

**PLANNING BOARD ADOPTION RECOMMENDATION REVISION 6 dated 29Jul26****TOWN OF COLDEN  
ERIE COUNTY, NEW YORK**

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**LOCAL LAW NO. 2026-xx (PROPOSED)**

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**A LOCAL LAW TO AMEND CHAPTER 108 (ZONING) OF THE  
CODE OF THE TOWN OF COLDEN BY ADDING  
"COMMERCIAL RECREATIONAL FACILITY" AS A  
PERMITTED PRINCIPAL USE BY SPECIAL USE PERMIT IN  
THE AGRICULTURAL (AG) ZONING DISTRICT, AND BY  
ADDING A CORRESPONDING DEFINITION AND  
SUPPLEMENTAL STANDARDS THEREFOR**

*Introduced by the Town of Colden Planning Board  
Recommended to the Town Board for Public Hearing and Adoption*

**PART ONE: PLANNING BOARD RECOMMENDATION**

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**Recommendation of the Town of Colden Planning Board**

The Town of Colden Planning Board has powers to originate actions under the provisions of NYS Town Law §271, and Municipal Home Rule Law §10. In this case the Planning Board is originating and recommending a local law change based upon our duties to periodically examine the Town's Comprehensive Plan, and other applicable guidance documents, to determine if any changes to our existing local laws are appropriate in order to bring the Town closer to specific guidance recommendations present in the adopted Colden Comprehensive Plan and other similar relevant plans. In this case we are originating actions relative to guidance in the Colden Comprehensive Plan as adopted by the Town Board around May 2024.

Our action is for recommending Adoption of a Local Law Amending Chapter 108 (Zoning) to Add a "Commercial Recreational Facility" as a Permitted Principal Use by Special Use Permit in the Agricultural (Ag) Zoning District

Town of Colden Planning Board (the "Planning Board") has considered the addition of Commercial Recreational Facilities as a permitted principal use, subject to a Special Use Permit, within the Agricultural (Ag) Zoning District of the Town of Colden. The Town of Colden adopted its newly adopted Comprehensive Plan on May 9, 2024, by Town Board Resolution No. 2024-06 (the "2024 Comprehensive Plan"). The 2024 Comprehensive Plan establishes "Build Upon Recreational and Community Opportunities" as Core Value #4, with goals including expanding recreational opportunities linked to the Town's natural and cultural assets, encouraging a healthy and active lifestyle, exploring opportunities for parks and future programming, and collaborating with neighboring communities on regional recreational tourism. Further, Action Item #21 of the 2024 Comprehensive Plan specifically recommends encouraging seasonal businesses to expand to multi-seasonal use, which is furthered by indoor commercial recreational facilities that provide year-round programming independent of seasonal weather conditions. The 2024 Comprehensive Plan's Future Land Use guidance identifies the Glenwood hamlet area and the corridor toward the Colden-Concord border as appropriate locations for such recreational and entertainment uses, and the majority of land in this corridor is zoned Agricultural (AG) with areas of restrictive road frontage zoning from the road's centerline back to a 300' parcel depth. The Implementation section of the 2024 Comprehensive Plan (page 60) specifically directs the Town to review the Zoning Code for consistency with the Plan and to consider amendments to carry out the Plan's goals. Colden's Agricultural (Ag) Zoning District, as currently codified in Chapter 108, does not include Commercial Recreational Facilities as a permitted use, thereby creating an inconsistency between the Zoning Code and the 2024 Comprehensive Plan. The Planning Board finds that adding Commercial Recreational Facilities as a permitted principal use by Special Use Permit in the Ag District (subject to appropriate supplemental standards) is consistent with New York State Town Law § 272-a, which requires zoning to be in accordance with a comprehensive plan. We also conclude that the Special Use Permit mechanism provides the Town Board with appropriate case-by-case review authority to evaluate compatibility, impose conditions, and protect the rural character of our Ag Zoning District. The Planning Board has drafted, considered, reviewed, discussed and voted to recommend this proposed amendment to our existing Chapter 108 {Zoning}. We feel this recommendation is consistent with the goals, core values, and recommended actions of the 2024 Comprehensive Plan, and is compatible with the overall purposes of the Chapter 108 Zoning Code.

