



INFORMATION MEMORANDUM

TO: Mayor and City Council

THROUGH: Ben Williamson, City Manager

FROM: Marcos Narvaez, Deputy Director of Planning

DATE: May 7, 2024

SUBJECT: Conduct a public hearing and consider adopting Ordinance No. 3858 amending the Comprehensive Zoning Ordinance (CZO) related to Card Rooms.

Background:

The proposed amendments to the Comprehensive Zoning Ordinance (CZO) are a City-led initiative for the creation of a new and unlisted use termed "Card Room." This includes defining the use, setting special performance standards, as well as establishing parking and loading regulations. The CZO does not include "Card Room" in its Use Table under Section 2.4.C. Since the CZO states that any use not listed within its charts is prohibited, any property in the City intended for use as a card room requires an amendment to authorize this land use. The request to amend the Use Table originated from Mr. Douglas Polk, who was prompted by the staff's identification of this unlisted use. Although Mr. Polk applied for a text amendment, the case is being treated as a "city-initiated" amendment. This approach acknowledges the opportunity to address this matter for future applicants with similar requests.

Sections 2.4.A. and 6.3.B. of the CZO outline the process for adding a new or unlisted use through a text amendment to the CZO. Through this process, the Commission and Council shall consider the nature of the proposed new use, its compatibility with the City's zoning districts, and the district or districts where it should be allowed or permitted by Specific Use Permit (SUP).

Card rooms typically refer to establishments where individuals can play various forms of poker, such as *Texas Hold 'em*, *Omaha*, and *Seven Card Stud*, for stakes. Although card rooms are present in the Dallas-Fort Worth (DFW) metroplex, none are situated within Farmers Branch. Card rooms often feature tables for cash games and tournaments, with varying buy-in amounts and prize pools. They may also offer amenities like food and beverage service, comfortable seating, and

entertainment options to enhance the player experience. These rooms may operate within the confines of state gambling laws, which often prohibit traditional casino-style gambling but allow certain forms of poker under specific conditions.

Texas Penal Code, Chapter 47 "Gambling." Specifically, Section 47.04, "Keeping of a Gambling Place." Under this section, it is an affirmative defense to prosecution that:

1. *The gambling occurred in a private place;*
2. *No person received any economic benefit other than personal winnings and*
3. *Except for the advantage of skill or luck, the risks of losing and the chances of winning were the same for all participants.*

Texas Penal Code, Chapter 47 defines a "private place" as one that the public cannot access.

The legality and regulation of gambling can differ based on how municipalities interpret Texas gambling laws in local ordinances. To navigate these complexities, card rooms often function as membership clubs or private venues, ensuring compliance with gambling regulations while offering a venue for poker enthusiasts. They provide a social and recreational space for individuals to play poker while adhering to relevant laws and regulations.

Proposed Use and Definition:

The attached draft ordinance includes the following definition:

Card Room - A privately owned, profit-oriented enterprise located within a structure or premises housing one or more card tables at which members play card games.

Card Game - A card-based activity characterized by the following criteria:

- 1) An individual, identified as a member of a card room, who is physically present within the confines of said card room, engages in the act of wagering predicated upon the highest or lowest ranking arrangement of cards within their possession, or a combination thereof;
- 2) Each participating member is afforded the prospect of accruing personal winnings from the proceedings;
- 3) With the exception of disparities arising from differences in skill or fortuity, the hazards of loss and the prospects of gain remain equitable among all participating members.

Card Table - A recreational table used by members of a card room for participation in live card game sessions; but expressly excluding tables facilitating video, mechanical, electronic, or online renditions of card games.

Zoning Districts:

Staff researched nearby cities to explore appropriate zoning districts for a card room and compared these findings with the existing zoning districts and their intended purposes within the CZO. Staff reviewed the following districts:

Entertainment Overlay District (EOD): is to allow for the development of property as destination venues that will be used to promote a vibrant and active East Side, thereby providing residents and employees opportunities to socialize and be entertained within the City.

The EOD is designed to encourage economic development through infill and redevelopment of underutilized properties and adaptive reuse of existing buildings to assist in the ongoing revitalization efforts.

The balance of land uses for working, living, shopping, and entertainment will increase quality of life for residents of Farmers Branch and create a unique identity for the East Side.

Based on the above definition, if a card room use is added to the CZO, staff recommends that the proposed use only be permitted with the approval of a Specific Use Permit (SUP) within the EOD. The EOD district allows various use types, including those focused on socializing and entertainment.

Requiring a SUP can effectively align the proposed use with the City's goals and regulations. This ensures that the site design, building size, amenities, and access meet the community's needs. During the SUP application process, the City evaluates traffic patterns, congestion, parking requirements, environmental impacts, public engagement, and economic factors. This informed decision-making process helps developers address these concerns and mitigate adverse effects on the surrounding area. In addition, the proposed use must be compatible with neighboring sites and the Comprehensive Plan's current and future development objectives.

The attached draft ordinance includes the following under the Use Table:

Use	R-1	R-2	R-3	R-4	R-5	R-6	D-1	D-2	MF-1	MF-2	MF-3	MF-4	I-RU	O	LR-1	LR-2	C	LI	HI	Use Stds
	KEY: X=Permitted S=Specific Use Permit Required T=Temporary Blank Cell=Use Not Permitted																			
	Retail and Service Type Uses																			
Card Room	Entertainment Overlay District Only with Specific Use Permit																			2.5

Parking Requirements and Traffic Impacts: Staff recommends the following parking standards for card room use.

