



**Smithtown Town Board**

99 West Main Street  
Smithtown, NY 11787

Meeting: 04/18/24 02:00 PM  
Department: Planning & Comm.  
Category: Town Code Amendment  
Prepared By: Helena Trabacchi

**ADOPTED**

Initiator: Peter Hans  
Sponsors: Councilman Thomas J. McCarthy

**RESOLUTION 2024-404**

DOC ID: 23123

# Adopt Amendment - Town Code Chapter 322 Zoning

**DESCRIPTION**

Adopt amendments to Chapter 322 of the Town Code entitled "Zoning", as it relates to Commercial Public Recreation Uses. Public Hearing: April 2, 2024 SEQRA Neg Dec: April 18, 2024

**PURPOSE**

The Town Board to adopt amendments to Chapter 322 of the Town Code regarding Commercial Public Recreation Uses.

**REVIEW:**

Peter Hans	Completed	04/16/2024 10:59 AM
Matthew Jakubowski	Completed	04/16/2024 12:51 PM
Thomas J. McCarthy	Completed	04/16/2024 12:55 PM
Edward R. Wehrheim	Completed	04/16/2024 1:09 PM
Town Board	Completed	04/18/2024 2:00 PM



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The following resolution was offered by the Town Board en masse:

BE IT RESOLVED, that the Town Board hereby adopts amendments to Chapter 322 of the Town Code Commercial Public Recreation Uses; for which a public hearing was held April 2, 2024.

**PUBLIC NOTICE**

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Smithtown, Suffolk County, New York met at the Smithtown Town Hall, Patrick R. Vecchio Building, Victor T. Liss Board Room, 99 West Main St., Smithtown, NY 11787 on Tuesday, April 18, 2024 at 2:00 p.m., time then in effect, and duly amended Chapter 322 of the Town Code regarding Commercial Public Recreation Uses:

PROPOSED AMENDMENT TO THE ZONING ORDINANCE (CHAPTER 322 OF THE TOWN CODE)  
Re: Commercial Public Recreation Uses

Revised: March 1, 2024

Additions indicated by underlines.  
Deletions indicated by ~~strikeouts~~.

§ 322-3 Word usage; definitions.

COMMERCIAL PUBLIC RECREATION, INDOORS - Indoor recreation facilities such as bowling alleys, skating rinks, fitness centers, swimming pools, athletic fields or courts, gymnastics centers, mini golf, and similar facilities. This term shall not apply to facilities of any public or private grade school, high school, college or university where such facilities are used exclusively by the school's students and/or faculty.

COMMERCIAL PUBLIC RECREATION, OUTDOORS - An outdoor recreation that includes such facilities as batting cages, swimming pools, athletic fields or courts, skating rinks, mini golf, golf courses less than 50 acres, driving ranges, go-kart racing tracks, and similar facilities. This use shall not apply to facilities within public parks or to golf courses larger than 50 acres.

FITNESS CENTER - ~~The premises, buildings and facilities operated and utilized by any for-profit business or nonprofit organization for the purpose of operating an athletic center~~ A health and/or wellness facility which offers exercise, fitness, physical wellness, nutrition, health or sports programs and services to its members. This term shall not apply to athletic or gymnasium programs of any public or private grade school, high school, college or university where such programs are offered exclusively to its students and/or faculty. ~~This term shall not include swim clubs, country clubs, game centers or a commercial public use as defined herein, nor shall this term be deemed an accessory use to a nonprofit membership club.~~ ~~111 <<https://ecode360.com/15103500>>~~

FITNESS STUDIO - An establishment that primarily provides scheduled fitness courses, including such establishments as dance studios, martial arts studios, yoga studios, and similar uses. The term shall not include fitness centers.

~~COMMERCIAL ENTERTAINMENT GAME CENTER - A room, hall or building or portion thereof which contains arcade, billiard halls, electronic or video games, escape rooms, galleries, museums, theaters, and similar uses five or more pinball machines, electronic videoscreen games, foosball games, air hockey games or any other games or machines determined by the Board of Zoning Appeals to be similar, for the use of which fees are paid directly into the machines or to an operator.~~

~~GAME ROOM <<https://ecode360.com/15103579>> - A room, hall or portion of the floor area of a building which contains four or fewer pinball machines, electronic videoscreen games, foosball games, air hockey games, skeebowls or any other game machines determined by the Board of Zoning Appeals to be similar, for the use of which fees are paid directly into the machine or to an operator.~~

~~HEALTH SPA - An establishment of at least 5,000 square feet that has a pool and/or sauna and provides personal care treatments such as massages, facials, hydrotherapy, and wellness education.~~

§322-30.6 Commercial Public Recreation, indoors

A. Rifle and shooting ranges

- (1) All rifle and shooting ranges shall be located indoors.
- (2) Structural plans and specifications shall bear the certification of an acoustical engineer verifying that the proposed structure will achieve the required sound transmission loss pursuant to Chapter 207, Noise, of the Town of Smithtown Code.
- (3) The proposed structure or portion of the structure intended to be used for the discharge of firearms shall be constructed of impermeable materials, the ceiling of which shall be located at least four feet below ground level, as approved by the Building Director for such use.
- (4) The storage of ammunition or explosives shall be prohibited.