The Town of Colden Planning Board recommends to the Town Board that it adopt the Local Law in Part Two of our recommendation, to add "Commercial Recreational Facility" as a permitted principal use, by Special Use Permit, in the Agricultural (Ag) Zoning District, together with the corresponding definition, conditions, and supplemental standards as below.

## PART TWO: PROPOSED LOCAL LAW

### TOWN OF COLDEN

#### LOCAL LAW NO. 2026-xx

#### Addition of Permitted Use In Agricultural Zoning District

A LOCAL LAW TO AMEND CHAPTER 108 (ZONING) OF THE CODE OF THE TOWN OF COLDEN, ERIE COUNTY, NEW YORK, BY ADDING A DEFINITION OF "COMMERCIAL RECREATIONAL FACILITY," AND BY ADDING SUCH USE AS A PERMITTED PRINCIPAL USE BY SPECIAL USE PERMIT IN THE AGRICULTURAL (AG) ZONING DISTRICT, AND BY ESTABLISHING STANDARDS FOR SUCH USE

#### Section 1. Authority.

This Local Law is enacted pursuant to the authority granted to the Town of Colden by New York State Municipal Home Rule Law §10; New York State Town Law §261, §263, §264, §265, and §272-a; and the New York State Statute of Local Governments. The Town finds that this amendment is in accordance with the Town of Colden Comprehensive Plan, adopted May 9, 2024, as required by Town Law §272-a.

#### Section 2. Legislative Intent and Findings.

The Town Board of the Town of Colden hereby finds and declares as follows:

- A. The Town of Colden adopted its 2024 Comprehensive Plan, which establishes as Core Value #4 the goal of building upon recreational and community opportunities. The Plan specifically calls for expanding recreational opportunities linked to the Town's natural and cultural assets, encouraging multi-seasonal business development, promoting a healthy and active lifestyle for residents and visitors, and supporting recreational tourism in collaboration with neighboring communities.
- B. The 2024 Comprehensive Plan's Future Land Use guidance expressly identifies the Glenwood area and the corridor toward the Colden-Concord border as appropriate for recreational and entertainment uses. The majority of land in this corridor is classified within the Agricultural (Ag) Zoning District.
- C. The existing Chapter 108 Zoning Code does not permit Commercial Recreational Facilities in the Agricultural (Ag) District, creating an inconsistency between the Zoning Code and the adopted Comprehensive Plan. New York State Town Law §272-a requires that zoning be in accordance with a comprehensive plan.

- D. The addition of Commercial Recreational Facilities as a permitted principal use, by Special Use Permit, in the Ag Zoning District will further the Town's goals of year-round economic vitality, expansion of recreational programming, and multi-seasonal use of existing structures, particularly in the Glenwood and Kissing Bridge corridor.
- E. The Special Use Permit requirement will ensure that each proposed Commercial Recreational Facility is evaluated individually for compatibility with surrounding agricultural and residential uses, traffic impacts, site design, and consistency with the rural character of the Ag District, thereby protecting the Town's rural and agricultural heritage while allowing appropriate recreational development.
- F. The adaptive reuse of existing buildings for Commercial Recreational Facilities is especially encouraged, as it avoids the conversion of productive agricultural land, preserves rural character, and advances the Town's sustainable development goals.

### **Section 3. Amendment to Chapter 108, Article XXVI {Terminology} in §108-132 {Definitions}.**

Chapter 108 (Zoning) of the Code of the Town of Colden is hereby amended by adding the following definition to Article XXVI, §108-132 (Definitions), to be inserted in alphabetical order:

**COMMERCIAL RECREATIONAL FACILITY** — A building, structure, premises, or combination thereof, operated for compensation, on a fee-for-service basis, or on a membership or subscription basis, used primarily for indoor or outdoor athletic training, sports instruction, physical fitness activities, Yoga and similar activities, recreational programming, or the operation of recreational equipment or simulators for use by the general public or members. This term shall include, but not be limited to, training centers for individual or team sports, athletic training academies, batting cage facilities, pitching and catching training facilities, basketball training, training for tennis and similar sports such as racquetball, pickleball, and such, sports simulation centers, golf simulators, fitness centers, martial arts studios, gymnastics centers, and similar uses. This term shall expressly **not** include: outdoor spectator stadiums or arenas designed for ticketed events before large audiences; amusement parks or carnivals; adult-oriented establishments as defined or regulated elsewhere in this Code; live fire commercial gun ranges, other commercial firearm discharge facilities, or any use otherwise expressly prohibited in the Ag District, or activities which are not listed as a permitted principal or accessory use in Ag zoning.

