

# GRAY COUNTY GAME ROOM REGULATIONS

**Adopted by Commissioners Court:**

**Effective Date:**

## SECTION 1. GENERALLY

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

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

### **THEREFORE, GRAY 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 criminal mischief between the hours of 10 p.m. and 8 a.m.
4. Each of the foregoing negative secondary effects constitutes a harm, which Gray County has a substantial government interest in preventing and abating. This substantial government interest in preventing secondary effects, which is Gray County's rationale for these Regulations, exists independent of any comparative analysis between legal Game Rooms and illicit Game Rooms. Gray County's interests in regulating Game Rooms extend to preventing future secondary effects of either current or future Game Rooms that may locate in Gray 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.

(b) It is the purpose of the Gray 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) nor do they legalize public gambling in Gray County.**

## 1.2 Administration

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

(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 Gray County Commissioners Court authority to promote public health, safety, and welfare.

(d) Except as provided in Subsection 1.2(e), the Commissioners Court designates that the Gray County Treasurer's Office, shall supervise, control, and operate the permit process and shall be responsible for the administrative issuance of Game Room permits based on the investigation of the Gray County Sheriff. The Gray County Sheriff shall investigate, deny, attach conditions to, administratively

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

(e) The Commissioners Court allows incorporated cities or towns in Gray County to designate their own Game Room Permit Administrator and procedures for investigation and enforcement.

### **1.3 Area Covered by these Regulations**

These Regulations apply to enterprises located in Gray County, Texas.

### **1.4 Definitions**

As used in these Regulations:

(a) **“Game Room”** means a for-profit business located in a building or place that contains six (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 by the County Clerk an Assumed Name Certificate for a business that owns a Game Room or an Amusement Redemption Machine located in a Game Room;

(5) signs a lease for a Game Room;

(6) opens an account for utilities for a Game Room;

(7) receives a Certificate of Occupancy or Certificate of Compliance for a Game Room;

(8) pays for advertising for a Game Room; or

(9) signs an alarm permit for a Game Room.

(d) To “**Operate(s) a Game Room**” means to:

(1) engage in the business of operating a Game Room;

(2) cause the operation of a Game Room;

(3) be a part of the operation of a Game Room;

(4) fund the operation of a Game Room;

(5) have a financial interest in a Game Room;

(6) receive any profit from a Game Room;

(7) supply machines described in Subsection 1.4(a) (1)-(2) to a Game Room;

(8) own machines described in Subsection 1.4(a) (1)-(2) located in a Game Room;

(9) receive any payment from a machine described in Subsection 1.4(a) (1)-(2) located in a Game Room;

(10) receive any profit from a machine described in Subsection 1.4(a) (1)-(2) located in a Game Room; or

(11) have machines described in Subsection 1.4(a) (1)-(2) registered in Gray County or any city in Gray County where the game room is located or registered.

(e) “**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.

(f) “**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.

(g) “**Sheriff**” means the Sheriff of Gray County or the Sheriff’s designated agent.

(h) **“Game Room Permit Administrator”** means the Treasurer of Gray County or the Treasurer’s designated agent; their designated agent, or the designated official for a cooperating municipality.

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

(j) **“Person”** means an Owner, Operator, individual, employee, agent, proprietorship, corporation, association, or other legal entity.

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

(l) **“Regulation(s)”** means these Regulations of Gray County, Texas, for the operation of Game Rooms.

(m) **“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.

(n) **“Gambling Device”** means a device described in Article 47.01(4) (A) of the Texas Penal Code.

(o) **“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.

(p) **“County Employee”** means any individual authorized by Gray County to inspect any Game Room for compliance with these Regulations.

## **SECTION 2. GAME ROOM PERMITS**

### **2.1 Application**

(a) It shall be unlawful for a Person to Operate a Game Room, use a Game Room, or maintain a Game Room in Gray County that has not been issued a permit pursuant to these Regulations. A Person who violates this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each day a violation occurs or continues to occur is considered a separate violation.

