

TOWN OF CONCORD PLANNING BOARD
Code Update Work Session
Town Hall

November 20, 2024
6:00 p.m.

The Code Update Work Session was opened by Planning Board Chairman Joseph Edbauer, at 6 p.m.

Roll Call

Present:

Joseph Edbauer, Chairman
James Jozwiak
Julie Zybert
Michael Cochran

Also Present:

Darlene Schweikert
Clyde M. Drake, Town Council Liaison
Thomas Roberts, CEO

Not Present:

Bruce Luno
David Dains

The members met to continue review of the Town Code. Secretary Schweikert advised that Town Attorney Attea thinks that the Town should have an outside Planner review these Code changes/updates and compare the Town Code with the Town's Comprehensive Plan. Secretary Schweikert noted that going forward the Town should do a review of the Code and the Comprehensive Plan every couple of years to keep both current; this Code Review has been going on for almost two years; it has been a big undertaking for these members. Council Member Drake noted that the last time the Comprehensive Plan was updated, there were Town Board members, residents of the community, from every niche and cranny, so that was a big project. There may be funding available last year for Comprehensive Plans to be reviewed and updated; this may be something the Town can look into. Town Attorney Attea also said that the Town may be reaching a point where the Planning Board may need their own attorney to come to meetings and assist the members with legal matters at their meetings.

Chapter 72: Fire Prevention and Building Construction. Question 72-002. The model law was provided to the members previously and the members are satisfied with this model. Secretary Schweikert will upload into General Code.

Chapter 93: Manufactured Homes and Chapter 94: Mobile Homes. Chairman Edbauer will continue to review and bring back to the members.

Chapter 114: Sewers: This section was sent back to MDA for finalization; Caleb Henning at MDA provided the revised law and the members are satisfied with this revision. Secretary Schweikert will upload into General Code.

Chapter 142: Vehicles and Traffic. Leave as is.

Chapter 147: Water. This section was sent back to MDA for finalization; Caleb Henning at MDA provided the revised law and the members are satisfied with this revision. Secretary Schweikert will upload into General Code.

Secretary Schweikert noted that last month Council Member Drake reviewed the Community Engagement Officer's information about the homeless/unhoused/displaced in the Town and that the Town should review their Loitering laws. The Town does not have a **Loitering** section in our Code so this section will need to be added during this update. Secretary Schweikert looked at the Town of Holland and will attach it to the Minutes for the members to review as a template. Officer Miller suggested that the Town should include in any Loitering section that there is no overnight camping allowed on Town owned properties. The Town should have tough language in this section. Officer Miller will try to find some sample language to provide the Town. M. Cochran had looked at the Village of Springville Code and thinks that their Loitering code was detailed and well-done. M. Cochran also mentioned the Town of Wales. Copies of Holland, Wales and the Village Codes are attached to the Minutes.

Chapter 150: Zoning. Secretary Schweikert started to review this section from the beginning of the Section.

Article I ok

Article II Section 150-5

- There is mention of the Comprehensive Zoning Plan. In all cases, It should be changed to Comprehensive Plan since that is correct name.
- Is the Master Plan the "Master Plan 2000?"
- 150-5(B) should be reworded at the end to say: "...and the County of Erie, official regional bodies and public authorities that are consistent or compatible with the Master Plan 2000 of the Town of Concord." The sentence had double-negatives and is confusing as written. Also need to determine if the Master Plan 2000 is accurate. Our Comprehensive Plan is now 2018. But use the Comprehensive Plan currently on file with the Town Clerk and Code Enforcement Officer.

Article III Section 150-6

- In R Districts, add Craneridge to the list at (F). CEO Roberts stated that there is an error in the new Craneridge Zoning section that should be corrected in this Code update. CEO Roberts will get that information to Secretary Schweikert. The R Districts will remain as they are; none will be merged or deleted.