**Section 4. Amendment to Chapter 108, Article IX, §108-36 (AG Agricultural District — Permitted Uses and Structures).**

Chapter 108 (Zoning), Article IX (Ag Agricultural District), §108-36 (Permitted Uses and Structures) is amended by adding the following new subsection, to be designated as §108-36.A(22)(j), following the existing list of uses permitted by Special Use Permit within the Ag District:

§108-36.A(22)(j) Commercial Recreational Facility, as defined in Article XXVI of this chapter, subject to conditions of §108-124.J for the issuance of a Special Use Permit by the Town Board, pursuant to Article XXII {Special Use Permits} of this chapter, and any applicable supplemental standards as set forth in Articles XIV through XVI of this chapter.

**Section 5. Addition of § 108-124.J to Chapter 108 (Special Use Permit for Commercial Recreational Facilities in the Ag Zoning District).**

Chapter 108 {Zoning} is hereby amended by adding a new section, to be numbered as §108-124.J as follows:

**§ 108-124.J Special Use Permit for Commercial Recreational Facilities in the Ag Agricultural Zoning District.**

The following supplemental standards shall apply to all Special Use Permit applications for Commercial Recreational Facilities in the Agricultural (Ag) District, in addition to the general standards and procedures applicable to all Special Use Permits under Article XXII of this chapter:

**(1) Consistency with Comprehensive Plan.**

The proposed use shall be consistent with the goals, core values, and recommended actions of the Town of Colden Comprehensive Plan, as adopted and as may be amended from time to time. The applicant shall include in the Special Use Permit application a written statement demonstrating such consistency.

**(2) Preferred Location — Adaptive Reuse.**

The use of an existing building or structure for a Commercial Recreational Facility is preferred over new construction. Where new construction is proposed, the applicant shall demonstrate by competent evidence that no existing structure on the parcel or in the immediate area is reasonably suitable or adaptable for the proposed use. The Town Board may give favorable weight to applications involving the adaptive reuse of existing agricultural or commercial structures.

**(3) Site Suitability and Size.**

The parcel on which the Commercial Recreational Facility is proposed shall be of sufficient size and configuration to accommodate the proposed facility and all associated site improvements, including required parking, access drives, and buffers, without adverse impact on adjacent agricultural, residential, or other uses.

**(4) Agricultural Land Preservation.**

The proposed facility and associated site improvements shall not convert active agricultural lands to non-agricultural use to a greater extent than is necessary for the facility and its required site improvements. The Town Board may, as a condition of approval, require that remaining agricultural lands on the parcel be maintained in agricultural use or in a manner consistent with the rural character of the Ag Zoning District.

**(5) Scale, Intensity, and Hours of Operation.**

The scale and intensity of the proposed Commercial Recreational Facility shall be compatible with the rural character of the Ag Zoning District and with adjacent land uses. The Town Board may impose conditions limiting hours of operation, maximum occupancy, the number of simultaneous events or programming sessions, and similar operational parameters, as necessary to protect adjacent property owners and the rural character of the surrounding area.

**(6) Traffic and Access.**

The applicant shall demonstrate that the parcel has adequate legal access from a public road and that the proposed use will not generate traffic volumes, turning movements, or patterns of vehicle use that are materially incompatible with the rural road network serving the parcel. The Town Board may require the applicant to submit a traffic assessment, prepared by a licensed professional engineer, for situations where in the Town Board's judgment, the nature or anticipated patronage of the facility warrants such analysis.

**(7) Off-Street Parking.**

Adequate off-street parking shall be provided on the premises. Where the use is not otherwise addressed by the off-street parking schedule set forth in §108-55 of this chapter, the Town Board shall determine the required number of spaces based on the maximum anticipated occupancy and the operational characteristics of the proposed facility, as documented in the Special Use Permit application. All parking areas shall be surfaced and maintained in accordance with the requirements of this chapter.