Use	Minimum Parking Spaces Required
Card Room	One space per 400 square feet (sf) GFA

Assessing parking availability, reconfiguring existing parking spaces, and ensuring proper accessibility for card room visitors and employees, including complying with disability access, is needed. Whether the site is new or existing, adequate parking must be provided to accommodate the increased traffic expected in a card room setting.

A Traffic Impact Analysis (TIA) is essential for assessing how a particular use might affect local traffic and transportation systems. These establishments, especially during events, can draw significant numbers of visitors, potentially leading to congestion, parking issues, and decreased quality of life for nearby residents and businesses. Conducting a TIA may be required for card room developments as it offers insights into traffic impacts, guides the design and implementation of measures to improve safety, reduce congestion, and facilitate efficient movement for all road users in the area.

Special Performance Standards:

Special performance standards enable the City to regulate land uses effectively to achieve desired outcomes, protect public health and safety, preserve community character, and promote sustainable development. They offer a framework for responsible growth, ensuring land uses align with the community's values, needs, and goals. For a card room, the design, location, and use of the property must comply with the following development standards in addition to those of the base zoning district:

Development Standards: The design, location, and use of property for a Card Room shall comply with the following development standards in addition to the standards of the base zoning district in which such property is located:

1. Card games shall be conducted within the confines of a private venue inaccessible to the general public;
2. No individual can receive any remuneration, monetary or otherwise, or anything of value for facilitating the conduct of the game except for their own earnings as a participant;
3. No house bank is established;
4. Dealers and/or service staff are not paid by any person with gambling currency (e.g., chips or money in play);
5. The odds of the card games played shall not favor a “house” or any player;
6. A card room shall not be located within 1,000 feet of property on which is located a public or private school or property for which a specific use permit has been previously granted for development and use of a card room;
7. Should an established card room cease operations, alter its name, or undergo a change in ownership, a Special Use Permit (SUP) shall be required to re-establish the operations.
8. City law enforcement personnel, fire marshal, and chief building official reserve the right, during business hours and at other reasonable times, to conduct inspections of the premises of each card room establishment to ascertain compliance with this ordinance. Failure to grant access for such inspections constitutes grounds for the revocation of a SUP by the aforementioned City representatives.

Permit Required: No person shall operate a card room located within the City without first obtaining a Card Room Operation Permit. Permit applications shall be made on an annual basis on a form provided by the City and shall contain the following information or be accompanied by the following:

- a. The address of the property on which the Card Room will be operating pursuant to the permit;
- b. The name, address, phone number, and email address of the owner of the Card Room;
- c. If different than (3), the name, address, phone number, and email address of the person who will be operating the Card Room during the operating hours and at the location identified in the application;
- d. The permit application fee set forth in Appendix A of this Code;
- e. The application for renewal of a Card Room Operation Permit shall be made by December 31st of each year;
- f. All felony and misdemeanor convictions and deferred adjudications, except for class C traffic offenses, of the applicant and of the local agent and manager of the Card Room, except for deferred adjudications when a court has issued an order of nondisclosure; and
- g. The signed statement of the applicant affirming under penalty of perjury, attesting to the truth and accuracy of the information provided, including each document attached to the application;

Revocation: A Card Room Operation Permit shall be subject to revocation for the following reasons:

1. Failure to comply with the requirements of this Section 2.5.H and/or the provisions of the ordinance granting the specific use permit authorizing the use of the property for a Card Room;
2. Operation of the Card Room in a manner which violates other applicable law; or
3. Any condition which would make the applicant, operator, or local agent ineligible to receive a Card Room Operation Permit, including, without limitation, conviction of any offense set forth in Chapter 34, 47, or 71 of the Texas Penal Code.

Comprehensive Plan Recommendation:

The 2045 Comprehensive Plan does address the industrial area on the East side as an older area that will largely remain industrial. There are opportunities for creative reuse, such as that envisioned with the creation of the Entertainment Overlay District.

In October 2020, the City Council adopted an ordinance creating an “Entertainment Overlay District” within the City’s East Side. The purpose of the Entertainment Overlay District is to allow destination-oriented venues to promote a vibrant and active East Side, thereby providing residents and employees with opportunities for socialization and entertainment.

This district is anticipated to encourage economic development by infilling and redeveloping underutilized properties and adaptive reuse of existing buildings, assisting in ongoing revitalization efforts.

Public Response:

Notice of this request and the Planning and Zoning Commission public hearing was posted in the Dallas Morning News on March 29, 2024. Notice of the City Council public hearing was posted in the Dallas Morning News on April 19, 2024. In addition, 952 notification letters were mailed to all property owners within the Entertainment Overlay District (EOD) and all surrounding properties within 200 feet. Several zoning notification signs were also placed in the EOD area.

As of the writing of this report, no written correspondence has been received by the City. At the Planning & Zoning Commission hearing on April 8, 2024, 13 attendees spoke in opposition to this request, and one attendee spoke in support of this request.

Recommendation:

On April 8, 2024, the Planning and Zoning Commission considered this request and unanimously recommended denial of this request. Staff has drafted an ordinance for potential use if the City Council opts to include card rooms in the Use Table. This ensures a careful decision-making process, guaranteeing that any future card room development aligns with the City's objectives, priorities, and resident needs.