- The members had discussion about combing C-1 and C-2 districts into just one District. M. Cochran reviewed the spreadsheet that he prepared with the members and the two districts are very similar in language. C-1 has accessory use (B) (8) accessory uses in R-RB principal uses permitted in the C-1 District and this is not in our current C-2. Retail sales wording is different in the sections as well. C-1 at Section 150-73(A)(27)(a) Retail sales, but not including any use first permitted in any other C

District or first permitted in any M District. C-2 District at Section 1509-80 (A)(23) Retail sales establishments for the sale of garden products and/or produce, provided that bulk garden products offered for sale and stored on the premises at any one time not exceed 740 cubic yards of any particular bulk item. Antique shops are also worded a bit differently. C-1 District at Section 150-73(A)(22): Antique shops, when conducted entirely within an enclosed building. C-2 District at Section 150-80(A) (22) Antique shops. J. Zybert asked if the name could just be changed to C for Commercial Districts (formerly C-1 and C-2). She does not see any fundamental differences. The members reviewed the Zoning Map to see what parcels are C-1 and C-2. The consensus of the members is to combine the two districts. If they were combined, neither district would lose anything. Chairman Edbauer asked Town Council Member Drake what the Town Board thought about merging the Districts but this has not yet been sent to the Town Board for input. J. Zybert also questioned the wording at 150-80(A)(41) under C-2 District. Warehouses, but not including the storage of highly “inflammable” or explosive materials. It should say “flammable”.

A review of C-R Zone. Previously discussed 150-91 (A) changed (4) to say “single family dwelling or two-family dwelling. (5) change golf course and practice driving range to golf course or practice driving range. Section 150-94 the heading was going to be changed from Required yards to Required setbacks. And then that language would be changed to say: “The minimum required setbacks and other open spaces shall be as specified in this section.

- A, Front Setback. 50 feet
- B. Side Setbacks: two required, not less than 15 feet per side
- C. Rear Setback: not less than 35 feet

Section 150-6 (G)

- In C Districts, delete C-1 and C-2 which moving forward the Board would like combined into just C and delete C-T since no parcels in the Town are currently zoned C-T. C-R will remain.

Section 150-7

- Need to add definition of Campground. CEO Roberts had previously recommended the definition:

CAMPGROUND: A parcel of land used or intended to be used, let or rented for transient, vacation and recreational occupancy by travel trailers, campers, tents, recreational vehicles, motor homes and the motor vehicles propelling or carrying the same, but excluding manufactured homes designed for year-round occupancy or as a place of residence.

- The definitions of MANUFACTURED HOUSING, MOBILE HOME, MODULAR HOME, NONCONFORMING, SETBACK, SIGN (A & B), SMALL-SCALE WIND ENERGY CONVERSION SYSTEM, TOURIST HOME, YARD, YARD/REAR, YARD/REQUIRED FRONT, YARD/SIDE (A & B), ZONING MAP all need to be reviewed.

Section 150-8
Article IV

- 150-8 (B) Combine C-1 and C-2 into C; delete C-T

Section 150-9

- Review this wording to update with the Wendel Zoning map.

Article V

Section 150-11

- All cases of Concord Town Consulting Engineer – the Town does not have any such engineer on payroll. Change that to: “consulting engineer hired by the Town of Concord”?


Article XXXI

Section 150-162 non-conforming.

- This will need to be reviewed. Chairman Edbauer asked J. Zybert if she would review this section and compare with the changes that were provided by M. Cochran for Lots, Grandfathered which is going to be changed to Pre-existing. Maybe Chapter 184 Lots, Grandfathered can be deleted and included in the language at 150-162. J. Zybert will review and bring back to the Members.

J. Jozwiak provided the members with a draft of Article XXV Sign Regulations and this will be reviewed by the members for the next meeting.

The Work Session ended at 8 p.m. The next regular meeting will be Tuesday, December 3, 2024. Secretary Schweikert and J. Jozwiak will not be in attendance. Secretary Schweikert reminded the Members that the mandated annual Town training is scheduled for Wednesday, December 4th at 9 a.m. at the Senior Center.



Darlene G. Schweikert
Planning Board Secretary

Chapter 79

LOITERING

§ 79-1.	Applicability.	§ 79-4.	Exceptions.
§ 79-2.	Definitions.	§ 79-5.	Violations and penalties.
§ 79-3.	Prohibited conduct.	§ 79-6.	Severability.

[HISTORY: Adopted by the Town Board of the Town of Holland 8-12-1981; amended in its entirety 3-12-2003 by L.L. No. 3-2003. Subsequent amendments noted where applicable.]