(b) A complete application shall be filed with the Gray County Treasurer.

(c) The application shall be filed on the form provided by the Gray County Treasurer or on an accurate and legible copy of that form. A copy of the application can be obtained from the Gray County Treasurer's Office or other source as determined by the Game Room Permit Administrator of a cooperating municipality.

(1) The Applicant shall apply in person, Monday – Thursday from 9am-11am and 2pm-4pm at the office of the Gray County Treasurer. The Applicant shall be an Owner of the Game Room.

(2) The Gray County Treasurer shall provide the fee schedule 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 will begin.

(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 Gray County Treasurer's Office. A receipt showing payment of the application fee is NOT a Game Room permit.

(5) Once a complete application has been received, the Gray County Sheriff's Office 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).

i. After the initial inspection, the Applicant will be informed of any corrections that 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 Game Room Permit Administrator shall deny the application.

iv. If the proposed Game Room passes inspection, the Gray County Treasurer's Office shall approve the application.

(6) The Applicant has ninety (90) days from the initial inspection to complete the inspection process. Applicant shall request inspections that may be conducted at the convenience of the Gray County Sheriff's Department. Failure to complete the inspection process within these ninety (90) days shall result in denial of the application. It is the duty of the Applicant to ensure the process is completed in the requisite ninety (90) days.

(7) Failure to provide any information required by this Section or a determination by the Gray County Treasurer's Office that inaccurate, erroneous, or incomplete information has been submitted shall be grounds for denial of the application.

(c) In municipalities which have elected to adopt the Gray County Game Room Regulations, the municipality shall designate an entity to receive and process Game Room applications. The municipality shall adopt a common operating procedure with requirements and processes reasonably similar to those set out by these Regulations. The municipality shall provide the application along with a description of the application and inspection process. The Gray County Treasurer's Office and municipalities shall inform each other of permits granted.

(d) Each complete application shall be accompanied by:

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

jurisdiction; a certified copy of the assumed name certificate filed in the office of the Gray County Clerk, bearing the file mark or stamp that evidences its filing;

(2) a copy of the formative legal documents for the applicable legal entity—e.g., the Articles of Incorporation;

(3) a non-refundable application fee of \$1,000.00

(4) a photocopy of the Applicant's driver's license or government-issued photo identification;

(5) proof as required in Subsection 3.9 that the proposed Game Room is exempt from, or will be located in compliance with, the requirements set forth by Subsection 3.9 of these Regulations;

(6) a current lease agreement for the Game Room premises with the Applicant, listed as an Owner of the Game Room, and premises lessee, or proof of property ownership;

(7) a list of all Owner(s), 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 or government-issued identification and incorporation papers as applicable, and copy of criminal background checks for employees as required by section 3.8;

(8) a copy of the State of Texas coin-operated machine occupation tax records, the State of Texas coin-operated machine license or registration certificate, and the Gray County coin-operated machine occupation tax records for each machine exhibited or displayed, or permitted to be exhibited or displayed in the Game Room in a spread sheet format. Records shall include information detailing each machine found on the premises of the Game Room by identifying the machine by:

i. the name of manufacturer;

ii. the serial number;

iii. the type of machine;

iv. the State of Texas Tax stamp including the year of expiration of each tax stamp required;

v. the Gray County Occupational Tax Permit Decal including the year of expiration of each tax permit required (all Gray County Occupational Tax Permit Decals expire on December 31st of each year); and

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

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

(10) a sealed copy of criminal background showing 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

(11) a certification that all of the contents of the application and the above presented materials are true and correct under the penalty of Perjury as defined under Section 37.02 of the Texas Penal Code. In addition, any misrepresentation on the application is a third degree felony offense as defined under Section 37.10 of the Texas Penal Code.

(e) A Game Room application shall be rejected upon failure to produce all documents required in Subsections 2.1(d), except for the exemptions listed in Subsections 2.1(d) (8)-(11). Failure to provide the proof required by Subsection 2.1(d) (8)-(11) will result in denial of the specific exemption described in that particular Subsection.

