

CHAPTER 112: AMUSEMENTS

Section

BILLIARD HALLS

- 112.01 Definition
- 112.02 Location upon First or Ground Floor
- 112.03 Employee's Acts Imputed to Employer
- 112.04 Hours of Operation
- 112.05 View into Hall
- 112.06 Minors
- 112.07 Prohibited Conduct
- 112.08 Revocation
- 112.09 Application for Permit

BINGO HALLS

- 112.10 Definition
- 112.11 Employee's Acts Imputed to Employer
- 112.12 Hours of Operation
- 112.13 Minors
- 112.14 Employment of Felon
- 112.15 Application for Permit
- 112.16 Reserved
- 112.17 Reserved
- 112.18 Reserved
- 112.19 Reserved

DANCE HALLS

- 112.20 Definition
- 112.21 Application for Permit
- 112.22 Issuance of Permit Conditional
- 112.23 Revocation of Permit
- 112.24 Parking
- 112.25 Reserved
- 112.26 Reserved
- 112.27 Reserved
- 112.28 Reserved
- 112.29 Reserved

COMMERCIAL RECREATION GAME ROOM

- 112.30 Definition
- 112.31 Location upon First or Ground Floor
- 112.32 Employee's Acts Imputed to Employer
- 112.33 Prohibited Acts
- 112.34 Hours of Operation
- 112.35 View into Game Room
- 112.36 Use of Premises as a Private Club
- 112.37 Permit Required
- 112.38 Application for Special Use Permit
- 112.39 Revocation of Permit
- 112.40 Parking
- 112.41 Reserved
- 112.42 Reserved
- 112.43 Reserved
- 112.44 Reserved

BARS

- 112.45 Definition
- 112.46 Hours of Operation
- 112.47 Minors
- 112.48 Requirements
- 112.49 Reserved

INTERNET SWEEPSTAKES CAFÉ

- 112.50 Intent
- 112.51 Definitions
- 112.52 Permitted Zoning District
- 112.53 Restrictions on Use of Electronic Devices
- 112.54 Age Restriction
- 112.55 Hours of Operation
- 112.56 Signage

SEXUALLY ORIENTED BUSINESSES/ADULT ESTABLISHMENTS

- 112.60 Purpose
- 112.61 Definitions
- 112.62 Zoning Standards
- 112.63 Licensing Requirements
- 112.64 Appeals from Denial or Revocation

BILLIARD HALLS

§ 112.01 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BILLIARD HALL. A place of amusement where the chief purpose is providing the use of billiard/pool tables to the public for a fee. (See exception, §112.30, Commercial Recreation Game Room.) ('81 Code, §3-16)

§ 112.02 LOCATION UPON FIRST OR GROUND FLOOR.

No billiard hall in the Town shall be located upon any floor of a building other than the first or ground floor. ('81 Code, §3-17) Penalty, see §10.99

§ 112.03 EMPLOYEE'S ACTS IMPUTED TO EMPLOYER.

The acts and conduct of the agents and employees of the operator of a billiard hall shall be deemed the acts and conduct of the operator. ('81 Code, § 3-18)

There must be an adult (18 years of age or older) managing and supervising the business on the premises at all times during hours of operation.

§ 112.04 HOURS OF OPERATION.

All places where billiard tables or pool tables are maintained for public use shall remain closed every day between the hours of 2:00 a.m. and 7:00 a.m. ('81 Code, § 3-19) Penalty, see §10.99

§ 112.05 VIEW INTO HALL.

All billiard halls must have clear windows; it shall be unlawful for the operator thereof or for any employee of the operator to permit any screen or other obstructions to be so placed in a manner as to prevent the interior of the billiard hall from being plainly visible from the street-front. ('81 Code, § 3-20) Penalty, see § 10.99

However, window lettering or decaling may be permissible if the establishment contains two or more clear views into the billiard hall. This type of decoration is permissible on one window for each establishment, provided it does not obscure more than 25% of gross window area.

§ 112.06 MINORS.

No person under the age of sixteen years shall be permitted to play at any game or lounge about or in any public billiard hall or pool hall, unless accompanied by his parent or legal guardian. ('81 Code, §3-21) Penalty, see §10.99

No owner, proprietor or operator of any such establishment shall permit a violation of the foregoing section within his establishment.

§ 112.07 PROHIBITED CONDUCT.