B. Bowling alleys

- (1) No structure in which a bowling alley is located shall be built within 100 feet of a residence district.

C. Ice skating rink

- (1) The use of toxic or explosive chemicals (such as ammonia) as a refrigerant shall be strictly regulated and safeguards directed by the Fire Inspector.
- (2) There shall be adequate muffling of the noises resulting from the operation of refrigeration units.

~~322-82(C) (17) Theater; multiplex theater; outdoor theater. The following requirements shall be met:~~

- ~~(a) Indoor theater of less than 100 seats: the same dimensional and buffer requirements as required in the Shopping Center Business District (SCB) as noted in §§ 322-9B and 322-20.~~
- ~~(b) Indoor theater with more than 100 seats and not a multiplex theater.
 
  - ~~[i.] No structure shall be built within 100 feet of any residential district.~~
  - ~~[ii.] In the WSI District, the proposed use shall be located on a site with an area of not less than two acres.~~
  - ~~[iii.] In the WSI District, off-street parking areas shall be located at least 30 feet from the front property line.~~~~
- ~~(c) Outdoor theater: the same requirements as stated for "arena; assembly hall."<sup>[4]</sup>~~

~~<<https://ecode360.com/15104445?highlight=theater&searchId=18124248486621652>>~~

§ 322-97. Commercial public recreation uses, outdoor.

- A. The Town Board may, upon application and after a public hearing on notice, as provided in Article XII for a special exception use, authorize a special exception for an outdoor commercial public recreational use (such as indoor skating rinks, indoor rifle ranges, indoor roller skating rinks, indoor handball courts, indoor squash courts, indoor tennis courts, game center, bowling alleys and similar uses not specifically noted) in such districts where

the use is indicated in the Tables of Use Regulations, § 322-8B, if said Board shall find that the proposed use is desirable and compatible with other uses in the area and would not be a deterrent factor in respect to the purpose of this chapter as stated in § 322-2.

B. In considering such special exception, the Town Board shall determine that the following minimum conditions are provided:

- ~~(1) Except for outdoor golf driving ranges and outdoor miniature golf ranges, all such uses shall be within a permanent structure and shall not be permitted except as an accessory use to an indoor operation, and the area for such outdoor activity shall not exceed the area of the principal building. The use shall not be permitted within the required front yards and shall be screened with plant material.~~
- (2) There shall be adequate provisions for off-street parking for both indoor and outdoor facilities, as required under §322-62 of this chapter. The Board, in conjunction with its review, may require a greater number of spaces than set forth in §322-62.
- ~~(3) Except for height, the premises shall comply with the dimensional regulations as required by § 322-9B, Table of Dimensional Regulations. Any variance concerning height shall be subject to approval by the Board of Appeals in conformity with § 267-b, Subdivision 3, of the Town Law.~~
- (4) Except for bollard and bunker lighting, outdoor lighting fixtures shall have opaque shields on the tops and sides and shall be directed straight down and shall not exceed 18 feet in height.

C. If the proposed use is a skating rink, the use shall comply with all following requirements shall apply described in §322-30.6C:

- ~~(1) The use of toxic or explosive chemicals (such as ammonia) as a refrigerant shall be strictly regulated and safeguards directed by the Fire Inspector.~~
- ~~(2) There shall be adequate muffling of the noises resulting from the operation of refrigeration units.~~
- ~~(3) For a standard size rink with minimum dimensions of 85 feet by 200 feet and facilities for regulation hockey, the proposed use shall be located on a site of not less than five acres of land.~~

~~D. If the proposed use is a rifle range, the following requirements shall apply:~~

- ~~(1) Structural plans and specifications shall bear the certification of an acoustical engineer verifying that the proposed structure will achieve the required sound transmission loss pursuant to Chapter 207, Noise, of the Town of Smithtown Code.~~
- ~~(2) The proposed structure or portion of the structure intended to be used for the discharge of firearms shall be constructed of impermeable materials, the ceiling of which shall be located at least four feet below ground level, as approved by the Building Director for such use.~~
- ~~(3) The storage of ammunition or explosives shall be prohibited.~~