**(f) A GAME ROOM SHALL NOT OPERATE DURING THE PENDENCY OF THE APPLICATION AND UNTIL THE GAME ROOM APPLICATION IS APPROVED AND THE PERMIT ISSUED.**

(g) A Game Room permit, in accordance with these Regulations, is not transferable, assignable, or divisible, and it is a violation of these Regulations for any Person to attempt to do so. If ownership of a Game Room changes, the Game Room shall be deemed unpermitted and the new Owner(s) must reapply and must do so before the Game Room may operate.

(1) A Person commits a Class A misdemeanor if they intentionally or knowingly transfer, assign, or divide a Game Room permit issued pursuant to these Regulations or attempt to do so. Further, they shall be assessed a civil penalty not to exceed \$10,000 per violation. Each permit transferred, assigned, or divided or attempted to transfer, assign, or divide being considered a separate violation.

(h) An Applicant who submits an application under these Regulations must swear and affirm the truth of the contents therein under the penalty of Perjury as defined under Section 37.02 of the Texas Penal Code. In addition, any misrepresentation on the application is a third degree felony offense as defined under Section 37.10 of the Texas Penal Code

## **2.2 Grounds for Denial, Revocation, or Suspension of a Game Room Permit**

(a) Any violation of any Section or Subsection of these Regulations or failure to meet all requirements of any Section or Subsection of these Regulations, where applicable, will be grounds for denial, revocation, or suspension of a Game Room permit. If a Game Room's permit has been revoked, denied, or suspended, the Game Room shall not operate during the pendency of any appeal to the 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 Office of the Gray County Sheriff 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 is under eighteen (18) years of age;

(4) an Applicant, Owner, or Operator has had a Game Room permit revoked within the one hundred and eighty (180) day period immediately preceding the date the application was filed;

(5) an Applicant, Owner, or Operator is delinquent in the payment to the County of taxes, fees, fines, or penalties assessed or imposed regarding the operation of a Game Room;

(6) an application or renewal fee required by these Regulations has not been paid;

(7) an Applicant fails to complete the inspection process within the sixty (60) day period described in Subsection 2.1;

(8) 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

(9) any violation of Sections 2 or 3 of these Regulations.

(c) If the Gray County Treasurer's Office denies a Game Room permit, the Gray County Treasurer 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 Gray County Treasurer. The denial letter shall provide the reason(s) for the action.

**(d) Revocation or Suspension of a Game Room Permit.** The Gray County Treasurer and the Gray County Sheriff's Office 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 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

(5) any violation(s) of Section 2 or 3 of these Regulations.

(e) If any of the stated events or conditions providing a basis for revocation or suspension of a Game Room permit under Subsection 2.2(d) has occurred, the Gray County Treasurer or the Gray County Sheriff's Office 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 Gray County Treasurer. 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 Gray County Treasurer or the Gray County Sheriff Office 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 Hearings**

(a) If the Gray County Treasurer 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.

(b) All requests for hearings must be in writing and delivered to the Gray County Treasurer within fourteen (14) days upon Notice to Applicant or permit holder

during normal working hours of Monday through Friday from 8am – 5pm or by mailing the request to the Gray County Treasurer at 205 N. Russell Pampa Texas 79065. If mailed, the request must be postmarked no later than the 14th day after notice was received by applicant or permit holder. The “mailbox rule” is not applicable to this procedure. The Applicant waives the right to hearing if the request is not timely received by the Office of the Gray County Treasurer.

(c) The hearing shall be held within twenty one (21) days of the receipt of request for a hearing. The Applicant or permit holder and the Gray County Treasurer shall be provided an opportunity to present evidence, cross-examine witnesses, and be represented by legal counsel. The formal rules of evidence do not apply.

(d) It shall be the responsibility of the Applicant or permit holder to provide a court reporter and an interpreter, if necessary, for the hearing before the hearing examiner.

