

**To the Mayor and Members of the City Council****August 4, 2020**

Page 1 of 2

SUBJECT: GAME ROOM UPDATE

The City continues to litigate its 2014 game-room ordinances. The district court rendered its judgment in April 2017, both parties appealed and the Second Court of Appeals issued its judgment on October 4, 2018. Among other things, but critical to the City's ability to combat crime in and around game rooms, the district court and court of appeals found that the City was preempted by state law from regulating game rooms through zoning. The City filed a petition for review in the Texas Supreme Court. The Supreme Court issued its opinion, authored by Justice Boyd, and reversed the court of appeals' conclusion that it could not consider the machines' constitutionality and legality and remanded the case to the court of appeals for it to consider that issue.

Importantly, the Supreme Court agreed with the City that if the machines are illegal or unconstitutional, state law would not preempt the City from regulating eight-liners. From the opinion: "We hold the court of appeals erred by concluding that the issue whether the Operators' machines are constitutional and legal is irrelevant to the question whether chapter 2153 preempts the City's ordinances and is therefore non-justiciable. We reverse the court of appeals' judgment and remand the case to that court so that it can address and resolve that issue in the first instance." The court of appeals has asked for briefing on this narrow issue; briefing should be completed in the fall.

A state statute was amended to allow Tarrant County some authority to regulate game rooms. As a result, the County Game Room Regulations were approved last November and became effective on April 1, 2020. Subsequently, Tarrant County and the City entered into an interlocal agreement to establish responsibilities for permitting and enforcement of the Tarrant County Game Room Regulations. Under the agreement, the City processes and approves or denies County game-room permits. The City also has enforcement authority and the ability to inspect through Fort Worth Police and Code Compliance.

Tarrant County Game Room Regulations define game rooms as having six or more gaming machines. The regulations require: certain signage; unlocked doors during hours of operation; uncovered, transparent windows such that the view to the interior is unobstructed; and that hours of operations shall be from 8:00 A.M. until 10:00 P.M. Game rooms may not be located within 1500 feet of schools, places of religious worship, or residential neighborhoods and may not be within 2,000 feet of another game room. There was a one-time opportunity under the regulations to apply for an exemption to the distance requirements for those operators who could prove they existed in good standing prior to October 15, 2019. Operators in violation of the regulations may be arrested for a Class-A Misdemeanor and subject to civil penalties of up to \$10,000.00 a day.

To date, no game-room permits have been issued, however, there have been many applications. Fourteen distance exemptions have been granted, but associated applications have not been completed. There are six appeals pending.

**To the Mayor and Members of the City Council****August 4, 2020**

Page 2 of 2

SUBJECT: GAME ROOM UPDATE

Code and Police are tasked with ensuring compliance with the regulations. The Tarrant County Game Room Regulations took effect while both Departments had tasked their personnel with addressing Covid-19 related issues so minimal attention was spent on Game Rooms. However, over the past few weeks Police and Code have started enforcement of the new County regulations. Officers have inspected 47 Game Rooms since July 22nd, resulting in 48 arrests:

| Division | Inspections | Arrests |
|-----------------|--------------------|----------------|
| Central | 12 | 4 |
| East | 11 | 10 |
| North | 3 | 4 |
| Northwest | 13 | 20 |
| South | 5 | 9 |
| West | 3 | 1 |

If you have any questions concerning this information, please contact Senior Attorney Chris Mosley or Chief Ed Kraus.

David Cooke
City Manager