

## ORDINANCE NO. 22-04

**AN ORDINANCE OF THE CITY OF WEBSTER, TEXAS AMENDING THE CODE OF ORDINANCES, CHAPTER 98 (ZONING) TO REGULATE POKER CLUBS WITHIN THE CITY OF WEBSTER, TEXAS, FINDING THAT ALL PROPER NOTICES HAVE BEEN GIVEN AND PUBLIC HEARINGS HELD; REPEALING INCONSISTENT ORDINANCES; CONTAINING A SAVINGS CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.**

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**WHEREAS**, the City of Webster has recently experienced an increase in the number of poker clubs operating within the city; and

**WHEREAS**, the City of Webster Code of Ordinances Chapter 98 (Zoning) does not adequately or specifically address poker clubs; and

**WHEREAS**, there will be limitations implemented to address the areas where a poker club will be permitted to operate within the City; and

**WHEREAS**, a definition of a poker club has been provided in order to operate within the City; and

**WHEREAS**, provisions for a Special Use Permit process for permitting purposes have been made for a poker club seeking to operate in the City of Webster; and

**WHEREAS**, regulatory provisions have been made regarding the location restrictions of a poker club to ensure that it is not located within 2,000 feet of a Public School or an established poker club; and

**WHEREAS**, it is now the desire of the Mayor and City Council to amend the City of Webster, Texas Code of Ordinances as detailed below:

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

**SECTION 1:** That Chapter 98, (Zoning), of the Code of Ordinances, City of Webster, Texas, is hereby amended as follows:

**Sec. 98-4. - Definitions.**

**Poker club** means a private for-profit business located in a building or place that contains one or more gaming tables.

**Poker club, operator** means an individual who operates a cash register, cash drawer, or other depository on the premises of a poker club or of a business at which is kept the money earned, or any credit card or other transaction records generated, from the operation of and activities conducted in a poker club.

***Poker club, owner*** means a person who: (a) has ownership interest in, or receives the profits from, a poker club; (b) is a partner, director, or officer of a business, including a company or corporation, that has an interest in a poker club; (c) is a shareholder who holds more than 10 percent of the outstanding shares of a business, including a company or corporation, that has an ownership interest in a poker club.

***Poker game*** means a card game in which: (a) a member of a poker club physically present at the poker club places a bet based on the highest or lowest ranking hand of cards held by the member or on a combination of highest and lowest cards held by the member; (b) each member participating in the game has an opportunity to benefit from personal winnings; (c) except for the advantage of skill or luck, the risks of losing and the chances of winning are the same for all members participating in the game.

***Poker gaming table*** means a recreational table at which members of a poker club participate in a live poker game. The term does not include a table that offers any video, mechanical, electronic, or online version of a poker game.

## ARTICLE IV. - SCHEDULE OF USES

### **Sec. 98-71. - Table of uses.**

**TABLE 1. SCHEDULE OF PERMITTED USES**

**P**—Permitted by right

**S**—Permitted with Special Use Permit only

**PSR**—Permitted, except that a Special Use Permit is required when the subject property is within 200 feet of a lot which is used or zoned for residential purposes.

**S2+**—Permitted with special use permit only. Second floor and above only.

Permitted uses in a Planned Development (PD) district shall be identified in the ordinance that establishes that particular district.

(1) See section 98-72 for specific distance separation requirements.

Uses	Districts									
	R-1	R-1A	R-2	O	C-1	C-2	C-3	M-1	M-2	NP
<b>Poker Club</b>							S			

**Sec. 98-72. - Specific use requirements.**

***LOCATION RESTRICTIONS:*** The following distance separation requirements shall be measured in a straight line in all directions from the building; unless the existing use is located in a multi-tenant building, then a straight line measurement in all directions shall be measured from the tenant space or in the case of a public school this measurement shall be from the parcel(s) of the school (including play areas).

- (1) *Bail bonds:* A new bail bonds service shall not be located within 2,000 feet from a public school or an established bail bonds service.
- (2) *Credit access business:* A new credit access business shall not be located within 2,000 feet of a public school or an established credit access business.
- (3) *Headshop:* A new headshop shall not be located within 2,000 feet from a public school or an established headshop business.
- (4) *Precious metal dealer (gold exchange):* A new precious metal dealer (gold exchange) shall not be located within 2,000 feet of a public school or an established precious metal dealer.
- (5) *Tattoo shop:* A new tattoo shop business shall not be located within 2,000 feet of a public school or an established tattoo shop.
- (6) *Smoke shop:* A new smoke shop shall not be located within 2,000 feet of a public school or an established smoke shop.
- (7) *Mini-storage lots, enclosed:* Any new mini-storage lots, enclosed, shall not be located within 2,000 feet of an established mini-storage lot, enclosed, establishment. The distance separation shall be calculated from nearest property line of each business measured in a direct line.
- (8) *Massage establishment:* A new massage establishment described by definition contained in Sec. 98-4, shall not be located within 2,000-feet from a public school or an established massage business:

a. *Additional services.* Any existing business or establishment pursuing the addition of services to perform massages shall comply with the 2,000-foot distance separation requirement from a public school or an established massage business.

b. *Licensee.* The person to whom a license has been issued to own or operate a massage establishment as defined herein.

1. Massage therapist. An individual who holds a valid license issued by the State of Texas to practice or perform massage therapy. All massage therapists must have a valid license issued by the State of Texas.

c. *Inspection.* City law enforcement personnel, fire marshal and chief building official during business hours and at other reasonable times to ensure compliance with this ordinance, may inspect the premises of each massage establishment. The refusal to permit such an inspection shall be sufficient reason for revocation of a massage establishment license by the aforementioned city representatives.

d. *Revocation.* Any massage establishment which has been issued a special use permit under this article may be revoked by the city manager or his/her designee for a violation of this chapter, any ordinance of the city, or any law of the state.

e. *Nontransferable permits.* No person shall operate a massage establishment under the authority of an approved special use permit by the mayor and city council at any place other than the address of the massage establishment stated in the application for the special use permit.

(9) **Poker club:** A new poker club described by definition contained in sec. 98-4, shall not be located within 2,000-feet from a public school or an established poker club:

(a) **Additional restrictions.** In the event an existing Poker Club ceases to operate, changes the name, or changes ownership, a Special Use Permit will be required to re-establish the operations under this article.

**SECTION 2:** It is hereby found and declared that the City has complied with all of the statutory requirements concerning notice of the proposed amendment.

**SECTION 3:** If any provisions, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void, or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances and to this end all provisions of this ordinance are declared to be severable.

**SECTION 4:** All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

**SECTION 5:** This Ordinance shall become effective after its approval and adoption upon second and final reading

**PASSED AND APPROVED ON** first reading this 7<sup>th</sup> day of June 2022.

**PASSED, APPROVED AND ADOPTED** on the second and final reading this 21<sup>st</sup> day of June 2022.

CITY OF WEBSTER, TEXAS

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Donna Rogers  
Mayor

ATTEST:

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Michael Muscarello, TRMC  
City Secretary