No owner or operator of a billiard hall, nor his or her employees, shall:

- (A) Suffer or permit any gambling on the licensed premises at any time;
- (B) Suffer or permit the licensed premises to become disorderly, or permit any profane, obscene or indecent language thereon;
- (C) Allow loitering on the sidewalks or premises

§ 112.08 REVOCATION.

A violation of any law or ordinance by the licensee, owner or operator under this article shall be grounds for revocation of the license and permit by the Board of Commissioners. Prior to revocation of the license and permit, the Board of Commissioners shall hold a hearing, of which reasonable notice shall be given to the licensee. (81' Code, §3-21) See Public Hearing Regs.

§ 112.09 APPLICATION FOR PERMIT.

No person shall operate a Billiard Hall in the corporate limits of the Town without first obtaining a special use permit from the Board of Commissioners. Any person desiring a permit required by the provisions of this subchapter shall file a special use application with the Town Manager.

BINGO HALLS

§ 112.10 DEFINITION.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BINGO HALL. Any room of any description in which Bingo games are played or which include any apparatus or paraphernalia for the playing of Bingo and which is conducted as a public place of business for profit. (Ord. Passed 5-21-96)

§ 112.11 EMPLOYEE’S ACTS IMPUTED TO EMPLOYER.

The acts and conduct of the agents and employees of the operator of a Bingo Hall shall be deemed the acts and conduct of the operator. (Ord. Passed 5-21-96)

§ 112.12 HOURS OF OPERATION.

It shall be unlawful for the operator of a Bingo Hall or for any employee thereof to keep his/her Bingo Hall open, or to operate the Bingo Hall, between the hours of 2:00 a.m. and 7:00 a.m. (Ord. Passed 5-21-96)

§ 112.13 MINORS.

Minors will be allowed within the premises of a Bingo Hall in accordance with the Franklinton Curfew Ordinance, § 130.07. (Ord. Passed 5-21-96)

§ 112.14 EMPLOYMENT OF FELON.

It shall be unlawful for the operator of a Bingo Hall or for any employee thereof to have been convicted of a felony and have not had his/her citizenship restored. (Ord. Passed 5-21-96)

§ 112.15 APPLICATION FOR PERMIT.

No person shall operate a Bingo Hall in the corporate limits of the Town without first obtaining a special use permit from the Board of Commissioners. Any person desiring a permit required by the provisions of this subchapter shall file a special use application with the Town Manager.

§ 112.16 – 112.19 RESERVED.

DANCE HALLS

§ 112.20 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

DANCE HALL. Any hall room or building used in whole or in part for dancing to the music of an orchestra, radio, piano, jukebox, or any other musical instrument, whether mechanical or otherwise, for which a charge is made to those attending, whether the charge is in the form of admission or entrance dues paid to the person conducting the establishment, or whether the charge is a cover charge or proceeds derived from the placing of coins in mechanical instruments. ('81 Code, § 3-36)

§ 112.21 APPLICATION FOR PERMIT.

No person shall operate a Dance Hall in the corporate Limits of the Town without first obtaining a special use permit from the Board of Commissioners. Any person desiring a permit required by the provisions of this subchapter shall file a special use application with the Town Manager.

One time dances or special events shall follow the regulations as stated in the Town of Franklinton Code of Ordinances for Special Events. ('81 Code, § 3-38) (Am. Ord. §97.70)

§ 112.22 ISSUANCE OF PERMIT CONDITIONAL.

No permit shall be issued under the provisions of this subchapter unless satisfactory evidence is presented that the dance in question will be conducted in an orderly manner and in accordance with the provisions of this code and other ordinances of the Town and laws of the State. ('81 Code, § 3-39)

§ 112.23 REVOCATION OF PERMIT.

A permit issued under the provisions of this subchapter maybe revoked by the Town Manager at any time for the violation, by the permittee, of any applicable provision of this code, State law, or Town ordinance, rule or regulation. ('81 Code, § 3.-40)

§ 112.24 PARKING.

The operator of a dance hall shall provide adequate off-street parking for persons attending dances. ('81 Code, § 3-41)

§ 112.25 – 112.29 RESERVED.

COMMERCIAL RECREATION GAME ROOM

§ 112.30 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

COMMERCIAL RECREATION GAME ROOM. Any commercial building where the sole use is conducted as a commercial recreation game room to include no more than three (3) pool tables, age appropriate video and arcade games or which include any apparatus or paraphernalia for the purpose of recreational game play and which is conducted as a public place of business for profit.

§ 112.31 LOCATION UPON FIRST OR GROUND FLOOR.