§ 79-1. Applicability.

This chapter shall be applicable to all private and public properties described herein or owned by the Town of Holland within the Town of Holland.

§ 79-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

LOITER — To stand around, lounge, congregate or remain in a parked motor vehicle at a public place or place open to the public and to engage in any conduct prohibited under this chapter. "Loiter" also means to collect, gather, congregate or be a member of a group or of a crowd of people who are gathered together in any public place or place open to the public and to engage in any conduct prohibited under this chapter.

PLACE OPEN TO THE PUBLIC — Any place open to the public or any place to which the public is invited and in, on or around any privately owned place of business, private parking lot or private institution, including places of worship or any place of amusement and entertainment, whether or not a charge of admission or entry thereto is made. It includes the elevator, lobby, halls, corridor and areas open to the public of any store, office or apartment building as well as parking lots or other vacant private property not owned by or under the control of the person charged with violating this chapter or, in the case of a minor, not owned by or under the control of his parent or guardian.

PUBLIC PLACE — Any public street, road or highway, alley, lane, sidewalk, crosswalk or other public way or any public resort, place of amusement, park, playground, public building or grounds appurtenant thereto, school building or school grounds, public parking lot or any vacant lot.

§ 79-3. Prohibited conduct.

- A. It shall be unlawful for any person to loiter at, on or in a public place or place open to the public in such a manner:
- (1) As to interfere, impede or hinder the free passage of vehicular traffic.
 - (2) As to interfere with, obstruct, harass, curse or threaten or do physical harm to another member or members of the public.
 - (3) So that, by words, acts or other conduct, it is clear that there is a reasonable likelihood to result in a breach of the peace or disorderly conduct.

- B. It shall be unlawful for any person to loiter as defined in § 79-2 herein at a public place or place open to the public and to fail to obey the direction of a uniformed police officer and/or peace officer or the direction of a properly identified police officer and/or peace officer not in uniform to move on when not to obey such direction shall endanger the public peace.

§ 79-4. Exceptions.

- A. A gathering of persons shall not be considered to be guilty of loitering if it has a legitimate purpose for being in the public place or shopping center.
- B. Nothing herein shall be construed to prohibit orderly picketing or other lawful assembly.

§ 79-5. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

Any person violating any of the provisions of this chapter shall be punished, upon conviction, by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both. Each day that a violation of or failure to comply with any provision of this chapter or any regulations promulgated hereunder by the Town Board occurs, it shall constitute a separate and distinct violation.

§ 79-6. Severability.

If any provision of this chapter shall be invalidated by any court, such provision shall be deemed severable, and the remaining provisions shall continue in full force and effect.

Chapter 125

PEACE AND GOOD ORDER

§ 125-1.	Obstructing public places; loitering.	§ 125-4.	Trespassing.
§ 125-2.	Abusive and offensive language and conduct.	§ 125-5.	Park and recreational facilities.
§ 125-3.	Disturbing, excessive or offensive noise.	§ 125-6.	Penalties for offenses.

[**HISTORY:** Adopted by the Board of Trustees of the Village of Springville 11-19-1979 as Ch. 100 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Firearms — See Ch. 95.

Nuisances — See Ch. 118.

Noise — See Ch. 115.

§ 125-1. Obstructing public places; loitering.

No person or persons shall:

- A. Stand, sit, lounge upon, be or remain in or upon any public street, sidewalk, bridge, parking lot, walkway or thoroughfare in any manner which may obstruct or interfere with the free and uninterrupted passage of any person lawfully using the same.
- B. Stand, sit, lounge upon, be or remain at or upon any sidewalk, driveway, entranceway, doorway, platform or stoop, attached or adjacent to any building or dwelling, without the express permission of the owner or occupant of such building or dwelling, unless engaged in the conduct of legitimate business thereat.
- C. Stand, sit, lounge, be or remain at or in any sidewalk or entranceway, passageway, hallway or vestibule to or in any church, hall, theater, school or public building or place in any manner which may disturb, obstruct or interfere with any person lawfully present thereat or lawfully entering or leaving the same.

§ 125-2. Abusive and offensive language and conduct.