(e) The Applicant or permit holder shall be present in person at the hearing. If the Applicant or permit holder is not present in person at the hearing, his or her Game Room permit shall automatically be denied or revoked.

(f) The 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.

(g) 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.

(h) 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.

(i) 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 or revocation, an Applicant may reapply for a Game Room permit after the expiration of one hundred and eighty days (180) from the date of the final ruling.

(d) 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 Office of the Gray County Treasurer and paying the applicable fee set forth in these Regulations. A renewal application shall be subject to the same requirements in these Regulations as are required for a permit application. As long as the completed renewal application was submitted within this sixty (60) day period, the previous permit will remain in effect until the Gray County Treasurer 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 as established by Commissioners Court. The permit fees shall be paid in person to the Office of the Gray County Treasurer upon application renewal. A receipt of payment and of renewal application submission will be hand delivered or sent by certified mail to the Owner within fourteen (14) days of the receipt of the non-refundable fee.

## **2.7 Contents of a Game Room Permit**

When the application process is complete and the proposed Game Room has met all the requirements set forth in these Regulations, the Gray County Treasurer 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 Gray County Treasurer. 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 Gray County Treasurer shall keep an original signed copy of the permit for the Administrator's records.

## **2.8 Penalty for Operating without a Game Room Permit**

(a) A Person that Operates a Game Room without first paying the fee and securing a Game Room permit, or who Operates a Game Room after the permit therefore has been revoked or suspended, shall be assessed a civil penalty not to exceed \$10,000 per violation. Each day a violation occurs or continues to occur is considered a separate violation.

(b) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.

(c) A violation of Section 2 of these Regulations is grounds for denial, suspension, or revocation of a Game Room permit.

## **2.9 Effect**

Each Applicant, Owner, Operator, employee, agent and/or any other individual acting for, or acting on behalf of a Game Room must meet and comply with all

requirements of all applicable law(s). The issuance of a permit under these Regulations shall not excuse any Owner, Operator, employee, agent, and/or any other individual acting for, or acting on behalf of a Game Room, or any patrons of such premises from compliance with such law(s) or regulation(s).

## **SECTION 3. GAME ROOMS**

### **3.1 Inspection by a Peace Officer**

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

(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(a) (1)-(2) located in the Game Room—or by any other means—is subject to inspection by any Peace Officer, Fire Safety Official, and designated County Employees and is a Game Room under these Regulations.

(1) Refusal to allow any Peace Officer, Fire Safety Official, and designated County Employees 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.** Any Peace Officer, Fire Safety Official and designated County Employees may inspect a permitted Game Rooms located within their jurisdiction to determine whether the Game Room is in compliance with these Regulations.

(d) **Consent to Entry.** A Person who does not allow a Peace Officer, Fire Safety Official, or designated County Employee to inspect a Game Room commits an offense. If a Person Operates a Game Room in violation of this Subsection, then they shall be assessed a civil penalty not to exceed \$10,000 per violation. Each Peace Officer, Fire Safety Official, and Designated County Employee denied entry is considered a separate violation. Each day a violation occurs or continues to occur being considered a separate violation.

(e) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.

(f) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

### **3.2 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:

(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) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each outside door not marked is considered a separate violation. Each day a violation occurs or continues to occur is considered a separate violation.

(d) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.

(e) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

(f) 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"x5" 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.

### **3.3 Fire and Life Safety**

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

(b) A Game Room shall provide 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 or regular locks to prevent entry during business hours.

(f) 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.

(g) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.

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

### **3.4 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 meeting the criteria set forth in Subsection (c), allowing a clear and unobstructed view of all machines described in Subsection 1.4(a) (1)-(2) 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(a) (1)-(2) in a Game Room unless the required transparent walls or windows of the Game Room:

(1) at least two (2) windows of the Game Room, and each machine described in Subsection 1.4(a) (1)-(2) 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(a) (1)-(2) located in a Game Room, or the interior of the location from a sidewalk through a Game Room window or door.

(f) 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.

(g) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.

