



**ZONING AMENDMENT
STAFF REPORT**

City Council Meeting Date: December 14, 2021 **Council District:** ALL

Zoning Commission Recommendation:
Denial by a vote of 6-3

Opposition: None
Support: None

Continued Yes No
Case Manager Sevanne Steiner
Council Initiated Yes No

Owner / Applicant: **City of Fort Worth Development Services Department**

Site Location: Citywide

Proposed Change: An ordinance amending the Zoning Ordinance of the City of Fort Worth, to amend Articles 8 and 12 of Chapter 4, "District Regulations," specifically Section 4.803, "Nonresidential District Use Table" and Section 4.1203, "Form-Based District Use Table" to remove "Gambling Facility" as an allowed use.

Request: **TEXT AMENDMENT: AMEND USE CHARTS AND INDEX**

Background:
Gambling is regulated by state and federal laws. The Texas Constitution (Article 3, Section 47) prohibits most forms of gambling. The Texas Penal Code, Chapter 47, defines a bet as agreeing to win or lose something of value based solely or partially on chance. This encompasses many different forms of gambling including cards, table games, betting on sports games, horse and dog races, slot machines, lottery, and scratch tickets. One of the exceptions in Texas gambling laws is social gambling. Social gambling normally includes bingo games, auctions for charity, and private card games. However, if the "house" takes a cut of the proceeds, they may be in violation of the gambling laws. Under the law, it is a defense to an offense for gambling if the gambling is done in a private place, the only person to receive any economic benefit must be the winner of the bet, and the chances of winning and losing must be even between all participants except for individual skill and luck.

Currently, the City of Fort Worth Zoning Ordinance requires Gambling Facilities, including but not limited to bingo, casinos and poker rooms, to obtain a Conditional Use Permit (CUP), in order for the use to be allowed. Conditional uses are those uses which are generally compatible with the permitted land uses in a given zoning district, but which require individual review of their proposed location, design and configuration, and the imposition of conditions in order to ensure the appropriateness of the use at a particular location. The Zoning Ordinance does not contain supplemental development standards for Gambling Facilities.

It is advisable to amend the Non-Residential and Form-Based District Use Tables in the Zoning Ordinance to clarify that a gambling facility is not an allowed use and to provide that a bingo hall

is an allowed use upon the grant of a conditional use permit. As a result, staff recommends the following amendments:

1. Non-Residential Use Table

- Delete the following: “gambling facility (including bingo)”.
- Replace with “bingo hall” in the list of uses in the category “Entertainment and Eating” in the use table.

2. Form Based Code District Use Table

- Delete the following: “gambling facility (including bingo)”.
- Replace with “bingo hall” in the list of uses in the category “Entertainment and Eating” in the use table.

3. Use Index

- Delete the following: “gambling facility (including bingo)” as a use and its reference language.
- Delete “casino” as a use and its reference language.
- Amend the use “bingo” to read as follows:

“Bingo Hall”

Use	Reference
Bingo <u>Hall</u>	Included in: Gambling facility (including bingo) Bingo Hall ; Listed in: <i>Nonresidential district use table/commercial uses/entertainment and eating and Form-based district use table/entertainment and eating</i>
Casino	Included in: Gambling facility (including bingo); Listed in: Nonresidential district use table/commercial uses/entertainment and eating
Gambling facility (including bingo)	Includes: Bingo, casino; Listed in: Nonresidential district use table/commercial uses/entertainment and eating

Attachments:

- Proposed Ordinance Amendment

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF FORT WORTH, BEING ORDINANCE NO. 21653, AS AMENDED, CODIFIED AS APPENDIX “A” OF THE CODE OF THE CITY OF FORT WORTH (2015), TO AMEND ARTICLES 8 AND 12 RESPECTIVELY OF CHAPTER 4, “DISTRICT REGULATIONS,” SPECIFICALLY SECTION 4.803, “NONRESIDENTIAL DISTRICT USE TABLE” AND SECTION 4.1203, “FORM-BASED DISTRICT USE TABLE” REPLACE “GAMBLING FACILITY (INCLUDING BINGO)” WITH “BINGO HALL” AS AN ALLOWED USE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article 3, Section 47 of the Texas Constitution and Texas Penal Code, Chapter 47 prohibit gambling places with exceptions for organizations authorized to conduct bingo games in accordance with Texas Constitution and Texas Occupations Code, Chapter 2001; and

WHEREAS, the Non-Residential and Form-Based District Use Tables in the Zoning Ordinance include a use category labeled “Gambling Facility (including bingo)” as an allowed use upon the grant of a Conditional Use Permit by the City Council; and

WHEREAS, it is advisable to amend the Non-Residential and Form-Based District Use Tables in the Zoning Ordinance to clarify that a gambling facility is not an allowed use and to provide that a bingo hall is an allowed use upon the grant of a conditional use permit; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS AS FOLLOWS:

SECTION 1.

Article 8 “Non-Residential Use Table”, Section 4.803 Non-Residential District Use Table, of Ordinance No. 21653, the Zoning Ordinance of the City of Fort Worth, is hereby amended to

delete the following: “gambling facility (including bingo)” and replacing with “bingo hall” in the list of uses in the category “Entertainment and Eating” in the use table.

SECTION 2.

Article 12, Section 4.1203, of “Form Based Code District Use Table” of Chapter 4, “District Regulations” of Ordinance No. 21653, the Zoning Ordinance of the City of Fort Worth, is hereby amended to delete the following: “gambling facility (including bingo)” and replacing with “bingo hall” in the list of uses in the category “Entertainment and Eating” in the use table.

SECTION 2.

That Zoning Ordinance, Appendix C, “Use Index” is hereby amended to delete the following: “gambling facility (including bingo)” as a use and its reference language, and delete “casino” as a use and its reference language; and to amend the use “bingo” to read as follows:

“Bingo Hall”

Use	Reference
Bingo <u>Hall</u>	Included in: Gambling facility (including bingo) Bingo Hall ; Listed in: <i>Nonresidential district use table/commercial uses/entertainment and eating</i> <u>and Form-based district use table/entertainment and eating</u>
Casino	Included in: Gambling facility (including bingo); Listed in: Nonresidential district use table/commercial uses/entertainment and eating
Gambling facility (including bingo)	Includes: Bingo, casino; Listed in: Nonresidential district use table/commercial uses/entertainment and eating

SECTION 3.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (2015), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 4.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5.

Any person, firm, or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 6.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of Ordinances No. 3011, 13896, 21653 and any other ordinances affecting zoning which have accrued at the time of the effective date of this ordinance, and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court

or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 7.

The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the caption, penalty clause and effective date of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code.

SECTION 8.

All other provisions of the Zoning Ordinance of the City of Fort Worth not herein amended shall remain in full force and effect.

SECTION 9.

This ordinance shall take effect upon adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

By: _____
Melinda Ramos,
Sr. Assistant City Attorney

City Secretary

ADOPTED: _____

EFFECTIVE: _____