

AMUSEMENTS

(Am. Ord. 15-3-05)

§111.01 PURPOSE AND AUTHORITY.

Pursuant to the authority granted in NCGS 160A-181 and 160A-194 to regulate places of entertainment and amusement, the purpose of this chapter is to protect the health, safety, welfare, peace and dignity of the citizens of the town by licensing and regulating places of entertainment and amusement, such as but not limited to, pool and billiard halls, dance halls, carnivals, circuses and other similar establishments of entertainment and amusement.

For the purpose of this chapter, a Place of Entertainment or Amusement is defined as any business or establishment which houses, operates, contains, provides, or otherwise principally makes available to the public, including private membership establishments, directly or indirectly, pool tables, video games, mechanical games, pay devices for which charges are made, directly or indirectly. Examples, by way of illustration and not limitation, are businesses or establishments including pool halls, billiard halls, amusement centers, bowling alleys, video game rooms, and other similar entertainment or amusement centers.

§111.02 APPLICATION REQUIRED.

- (A) Every billiard parlor, pool hall, game room, bowling alley or other similar amusement facility which houses or operates one or more pool tables or bowling alleys, three or more video or mechanical games, any pay devices or combination of video and mechanical games for which charges are made, either directly or indirectly shall comply with the application requirements of this chapter.
- (B) No person, partnership, corporation, or association shall operate such amusement establishment, as herein described, without first completing the required application from the Town prior to operating such establishment in the jurisdiction of the Town.
- (C) Every application as prescribed herein shall be made upon an approved application form provided by the Town and filed with the Town Clerk.
- (D) Every application shall be completed in its entirety providing the following required information:
- (1) If the applicant is an individual person(s):
 - (a) name of applicant(s),
 - (b) residence address, and
 - (c) phone number of the applicant(s)
 - (2) If the applicant is a partnership, corporation, or association:
 - (a) name of agent making application,
 - (b) agent's residence address,
 - (c) agent's mailing address (if different),
 - (d) agent's phone number,
 - (e) name of partnership, corporation, or association the agent represents,
 - (f) name and address of all persons having any legal or beneficial interest in the application.
 - (3) The physical and mailing address of the premises where the entertainment or amusement facility is located.

- (4) A complete statement of any convictions, of any person required to be listed on the application, for any felony, gambling law violation, violation of any statute, law, ordinance or regulation of any governmental unit concerning the operation of a game room or other entertainment or amusement facility.
 - (5) A complete statement of any suspensions or revocations, by any governmental unit, of any license to operate a game room or other amusement facility, held by any person required to be listed on the application.
 - (6) A description of any other businesses to be operated on the same or adjoining premises owned, operated, or controlled by any person required to be listed on the application.
- (E) The application and any attachments will be submitted to the Police Department, the Fire Department, and the Zoning Administrator or Code Official for review and report. The reports will be returned to the Town Clerk within 30 days from the date of application. If there are no derogatory comments in the report, the Zoning Administrator may approve the application. If there are derogatory comments in the report which are determined to be violations of the standards of this chapter, the application shall be disapproved. The applicant may resubmit an application to the Zoning Administrator within 90 days if the reasons for disapproval have changed.
- (F) Application approval in accordance with this chapter shall become void if the applicant moves or ceases operating the entertainment or amusement facility at the location described in the approved application. An approved application is not transferable from one person, partnership, corporation, or association to another, nor is it transferable from one location to another. In all such situations, a new application must be submitted and approved by the reviewing parties as described above prior to occupying any location as provided herein.

§111.03 RESPONSIBILITY OF APPLICANT.

The acts and conduct of the agents and employees of the applicant in the conduct and operation of an entertainment or amusement facility under this chapter shall be deemed the acts and conduct of the applicant.

§111.04 REVOCATION OF APPROVAL.