~~E. If the proposed use is a bowling alley, no structure shall be built within 100 feet of a residence district.~~

~~F. Outdoor Golf driving ranges and outdoor miniature golf ranges courses shall also be subject to the following additional requirements:~~

- (1) The site shall be at least 500 feet from any residence.
- (2) The minimum required lot area shall be 12 acres for driving ranges and 60,000 square feet for miniature golf.
- (3) Except for fences, signs and driveways, all structures and areas of organized activity shall be set back at least 50 feet from any right-of-way.
- (4) The minimum planting area of the site shall be 85% for driving ranges and 20% for miniature golf.
- (5) On-site vegetation, landforms, open space and netting shall be provided to the extent necessary to prevent injury or damage on other premises and shall be indicated on a site plan submitted with the petition.
- (6) Netting shall be set back from all lot lines at least three feet for every foot of height.
- (7) No outdoor loudspeaker system shall be permitted.

322 ATTACHMENT 7

BUSINESS DISTRICTS: TABLE OF USE REGULATIONS

Use	District				
	<b>PB<sup>3</sup> Professional Business</b>	<b>OB Office Business</b>	<b>SCB Shopping Center Business</b>	<b>NB Neighborhood Business</b>	<b>CB Central Business</b>
<b>Business Uses</b>					
Billiard Hall	-	-	P	-	P
Bowling Alley	-	-	-	-	-
Commercial Entertainment			P	P	P
Commercial Public Recreation, indoor			P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>
Commercial Public Recreation not otherwise listed herein, outdoor	-	-	-	-	-
Dance, self defense or martial arts school Fitness Studio	-	-	P	P	P
Fitness Center, Gymnasium	-	-	P	P	P
Game center	-	-	TB	-	-
Health Spa	-	-	P	P	P
Outdoor golf driving range, miniature golf	-	-	-	-	-
Shooting range	-	-	-	-	-
Tennis or raquet club, indoor/outdoor	-	-	-	-	-
Theater	-	-	BA	-	BA
<b>ACCESSORY USES</b>					
Game room	-	-	P	P	P

<sup>5</sup> Provided the use conforms with the standards in § 322-30.6.

322 ATTACHMENT 9

INDUSTRIAL DISTRICTS: TABLE OF USE REGULATIONS

Use	INDUSTRIAL		
	<b>WSI Wholesale and Service Industry</b>	<b>LI Light Industry</b>	<b>HI Heavy Industry</b>
<b>Business Uses</b>			
Billiard Hall	-	-	-
Bowling Alley	TB	TB	-
Commercial Entertainment	P		
Commercial Public Recreation, indoor	P <sup>6</sup>	P <sup>6</sup>	P <sup>6</sup>
Commercial Public Recreation not otherwise listed herein, outdoor	TB	TB	TB
Dance, self defense or martial arts school Fitness Studio	P	-	-

Fitness Center, Gymnasium	P	P	-
Game center	TB	TB	-
Health Spa	P	P	P
Outdoor golf driving range, miniature golf	TB	TB	TB
Shooting range	TB	TB	TB
Tennis or racquet club, indoor/outdoor	TB	TB	P
Theater	BA	-	-
ACCESSORY USES			
Game room	-	-	-

<sup>6</sup> Provided the use conforms with the standards in § 322-30.6.

§ 322-62 Nonresidential parking schedule

Fitness center Over 5,001 square feet Under 5,000 square feet

Commercial entertainment

Fitness Studio

Game center or game room

Health Spa

Commercial Public Recreation, Indoor Tennis, basketball, badminton, volleyball, handball or similar use not otherwise classified

1 per 150 square feet of gross floor area 1 per 100 square feet of gross floor area

1 per 100 square feet of gross floor area

1 per 100 square feet of gross floor area

1 per 50 square feet of floor area

Same as "fitness center"

Parking area reservation equivalent to the total ground coverage of the use, with a minimum of 4 improved spaces per court One space per every three persons based on maximum occupancy load as established by the fire marshal, plus one space for every two employees

Dated: April 18, 2024

**RESULT:** ADOPTED [UNANIMOUS]

**MOVER:** Edward R. Wehrheim, Supervisor

**SECONDER:** Thomas J. McCarthy, Councilman

**AYES:** Edward R. Wehrheim, Thomas J. McCarthy, Lynne C. Nowick, Thomas W Lohmann

**ABSENT:** Lisa M. Inzerillo