No commercial recreation game room shall be located upon any floor of a building other than the first or ground floor.

§ 112.32 EMPLOYEE’S ACTS IMPUTED TO EMPLOYER.

The acts and conduct of the agents and employees of the operator of a commercial recreation game room shall be deemed the acts and conduct of the operator.

§ 112.33 PROHIBITED ACTS.

It shall be unlawful for any commercial recreation game room operator or public entering thereof to:

- (A) Sell or serve alcoholic beverages in the game room or on the premise.
- (B) Allow smoking of cigarettes, cigars, pipes or other paraphernalia pertaining to tobacco or other agents in the game room.
- (C) Allow profanity.
- (D) Allow gambling – to play a game for money or property.
- (E) Allow loitering on the sidewalks or premises.

§ 112.34 HOURS OF OPERATION.

It shall be unlawful for the operator of a commercial recreation game room or for any employee thereof to keep his commercial recreation game room open, or to operate the commercial recreation game room, between the hours of 2:00 a.m. and 7:00 a.m.

§ 112.35 VIEW INTO GAME ROOM.

All commercial recreation game rooms must have clear windows; it shall be unlawful for the operator thereof or for any employee of the operator to permit any screens or other obstructions to be so placed in a manner as to prevent the interior of the commercial recreation game room from being plainly visible from the street front.

§ 112.36 USE OF PREMISES AS A PRIVATE CLUB.

In prosecutions under this subchapter, it shall be no defense that the premises where the violation is alleged to have occurred was conducted during prohibited hours as a private club, if at any other time the premises is conducted as a public place of business.

§ 112.37 PERMIT REQUIRED.

No person shall operate a commercial recreation game room in the Town without first obtaining a special use permit from the Board of Commissioners.

§ 112.38 APPLICATION FOR SPECIAL USE PERMIT.

Any person desiring a permit required by the provisions of this subchapter shall file an application with the Town Manager. An application can be obtained from the Town Hall and shall include the name of the person proposing to operate the commercial recreation game room, the location of the proposed commercial recreation game room and the name of the owner of the building wherein the commercial recreation game room will be operated.

§ 112.39 REVOCATION OF PERMIT.

A permit issued under the provisions of this subchapter may be revoked by the Town Manager at any time for the violation, by the permittee, or any applicable provision of this code, State law, or Town ordinance, rules or regulations.

§ 112.40 PARKING.

A commercial recreation game room shall have adequate off-street parking for customers of the commercial recreation game room.

§ 112.41 – 112.44 RESERVED.

BARS

§ 112.45 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BAR. Is a business or establishment that sells alcoholic beverages for immediate on-premises consumption. Bars that are part of an amusement establishment, including but not limited to, billiard halls, dance halls and bowling alleys and shall require a special use permit. Bars that are apart of full service restaurants shall be a permitted use within a zoning district that permits restaurants provided that such sale of alcohol is in compliance with §114.04.

§ 112.46 HOURS OF OPERATION.

All Bar establishments may open at 7:00 a.m. Monday through Sunday and shall close no later than 2:00 a.m. the following day. No person other than the owner, operator or

employees shall be permitted on the premises from that hour until 7:00 a.m. the following morning.

§ 112.47 MINORS.

No person under the age of eighteen years shall be permitted in an establishment that is permitted as a bar in which the only component of service is to serve alcoholic beverages.

No owner, proprietor or operator of any such establishment shall permit a violation of the foregoing section within his establishment. (*Ref: Chapter 112: Amusements*)

§ 112.48 REQUIREMENTS.

Any establishment serving alcoholic beverages shall be located at least 50 feet from a church or public school or church school in accordance with the North Carolina ABC Commission.

Bars shall comply with all North Carolina ABC, business and zoning regulations.

Smoking is prohibited in all bars. (NC GS §130A; Article 32)

INTERNET SWEEPSTAKES CAFÉ

§ 112.50 INTENT.

In the development and adoption of this Section, it is recognized that some uses can have objectionable characteristics if not properly monitored, thereby having a deleterious impact upon property values, public safety, and the quality of life. The purpose of these regulations is to preserve the integrity and character of internet cafes, to deter the spread of urban blight, to protect the public from activities prohibited by state law.

§ 112.51 DEFINITIONS.

As used in this Section only, the following terms shall be defined as set forth below. All other terms shall have their customary meaning

INTERNET CAFÉ. An internet café is a place where one can use a computer with Internet access, usually for a fee, either per hour or minute; or with a pass for a day or month, etc. It may serve as a regular café as well, with food and drinks being served. This definition does not include internet sweepstake cafes.