The approved application to operate an entertainment or amusement facility under this chapter may be revoked after a hearing for which the applicant shall be given reasonable notice of said hearing. Said notice of a hearing shall be by regular mail or in person to all the persons or entities as listed in the application. Upon the hearing and giving the applicant an opportunity to be heard, the Board of Commissioners may revoke the approval of the application if determination is made that:

- (A) The applicant has violated and/or failed to comply with any zoning, building code, fire code, or the provisions of this chapter.
- (B) The applicant or his agents employ or permit the facility to be operated by a person who has previously had an application revoked by the Town to operate a facility under this Chapter or held a comparable license issued by a competent local or state authority in this state or elsewhere and has had that license revoked for reasons which would be sufficient grounds for revocation under this chapter.
- (C) The applicant, agent, or other party having interest in the license has been convicted of any crime involving gambling; any felony; or violations of NCGS 14-177 through 14-202.1, Article 26.
- (D) Any employee of the entertainment or amusement facility has been convicted of any felony in connection with his/her employment; any crime involving gambling; including but not limited to violations of NCGS 14-177 through 14-202.1, Article 26.

Second Violation: If after such a hearing as required above, the Board of Commissioners determines that a second violation of the provisions of this chapter has occurred, the approval to operate an entertainment or amusement facility under this chapter shall be revoked immediately.

§111.05 RULES OF OPERATION.

- (A) No entertainment or amusement establishment as authorized under this chapter shall be operated or otherwise open for business except in accordance with the following hours:
 - (1) On Monday through Saturday, the establishment shall be allowed to open no earlier than 8:00 a.m.
 - (2) On Sunday, the establishment shall open no earlier than 1:00 p.m.
 - (3) On Sunday through Thursday night, the establishment shall close no later than 10:00 p.m.
 - (4) On Friday and Saturday night, the establishment shall close no later than 12:00 midnight.
 - (5) No persons other than the owner, operator, or employees shall be permitted in or on the premises from the required time of closing to 7:00 a.m. the following morning.
- (B) No play on any table, alley, machine or other game shall be allowed during the hours when the premises are required to remain closed by this chapter.
- (C) Every billiard parlor, pool hall, game room or similar entertainment or amusement facility shall be located only on the ground floor of the building and have a fully unobstructed transparent plate glass window or windows located in those parts of the building facing any streets so that a clear view of the full interior of the facility shall be visible from the street.

- (D) There shall be no obstacle, paint, frosted glass, curtains, blinds, partitions, machines, equipment or any article installed, placed or positioned near the front glass, at any location along the store front, interior or exterior, or anywhere within the facility so as to obstruct, block or inhibit the clear view of the entire interior of the facility either from the exterior of the facility or by any person entering the facility.
- (E) The interior and exterior of the facility, including the parking lot, shall be sufficiently lighted during the hours of operation to provide a clear unobstructed view of the facility and the activities within.
- (F) No partitions forming rooms, stalls, or other enclosures where the public congregates shall be permitted; provided, however, that this shall not be construed so as to prohibit maintenance closets, restrooms, or toilet stalls.
- (G) There shall not be permitted or maintained any open or secret connections through doors, windows, trap doors, hidden doors, panels, stairways, or other devices which provides for the concealment or access to any place where gambling or other illegal activity is conducted or where persons meet or congregate for immoral purposes.

§111.06 PROHIBITED CONDUCT.

It shall be unlawful for any applicant or their employees under this chapter to:

- (A) Suffer, permit or allow any gambling or game of chance on the premises at any time, the sale or use of any racing, football, or other parlay cards or gambling boards or devices on the premises.
- (B) Suffer, permit or allow the premises to become disorderly, permit any profane, obscene, or indecent language thereon.
- (C) Suffer, permit or allow any alcoholic beverages or narcotic drugs to be sold, kept, held, consumed or brought into or on the premises.

- (D) Knowingly employ in the operation of such amusement facility any person who has been convicted of a felony.

§111.07 ALTERNATIVE REMEDIES.

Nothing in this Chapter nor any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violation of the terms of this Chapter shall subject the violator to the penalties and remedies, either criminal or civil or both, as set forth in §10.99 of the Code of the Town of Cooleemee.

§111.08 CONFLICT WITH OTHER PROVISIONS.

In the event any provision, standard, or requirement of this Chapter is found to be in conflict with any provision of any other ordinance or code of the Town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the Town's jurisdiction shall prevail.

§111.09 VALIDITY.

If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter. The Board of Commissioners hereby declares that it would have passed this Chapter and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.