

ORDINANCE NO. 2015-1176

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS, PROVIDING FOR AMENDMENTS TO THE ZONING ORDINANCE OF THE CITY OF THE CITY OF FULSHEAR, TEXAS, TO PROVIDE FOR AN ADDITION OF A DEFINITION FOR "GAMING ESTABLISHMENT"; CHANGES TO THE USES PERMITTED BY RIGHT IN THE COMMERCIAL DISTRICT AND INDUSTRIAL DISTRICT; AND REGULATIONS FOR GAMING ESTABLISHMENTS; PROVIDING A PENALTY; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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WHEREAS, the City Council of the City of Fulshear, Texas, ("City") is authorized by Chapter 211 of the Texas Local Government Code to promulgate rules and regulations governing land use, structures, businesses and related activities; and

WHEREAS, the City Council further finds that the rules and regulations governing land use, structures, businesses, and related activities promotes the health, safety, morals and general welfare of the City; and

WHEREAS, the City Council further finds that changes to the zoning ordinance are in the best interests of the City; and

WHEREAS, the Texas Local Government Code requires a public hearing on the proposed zoning text amendment to hear any and all person desiring to be heard ;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The facts and recitations found in the preamble are hereby found to be true and correct and are incorporated for all purposes.

Section 2. A new definition is added to section 1-72 to read as follows:

"Gaming establishment means an establishment wherein one or more gaming machines, as defined as any machine when such machine or machines dispense or are used or are capable of being used to dispense a representation of value where such representation of value is redeemable for noncash merchandise prizes, toys or novelties that have a wholesale value from a single play of the game or device of not more than ten times the amount charged to play the game or device once, or \$5.00, whichever is less, are operational.

Section 3. Section 1-188(b) is hereby replaced with a new subsection (b) to read as follows:

"(b) Uses permitted by right. In the Commercial (C) District, no building or land shall be used and no building erected except for one (1) or more of the following specified uses, unless otherwise provided in this division:

- (1) Safety services;
- (2) Parks and recreation;
- (3) Retail;
- (4) Convenience retail;
- (5) Office;
- (6) Day care center
- (7) Place of Worship;
- (8) Art gallery or museum; and
- (9) Thrift shops or secondhand stores."

Section 4. Section 1-189(d) is hereby replaced and a new subsection (d) is added to read as follows:

"Uses permitted by right. In the Industrial (I) District, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this division:

- (1) Pawn shops;
- (2) Automobile display or sales, repair garage, tire or seat cover shop;
- (3) Blacksmithing;
- (4) Carpentry, painting, plumbing, or tin smithing shop (including contractor's shop or storage);
- (5) Ceramic or pottery manufacture - with dust, odor, and fume control;
- (6) Manufacturing of saddles, other leather products, jewelry, draperies or interior decorations;
- (7) Radio or television broadcasting stations or studios with on-site towers;

- (8) Textile manufacturing;
- (9) Wholesale distribution and warehousing- no outside storage;
- (10) Woodworking or planning mill - with dust, odor, and fume control;
- (11) Accessory buildings and uses customarily associated with any of the above establishments to which they refer, except that they shall not be placed within any required setback; and
- (12) Outdoor storage, mini-storage, self-storage, or facilities requiring the storage of goods or equipment outside (e.g. truck or van rentals, heavy equipment rentals, outdoor nurseries, etc.).
- (13) Gaming establishments.”

Section 5.

A new Section 1-230 is added to read as follows:

“Section 1-230. Gaming establishments.

- (a) A Gaming establishment may not be located on a site that is:
 - (1) Within 1,000 feet of a site that contains another gaming establishment;
 - (2) Within 200 feet of a property in a district in which a residential use is allowed or located;
 - (3) Within 300 feet of a church, school, or hospital;
 - (4) Within 500 feet of the right of way of FM 359; or
 - (5) Within the Residential acreage (R1), Residential lots (R2), Multi-family (MF), Community Facilities (CF), Commerical District (C), Downtown District (DD), or Manufactured Housing (MH) District.
- (b) A Gaming establishment may only be located within a freestanding structure and may not be co-located in the same structure with other uses.”

Section 6. The table in Section 1-196 (Land use categories table) of the Fulshear Zoning Code is amended to add the Gaming establishment use and to indicate that the Gaming establishment use is permitted in the Industrial (I) District. The table in Section 1-196 is further amended to indicate that automobile sales are no longer permitted in the Commercial (C) District, but are permitted in the Industrial (I) District.

Section 7. Penalty. Any person who violates or causes, allows, or permits another to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Two Thousand Dollars (\$2000.00). Each occurrence of any such violation of this Ordinance shall constitute a separate offense. Each day on which any such violation of this Ordinance occurs shall constitute a separate offense.

Section 8. Repeal. Any ordinance or any part of an ordinance in conflict herewith shall be and is hereby repealed only to the extent of such conflict.

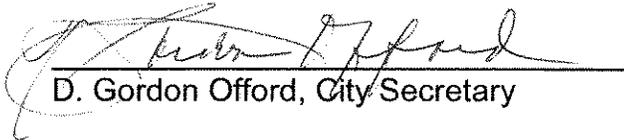
Section 9. Severability. In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional, the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 10. Effective date. This Ordinance shall be effective after being published as required by law.

PASSED, APPROVED, and ADOPTED on the 17th day of February,
2015.


Thomas C. Kuykendall, Jr., Mayor

ATTEST:


D. Gordon Offord, City Secretary



CITY OF FULSHEAR

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February 13, 2015

Mayor Thomas C. Kuykendall, Jr.
City of Fulshear
PO 279
Fulshear, Texas 77441

Dear Mayor Kuykendall,

This letter comes to serve as the Planning and Zoning Commission's report to the City Council regarding its Public Hearing and action on the proposed amendment to the Zoning Ordinance. The Commission held a Public Hearing on Friday February 13, 2015. There were no comments received from the public on this issue. Later the Commission took action to approve unanimously the changes proposed.

Please feel free to contact me should you require any additional information. Thank you for your consideration.

Sincerely,

Derek Einkauf
Chair
City of Fulshear, Planning and Zoning Commission