(h) A Game Room that has been issued an exemption pursuant to Subsection 3.13 of these Regulations is exempt from the Game Room windows requirements.

(i) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

### **3.5 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 8 a.m. and 10 p.m. Central Standard Time, Monday through Saturday.

(c) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each hour of a day that a Game Room is operating during prohibited hours in violation of these Regulations is a separate violation.

(d) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.

(e) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

### **3.6 Display of a Game Room Permit**

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

(b) A Game Room shall post or display a current Game Room permit in plain sight in a common area accessible to the public without having to enter into a controlled area of the business.

(c) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each day a violation occurs or continues to occur is considered a separate violation.

(d) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.

(e) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

### **3.7 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; and

(3) a copy of the Gray County and State of Texas tax record forms detailing each machine found on the premises of the Game Room by identifying the machine by name of manufacturer, serial number, type of machine, the serial number of the State of Texas Tax stamp to include the year of expiration of each tax stamp required, the Gray County Occupational Tax Permit Decal to include the year of expiration of each tax permit required, and the name of the individual(s), proprietorship(s), corporation(s), association(s), or other legal entity(s) that owns, receive profits from, and has registered the machine in their name with the Texas Comptroller with a brief description of their ownership and financial interest in the machine in a spread sheet format.

(c) A 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.

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

(e) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.

(f) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

### **3.8 Prohibited Employment**

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

(b) It shall be unlawful for any Owner, Operator, employee, agent, and/or any other individual acting for, or acting on behalf of a Game Room to have been previously convicted of, entered a plea of nolo contendere or guilty, or received deferred adjudication for any offense set forth in Subsection 2.2(b) (1).

(c) It is the responsibility of any Owner or Operator to conduct a criminal background check on every Owner, Operator, employee, and/or any other individual acting for, or acting on behalf of a Game Room.

(d) Failure to comply with any of the requirements of this Subsection shall result in a violation and be punishable by a civil penalty assessed against any Owner or Operator not to exceed \$10,000 per violation. Every prohibited Owner, Operator, employee, and/or any individual acting for, or acting on behalf of a Game Room that was convicted of, entered a plea of nolo contendere or guilty, or received deferred adjudication for any offense set forth in Subsection 2.2(b) (1) and/or not subjected to a criminal background check is considered a separate

violation. Each day a violation occurs or continues to occur is considered a separate violation.

(e) An Owner or Operator commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.

(f) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room Permit.

### **3.9 Distancing Restrictions**

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

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

(1) within 1,500 feet from any existing or planned school, regular place of religious worship, or residential neighborhood. “Planned” means that steps have been taken toward the facility’s or structure’s development including but not limited to a permit received, a plat approved, design work started, a bond received, or an order approved by a governmental entity’s governing body; or

(2) within a distance of 2,000 feet from where two (2) or more other Game Rooms are located.

(c) For the purposes of this Subsection, measurements shall be made in a straight line from the nearest portion of the building or appurtenances used by the Game Room to the nearest portion of the building or appurtenances that are used for the purposes identified in Subsection (b) above.

(d) Game Rooms are exempt from these distancing restrictions upon proof that the Applicant continuously owned the building or operated the Game Room at the same location and under the same name prior to April 1, 2021. If the Game Room changes its name, its Owner, and/or adds another Owner after this date, or if its permit was suspended or revoked, or its permit was denied renewal, or if the permit is allowed to lapse, then the Game Room will be considered a new Game Room and not exempt from the distancing requirements. All applications claiming

a distance exemption under this Subsection must have been submitted on or before April 30, 2021.

(e) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each day a violation occurs or continues to occur is considered a separate violation.

(f) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.

(g) The following Game Rooms are exempt from the distancing requirements set forth in this Subsection:

(1) Game Rooms that meet the requirements of Subsection 3.13(c) below;  
and

(2) Game Rooms that meet the requirements of Subsection 3.9(d) above.

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

### **3.10 Game Room Memberships**

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

(b) Game Room memberships are prohibited for any purpose.

