, *Texas Penal Code*. Each day of violation shall constitute a separate offense.

## **Chapter XXIII      Civil Enforcement.**

23.1 Injunction. The County may sue in district court for an injunction to prohibit the violation or a threatened violation of these Regulations or subchapter E of Chapter 234 of the *Texas Local Government Code*. [§234.137(a), *Texas Local Government Code*].

23.2 Civil Fines. Violation of these Regulations or Subchapter E of Chapter 234 of the *Texas Local Government Code* makes the Person liable to the County for a civil penalty of not more than \$10,000 for each violation. Each day that a violation continues is considered a separate violation for purposes of assessing the civil penalty. The County may bring suit in District Court to recover civil penalties authorized by statute. [§234.137(b) *Texas Local Government Code*].

23.3 Recovery of Costs. In addition, the County is entitled to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties or both-including reasonable attorney's fees, court costs and investigatory costs. [§234.137(c), *Texas Local Government Code*].

23.4 A violation of any of these Regulations by an Owner or Operator is grounds for denial, revocation, or suspension of a Game Room permit.

23.5 If a Game Room is operating in violation of any of these Regulations it is grounds for denial, revocation, or suspension of a Game Room permit.

23.6 Expedient Action. In many instances the more expedient and effective method to address noncompliance with these Regulations may be through civil enforcement.

## **Chapter XXIV      Cumulative Authority and Severability.**

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

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