No person shall use or engage in language, gestures or conduct which is offensive, threatening, abusive, insulting, vulgar or profane on or in any public street, public gathering, school, church, theater, hall or public building or place.

§ 125-3. Disturbing, excessive or offensive noise. [Amended 11-18-2002 by L.L. No. 4-2002]

- A. Intent of section. The making and creating of disturbing, excessive or offensive noises within the jurisdictional limits of the Village of Springville is a condition which has persisted, and the level and

frequency of occurrences of such noises continue to increase. These noise levels are a detriment to the public health, comfort, convenience, safety and welfare of the citizens. Every person is entitled to an environment in which disturbing, excessive or offensive noise is not detrimental to his or her life, health, or enjoyment of property. This section is to be construed liberally, but it is not intended to be construed so as to discourage the enjoyment by residents of normal, reasonable and usual activities.

B. Prohibited acts.

- (1) No person, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, shall cause, suffer, allow or permit to be made unreasonable noise. For purposes of this section, unreasonable noise is any unusual, excessive or offensive sound that would disturb a reasonable person of normal sensitivities under the same circumstances.
- (2) Among the factors to be considered in making a judgment as to whether a particular sound constitutes unreasonable noise are the following:
 - (a) The volume of the sound;
 - (b) The frequency of the sound;
 - (c) The periodicity of the sound;
 - (d) Whether the sound is unusual and incongruous with the surrounding environment;
 - (e) The volume and frequency of any ambient sound;
 - (f) The use, nature and character of the immediate area where the sound source exists;
 - (g) The time of day or night when the sound occurs;
 - (h) The duration of the sound;
- (3) The following acts are declared to be prima facie evidence of a violation of this section. This enumeration shall not be deemed exclusive.
 - (a) Any unnecessary noise from any source between the hours of 11:00 p.m. and 7:00 a.m. the following day.
 - (b) Noise from a dog or other pet animal which is continuous and exceeds 15 minutes.
 - (c) Noise from a burglar alarm or other alarm system of any building, motor vehicle, or boat which is continuous and exceeds 15 minutes.
 - (d) Noise from any sound reproduction system, operating or playing any radio, portable radio or tape player, television, CD player or similar device that reproduces or amplifies sound in such a manner as to be heard 60 feet from its source or over any property line.
 - (e) The erection, including excavation, demolition, alteration or repair of any building other than between 7:00 a.m. and 9:00 p.m., except when the public safety requires emergency action as reasonably determined by the Code Enforcement Officer.
 - (f) The operation of power equipment in residential zones outdoors between the hours of 10:00 p.m. and 7:00 a.m. the following day, and on weekends between 10:00 p.m. and 8:00 a.m.

- (g) The operation, repair, rebuilding, modifying or testing of any motor vehicle, all-terrain vehicle, snowmobile, motorcycle, motorboat, go-cart, minibike or other vehicle on any property adjacent to property being used for residential purposes so as to disturb the quiet, comfort or repose of a reasonable person of normal sensitivities.
- (h) The sounding of any horn or signaling device of an automobile, motorcycle or other vehicle for any unnecessary reason or unreasonable period of time.
- (i) The making of improper noise or disturbance by operating any motor vehicle, automobile, all-terrain vehicle, snowmobile, motorcycle or other vehicle or machine in such a manner as to cause excessive, unusual, loud, intrusive or unnecessary squealing, motor noise or other excessive, unusual, loud, intrusive or unnecessary noise.
- (j) Offering for sale anything by shouting or outcrying upon the public streets and sidewalks or the use of any instrument or device for the purpose of attracting attention to any sale or display of merchandise by the creation of noise.

C. Exceptions. The provisions of this section shall not apply to the following acts:

- (1) The emission of sound for the purpose of alerting persons to the existence of an emergency;
- (2) Noise from municipally sponsored celebrations or events;
- (3) Noise from individually sponsored events where a permit for public assembly or other relevant permission has been obtained from the Village;
- (4) The operation or use of any organ, bell, chimes, or other such instrument, apparatus, or device at any church, synagogue, or other place of religious worship, or at a school licensed or chartered by the State of New York, provided such operation or use does not occur between the hours of 10:00 p.m. and 8:00 a.m.;
- (5) Necessary noise generated by the installation and maintenance of public utilities.
- (6) Noise created by lawnmowers, snow blowers or other real property maintenance equipment when used for its intended purpose;
- (7) Noise generated at a sporting event of any organized league or public or private school or generated at a carnival, festival, fair, exhibition or parade authorized or sponsored by the Village of Springville or other governmental entity having jurisdiction thereof.

