

Private Clubs and Public Vehicular Areas

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Is the parking lot of a private social club a public vehicular area for purposes of North Carolina's impaired driving laws? Yes, in most circumstances, it is.

Public vehicular areas (or PVAs) include any area within the state "used by the public for vehicular traffic at any time." [G.S. 20-4.01\(32\)](#) sets forth several illustrative examples of PVAs satisfying this expansive definition, among them any parking lot upon the grounds of any "business, residential, or municipal establishment providing parking space whether the business or establishment is open or closed."

First, many private social clubs, particularly those where alcohol is served, arguably function as business establishments. The parking areas of those sorts of establishments, insofar as they are driven upon by the public, fall within the illustrative example. And many such parking lots are open to the public for vehicular traffic at some point in time. Guests of club members frequently are allowed to park in the area. Persons in the general public interested in touring the facility may be allowed to use the lot. If events are held on the premises, the lot may be open to parking by members of the general public who are attending those events.

Indeed, North Carolina's appellate courts have adopted a broad view of the term public vehicular area, noting on several occasions that their interpretation accords with the legislature's desire to protect people in parking lots from the dangers posed by those who drive while impaired. See *State v. Robinette*, 124 N.C. App. 212 (1996) (parking lot of car wash a public vehicular area notwithstanding town ordinance prohibiting parking on the premises unless the facilities were being used); *State v. Turner*, 117 N.C. App. 457 (1994) (privately maintained paved road in a privately owned mobile home park a public vehicular area); *State v. Mabe*, 85 N.C. App. 500 (1987) (wheelchair ramp in parking lot of hotel a public vehicular area); *State v. Carawan*, 80 N.C. App. 151 (area of public park occasionally used for public parking a public vehicular area).

Accordingly, the North Carolina Supreme Court held in *State v. Snyder*, 343 N.C. 61 (1996), that the parking lot of a private nightclub was a public vehicular area. The then-existing definition of a public vehicular area was significantly narrower than the current one, and consisted of areas "generally open to and used by the public for vehicular traffic," including parking lots upon the grounds of a business establishment "providing parking space for customers, patrons, or the public." *Snyder* explained that "even if an establishment is cloaked in the robe of being a private club, it is still a "business establishment providing parking space for its customers, patrons, or the public" and cannot escape liability simply because a membership fee is required." *Id.* at 69.

While the *Snyder* court relied in part on characteristics of the parking area that might not be applicable to parking areas associated with many private clubs (the parking lot in *Snyder* could be used by the general public to reach an adjacent hotel and the lot was not marked by signs indicating that it was private), the court also rested its holding on broader grounds that would apply both to the current definitional provisions and to the parking lot of a private establishment marked with signs restricting parking to members and their guests.

Snyder explained that construing the term public vehicular area to include the parking area for the private club comported with the public safety interest underlying the state's impaired driving statutes. Excluding such areas "would

result in parking areas for private clubs selling alcoholic beverages being insulated from the drunk driving laws . . .while the parking lots of nonprivate establishments serving alcohol would not be,” a result that the court determined “could not have been intended by the legislature.” *Id.* at 70.

Thus, the parking areas for most private clubs are public vehicular areas because they are parking areas for business establishments that are at some time open to use by the public for vehicular traffic.