(c) A Game Room shall not restrict entry to a Game Room and/or prohibit the participation in any activity inside a Game Room by a patron through the requirement of a Game Room membership.

(d) Game Rooms shall not issue membership cards to any individual for any purpose.

(e) 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.

(f) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each person denied

entry is considered a separate violation. Each membership card issued is considered a separate violation. Each individual subjected to any check in procedure prior to entering or before exiting a Game Room is considered a separate violation. Each day a violation occurs or continues to occur is considered a separate violation.

(g) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.

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

### **3.11 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 decal from the Gray County Treasurer and State of Texas for each Machine described in Subsection 1.4(a) (1)-(2) located in the Game Room.

(1) The annual fee to be paid to the Gray County Treasurer will be twenty five (25) percent of the State's annual fee per machine.

(2) All Machine tax permit applications are required to indicate the location on the application where the Machines described in Subsection 1.4(a) (1)-(2) are physically located.

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

(c) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each machine described in Subsection 1.4(a) (1)-(2) located in the Game Room that is not registered with a valid current year occupational tax permit decal from Gray County and the State of Texas prominently displayed on each machine will be considered a separate violation. Each day a violation occurs or continues to occur is considered a separate violation.

(d) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.

(e) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room permit.

### **3.12 Illegal Machines**

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

(b) Additionally, a civil penalty not to exceed \$10,000 shall be placed on a Person who operates a Game Room for any machine described in Subsection 1.4(a) (1)-(2) located in the Game Room that is being used and/or has been used for illegal gambling.

(c) If a law enforcement agency determines through an investigation(s) that a Game Room was in operation violating Chapter 47 of the Texas Penal Code, then every machine described in Subsection 1.4(a) (1)-(2) located in the Game Room shall be considered in violation of this Subsection. A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each day a violation occurs or continues to occur is considered a separate violation

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

(e) An individual's compliance with these Regulations, including Operating a Game Room under a permit issued pursuant to these Regulations, is not a defense to prosecution for an offense under Chapter 47 of the Texas Penal Code.

### **3.13 Owners of an Illegal Game Room**

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

### **3.14 Injunction and Civil Penalty**

The District Attorney or its Agent is authorized to sue in district court for an injunction to prohibit the violation or threatened violation of these Regulations adopted under Section 234.133 of the Local Government Code. The County is entitled to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, including reasonable attorney's fees, court costs, mediation fees, and investigatory costs. This civil remedy is cumulative of all other remedies available to Gray County.

## **SECTION 4. FINANCIAL REQUIREMENTS**

### **4.1 Records**

(a) Each game room must have only one financial institution of record. All outgoing 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 the Gray County Treasurer within fifteen business days.

(c) Each game room is only allowed to have one bank of choice at any given time.

(1) Exception: during the transfer period as long as both banking institutions are listed there may be a one hundred twenty day period to close one banking institution while the new bank of choice is being opened.

(d) A person who operates a game room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each machine describe in Subsection 1.4(a) (1)-(2) located in the game room that is not registered with a valid current year occupational tax permit decal from Gray County and the State of Texas prominently displayed on each machine will be considered a separate violation Each day a violation occurs or continues to occur is considered a separate violation.

(e) A person commits a Class A misdemeanor offense if they intentionally or knowingly operate a game room in violation of this Subsection.

(f) Any violation of this Subsection is grounds for denial, revocation, or suspension of a game room permit.

## **SECTION 5. CUMULATIVE EFFECT OF REGULATIONS; SEVERABILITY; SUSPENSION OF REGULATIONS**

### **5.1 Cumulative Effect**

Authority under these Regulations is cumulative of other authority that Gray County and its incorporated municipalities have, 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 in force as law.

### **5.3 Non-Profit Organization Clause**

The Gray County Commissioners Court reserves the right to suspend a portion or all of these Regulations for any Non-Profit Organization upon written request, public testimony and an affirmative majority vote of the Gray County Commissioners Court.