D. Penalties for offenses.

- (1) Any person who violates any provision of this section or harbors or owns any animal which creates a violation of this section shall be guilty of a violation and shall be subject to a fine not to exceed \$250 for each offense. Each day that a violation occurs shall be deemed a separate offense punishable as such. The Village of Springville may also seek injunctive relief to prevent the continued violation of this section.
- (2) The owner of any real property and any person in control thereof when anything in violation of this section occur shall be guilty of a separate violation and, upon conviction thereof, shall be fined as herein provided.
- (3) The word "person" in this section shall include an individual, partnership, unincorporated association and corporation.

- E. Severability. If any word, phrase, or part of this section shall be declared unconstitutional, the same shall be severed and separated from the remainder of this section, and said remainder shall continue in full force and effect.

§ 125-4. Trespassing.

No person shall intrude or enter upon the property of another without the permission of the owner or lawful occupant thereof, unless able to explain his presence thereon or therein, as the case may be, to the satisfaction of such owner or lawful occupant.

§ 125-5. Park and recreational facilities. [Added 10-20-2003 by L.L. No. 9-2003¹; amended by 2-6-2017 by L.L. No. 1-2017]

- A. All Village-owned park and recreation facilities, namely Fiddlers Green Park at Franklin and North Buffalo Streets, Eaton Park (the tennis courts and spray park on North Central Avenue and Franklin Street), Shuttleworth Park off South Buffalo Street between the public parking lot and Spring Brook, Heritage Park at 65 Franklin and the 1.8 mile Pop Warner Rail Trail (which is the B&P Rail Corridor within the Village limits) shall be closed to the public at times to be posted at each location, as determined by resolution of the Village Board.
- B. The period that such facilities are closed to the public may be modified by resolution of the Board of Trustees in individual cases for public or private events permitted by the Board.
- C. It shall be unlawful for any person to be in a Village park or recreation facility at any time during the period that such facility is closed to the public. Motor vehicles, snowmobiles on the Pop Warner Rail Trail excepted, shall at all times be prohibited from these locations. **[Amended 7-15-2019 by L.L. No. 9-2019]**
- D. This section, § 125-5, shall not apply to the Village's contractors, officers or employees while engaged in the performance of their Village duties.
- E. Rules and regulations for each individual park or recreational facility may be established by resolution of the Village Board.
- F. A notice of the prohibition and rules and regulations authorized or contained in this section shall be conspicuously posted at each Village park and recreation facility.

§ 125-6. Penalties for offenses. [Amended 11-5-1979 by L.L. No. 13-1979]

Any person committing an offense against any provision of this chapter shall, upon conviction thereof, be punishable as provided in Chapter 1, General Provisions, Article II, General Penalty, of the Code of the Village of Springville.

1. Editor's Note: This local law also renumbered former § 125-5 as § 125-6.

Chapter 132

LOITERING

§ 132-1. **Applicability.**

§ 132-2.

Prohibited acts.

§ 132-3.

Penalties for offenses.

**[HISTORY: Adopted by the Town Board of the Town of Wales 5-11-1993 by L.L. No. 1-1993.
Amendments noted where applicable.]**

GENERAL REFERENCES

Cemeteries — See Ch. 90.

Vehicles and traffic — See Ch. 189.

Parks and recreation areas — See Ch. 156.

§ 132-1. **Applicability.**

This chapter shall be applicable to all properties owned by the Town of Wales which are used for assemblage and the parking of motor vehicles within the Town of Wales.

§ 132-2. **Prohibited acts.**

No person shall loiter, remain or wander about in a public place of assemblage or parking area except for the legitimate use of said area.

§ 132-3. **Penalties for offenses.**

A violation of this chapter is hereby declared to be a violation, and any person violating the same may, upon conviction, be punished by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment.