



Hot Topics in Land Use

UT Land Use Law Conference - 2022

Hot Topic Overview

- Poker Rooms and Gambling
- Notice Requirements
- Short Term Rentals
- Single Family For Rent Developments
- Light Industrial Developments

Poker Rooms and Gambling



Texas Penal Code – Sec. 47.02 - Gambling



(a) A person commits an offense if he:

- (1) makes a bet on the partial or final result of a game or contest or on the performance of a participant in a game or contest;
- (2) makes a bet on the result of any political nomination, appointment, or election or on the degree of success of any nominee, appointee, or candidate;
- (3) plays and bets for money or other thing of value at any game played with cards, dice, balls, or any other gambling device.

(b) It is a defense to prosecution under this section that:

- (1) the actor engaged in gambling 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.



Private Place

- The Code defines “Private Place” at Section 47.01(8):
 - *"Private place" means a place to which the public does not have access, and excludes, among other places, streets, highways, restaurants, taverns, nightclubs, schools, hospitals, and the common areas of apartment houses, hotels, motels, office buildings, transportation facilities, and shops.*
- How is this being implemented?
 - Membership only
 - Physical Barrier to entry



Economic Benefit

- Not defined in the Code
- Case Law
 - *Gaudio v. State*, No. 05-91-01862-CR, 1994 WL 67733 (Tex. App.—Dallas, March 7, 1994, writ ref'd)
 - *Winnings were used to pay apartment rent*
 - *Miller v. State*, 874 S.W. 2d 908 (Tex. App.—Houston (1st Dist.), 1994, pet. denied)
 - *Profits were split between owner and investor; odds favored the house*
- How is this being implemented?
 - No rake to the house
 - Membership and daily usage fees
 - Tips?

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