**(8) Buffering and Screening.**

Where the proposed facility is located adjacent to residential uses or active agricultural operations, the Town Board may require the installation and maintenance of landscaping, fencing, natural vegetation buffers, or other screening measures sufficient to minimize visual impacts, noise, glare from exterior lighting, and other impacts on adjacent properties. Required buffers shall be shown on the site plan submitted with the Special Use Permit application.

**(9) Exterior Lighting.**



All exterior lighting associated with the Commercial Recreational Facility, including parking area lighting, signage lighting, and any building-mounted fixtures, shall be fully shielded and directed downward so as to prevent light spillover onto adjacent properties or into the public right-of-way. The Town Board may require a photometric plan as part of the Special Use Permit application.

**(10) Building Design and Rural Character.**

Building design, exterior materials, signage, and overall site layout shall be compatible with and complementary to the rural character of the Agricultural District and the Town of Colden as described in the Comprehensive Plan. The Town Board may require the applicant to submit building elevations, renderings, or material samples as part of the Special Use Permit application.

**(11) No Outdoor Spectator Facilities.**

Commercial Recreational Facilities in the Ag Zoning District shall not include outdoor spectator stadiums, permanent grandstands, or similar large-audience outdoor spectator structures. Incidental indoor spectator seating associated with the primary recreational use of the facility shall be permitted, subject to the occupancy and intensity limitations that may be imposed under Subsection (5) of this section.

**(12) Signage.**

Signage for Commercial Recreational Facilities in the Ag Zoning District shall comply with the sign regulations applicable to the Ag District set forth in §108-42 {Sign Regulations} and Article XIII {Signs} of this chapter. The Town Board may impose additional signage conditions as part of the Special Use Permit approval to ensure compatibility with the rural character of the area. It is noted that certain Ag parcel geometries, possibly with non-Ag restrictive road frontage zoning (R1, R2, R-RB, C), will require strict compliance with any signage restrictions in that non-Ag roadside zoning district, even for the case of the Commercial Recreational Facility being physically located in the Ag-zoned backland of the parcel.

**(13) Compliance with All Applicable Laws.**

The applicant shall demonstrate compliance with all applicable federal, state, and local laws, regulations, and codes, including but not limited to New York State Building Code, NYS Electrical Code compliance, fire safety regulations, accessibility requirements including ADA provisions, and Erie County Department Health Department regulations, including septic compliance, as applicable to the proposed use and structure.

**Section 6. Public Hearing.**

Prior to adoption of this Local Law, the Town Board shall hold a public hearing upon not less than ten (10) days' notice published in the official newspaper of the Town, as required by New York State Town Law § 264.

**Section 7. Filing.**

This Local Law shall be filed with the New York State Secretary of State in accordance with New York State Municipal Home Rule Law § 27 and shall take effect upon such filing.

**Section 8. Severability.**

If any provision of this Local Law or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of this Local Law and its application to other persons or circumstances shall not be affected thereby, it being the intent of the Town Board that each provision of this Local Law shall be severable and independently enforceable.

**Section 10. Supersession.**

This Local Law is intended to supersede any inconsistent provisions of Chapter 108 of the Code of the Town of Colden to the extent necessary to effectuate the purposes of this Local Law, pursuant to the authority granted by New York State Municipal Home Rule Law § 10(1)(ii)(d)(3).

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## **PART THREE, PLANNING BOARD NOTES**

### **PROCEDURAL CHECKLIST**

Upon receipt of this transmittal and subsequent Town Board consideration, and any ultimate adoption, the Town Clerk and Town Board should complete the following steps prior to adoption of this recommended Local Law amendment to Chapter 108 {Zoning}:

1. Refer the proposed Local Law to the Erie County Department of Environment and Planning for General Municipal Law § 239-m review (required for zoning amendments in Erie County). The County has 30 days to respond.
2. Schedule and publish notice of a public hearing in the official Town newspaper at least 10 days prior to the hearing date.
3. Conduct the public hearing and receive comment from the public.
4. Following the public hearing, deliberate and vote on adoption of the Local Law.
5. If adopted, file the Local Law with the New York State Secretary of State.
6. Notify the Code Enforcement Officers regarding the adoption of this local law and the conditions set forth, and update the eCode360 posting accordingly.