ELECTRONIC GAMING DEVICE. Any electronic device (computers, terminals, etc) that is capable of visually displaying information to sweepstake entrants in the form of game play, or simulated game play, including but not limited to:

A video poker game or any other kind of video playing card game.

A video bingo game.

A video craps game.

A video keno game.

A video lotto game.

Eight liner.

Pot-of-gold.

Video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.

INTERNET SWEEPSTAKES. Any game, advertising scheme or plan, or other promotion, which, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize, the determination of which is based upon chance.

§ 112.52 PERMITTED ZONING DISTRICT.

Internet sweepstakes cafes shall be permitted in C3H Commercial Highway Districts as a special use, subject to the requirements of this section.

§ 112.53 RESTRICTIONS ON USE OF ELECTRONIC DEVICES.

No electronic gaming device shall be used for sweepstake activities prohibited by State law.

§ 112.54 AGE RESTRICTION.

An adult manager 18 years or older shall be on duty during business hours.

§ 112.55 HOURS OF OPERATION.

(A) Hours of operation shall be limited to 8:00 am to 12:00 midnight.

(B) Fridays and Saturdays evening hours may be extended to 2:00 am.

(C) Hours of operation may be reduced or extended as a conditions of a Special Use Permit.

§ 112.56 SIGNAGE.

(A) In addition to the sign regulations of the zoning ordinance, signs shall not obstruct the view of electronic devices from exterior of the building.

(B) Window signs shall cover no more than 25% of the window surface area.
(Ord. adopted on 08/16/2011)

Sexually Oriented Businesses/Adult Establishments

§ 112.60 PURPOSE.

To prevent or minimize the adverse secondary impacts that the location and operation of adult establishments can have on crime rates and neighboring property values while preserving the federal constitutional protection afforded to non-obscene but sexually explicit speech.

§ 112.61 DEFINITIONS.

ADULT ESTABLISHMENTS. Any businesses or enterprises (to include but not limited to adult bookstores or video stores, adult live entertainment businesses, adult massage parlors) that have as one of their principal business purposes or as a significant portion of their business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities defined in this section.

ADULT BOOKSTORE OR ADULT VIDEO STORE. An establishment having a substantial or significant amount (25% or more) of its publications or materials distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section. Such publications or materials shall include books, magazines or other periodicals, video tapes or compact or digital video discs, or other photographic, electronic, magnetic, digital, or other imaging medium or any sexually-oriented devices as defined in this section.

ADULT LIVE ENTERTAINMENT. Any performance of or involving the actual presence of real people that exhibits specified sexual activities or specified anatomical areas, as defined in this section.

ADULT LIVE ENTERTAINMENT BUSINESS. Any establishment or business (including nightclubs, bars, private clubs) wherein adult live entertainment is shown for observation by patrons.

ADULT MOVIE THEATRE. An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by patrons therein. "Adult motion picture theatre" does not include any adult mini motion picture theatre as defined in this section.

ADULT MINI-MOVIE THEATRE. An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons therein.

MASSAGE. The manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.

MASSAGE BUSINESS. Any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors.

SEXUALLY ORIENTED DEVICES. Any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

SPECIFIED ANATOMICAL AREAS.

(A) Less than completely and opaquely covered:

- (1) Human genitals, pubic region,
- (2) Buttock, or
- (3) Female breast below a point immediately above the top of the areola;

(B) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES.

(A) Human genitals in a state of sexual stimulation or arousal;

(B) Acts of human masturbation, sexual intercourse or sodomy; or

(C) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

§ 112.62 ZONING STANDARDS.

An adult establishment is permitted as a special use in the C3H district (Commercial Highway District), provided that:

(A) Such use is located on a lot with frontage on US Highway 1.

(B) Such use shall not be located within 1000 feet of another adult establishment.

(C) Such use shall not be located within 500 feet of the following uses: Bar, Nightclub, Tavern, Childcare Home or Center, Religious Institutions, Schools, Kindergartens, Day Care Nurseries (public or private), Any dwelling unit, Family Care homes, Halfway House, Home for the Aged, Parks and Recreation facilities.

The distances provided in this subsection shall be measured by following a straight line from the nearest point on the building or parking areas serving the adult establishment to the nearest point of the lot upon which the restricted use is located.

An adult establishment use shall not occupy the same premises of another principle use.

Except for on-premise identification signs, no advertisement, display, or other promotional materials related to the establishment shall be visible to the public from pedestrian sidewalks, walkways, driveways, or parking areas.

The hours of operation of an adult establishment shall be between the hours of 4:00 pm and 2:00 am of the following morning.

No specified sexual activity shall be within view of the public from beyond the building of the adult establishment at any time.

§ 112.63 LICENSING REQUIREMENTS.

A license shall be required for any adult establishment within the corporate Limits of Franklinton.

License shall be issued by the Franklinton Zoning Department. No license shall be issued until a special use application has been approved by the Board of Commissioners and an investigation is made to determine whether the applicant has complied with this Section and all other applicable requirements of the Town and North Carolina General Statutes. The

Department may consult with other government agencies to help complete its investigation. Each application shall be charged a fee to help cover the cost of the investigation.

All licenses shall be renewed annually.

Each application must be sworn to and contain the following information:

- (A) Name
- (B) Current address
- (C) Social Security number
- (D) North Carolina Drivers license or other personal identification document acceptable by the Town
- (E) A current photograph
- (F) Fingerprint cards
- (G) Proof of age of applicants and of all persons who constitutes a partnership with the applicant.
- (H) If the applicant is a corporation, the above stated information shall be provided for all directors, officers, and principle stockholders.
- (I) If there are no employees, the application must contain a statement to that effect.
- (J) The street address of the premises where the establishment shall be located.
- (K) The name and address of any other such business or establishment owned or operated, either wholly or partially, by any person whose name is required to be given in paragraphs (1) and (2) of this subsection.
- (L) A complete statement of any conviction(s) within the proceeding ten (10) years for any person whose name is required to be given in paragraph (1) of this subsection, for violation of any non-vehicle-related statute, law, ordinance or regulation of any government.

As a condition of the issuance and continued validity of this license, each licensee shall maintain documentation including current photographs, positive proof of identity and age for all employees, entertainers, and/or independent contractors or agents who are hired or allowed to work at the business or establishment. Said information shall be made available promptly upon request to any sworn law enforcement officer of any city, Town, County, the State of North Carolina or the United States. Said information shall be maintained and so made

available for no less than three (3) years after the termination of any such work relationship with licensee.

Licenses issued pursuant to this section shall be in addition to other licenses or permits required by the Town of Franklinton Code of Ordinances or State law.

Licensing of Employees and Independent Contractors in Adult Entertainment Requires an Investigation of Applicants.

No person shall engage in the business of entertaining, rendering or furnishing personal services to others for compensation in an adult establishment or other business defined in section II above as an employee or independent contractor unless such person shall have first applied for and received a regulatory license as required by this section. Said license shall be obtained from the Town of Franklinton and shall be valid for four (4) years from date of issuance.

No license shall be issued until an application is made to the Franklinton Police Department, which shall cause an investigation to be made to determine whether the applicant has complied with this section and all other requirements of the applicable governmental codes, and North Carolina General Statutes. The Police Department shall be assisted in completing this investigation by the other Town departments that oversee the various codes that govern this activity.

No license shall be issued if the application is incomplete or contains a misstatement of fact or false information.

Any owner, licensee, employee, independent contractor, or any person to be engaged in the adult-establishment has been convicted of a felony reasonably related to the legal operation of an adult establishment, including but not limited to sexual misconduct, prostitution, or unlawful use, sale or trafficking in alcohol or drugs or any controlled substances.

The applicant's business fails to conform to all requirements of applicable zoning, building, health, and fire prevention codes and regulations.

The applicant does not meet the conditions or violates any provisions set out in this section.

The licensee, or any agent of the licensee, employs or permits any person to provide services at a licensed establishment of the types regulated by this Ordinance, which person has not been issued the license required by this Ordinance, or whose license under this article has been revoked.

This section may be enforced by any and all remedies provided by applicable state law.

§ 112.64 APPEALS FROM DENIAL OR REVOCATION.

All appeals from the denial or revocation of any license granted hereunder shall be heard by the Franklinton Town Manager or the appropriate designee. Any person or legal entity who is denied said license or whose license is revoked must appeal the denial in writing within fifteen (15) days of notice of the denial to the Franklinton Town Manager by filing said appeal with that office.

Following reasonable opportunity to be heard, the Town Manager or the appropriate designee shall promptly make a decision. Thereafter, any aggrieved party may pursue remedies as provided by the laws of North Carolina.