

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Candor

Local Law No. 1 of the year 20 22

A local law Town of Candor Board of Appeals Law
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Candor as follows:

Local Law No 1 of year 2022

A Local Law to be known as:

Town of Candor Board of Appeals Law

Be it enacted by the Town Board of the Town
of Candor as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Town of Candor	Board of Appeals Law 2022 - 3	Version 1.1
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3.4 Imposition of Conditions

The Board of Appeals shall, in granting area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

SECTION 4 PROCEEDINGS FOR FUNCTIONING OF THE BOARD OF APPEALS

4.1 All meetings of the Board of Appeals shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or, in his absence, the Acting Chairperson, designated by the Board members may administer oaths and compel the attendance of witnesses

4.2 The Board of Appeals shall establish and adopt general rules as to the procedures and by which appeals may be taken. Such rules shall be made a part of the public record to the Town Board and in the office of the Town Clerk.

4.3 Meetings of the Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact and shall also keep records of its examination and other official actions. Every rule and regulation, every amendment or repeal thereof and every order, requirement, decision, or determination of the Board shall be a public record and immediately be filed in the office of the Town Clerk and Code Enforcement Officer.

4.4 An applicant before the Board must present affirmative, substantial evidence showing that the relief which he/she seeks is justified. When the Board renders a decision, it shall specify the basis for the decision in detail.

4.5 The Board of Appeals shall have the authority to call upon any department or employee of the Town for assistance deemed necessary and as shall be authorized by the Town Board.

4.6 The Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act (SEQRA) under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in 6 NYCRR Part 617.

SECTION 5 APPEAL PROCEDURES

5.1 An appeal to the Board of Appeals for administrative review or variance may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, board, or bureau affected by any decision of the Code Enforcement Officer based in whole or in part upon the provisions of this chapter or other applicable laws.

5.2 Appeal shall be taken to the Board of Appeals within sixty (60) days after the filing of any order, requirement, decision, interpretation, or determination of the Code Enforcement Officer by filing with the Code Enforcement Officer and the Board of Appeals a notice of appeal specifying the grounds thereof and the relief sought.

5.3 Appeal shall be filed according to the general rules established by the Board of Appeals and become part of the public record in the office of the Town Clerk.

5.4 The Board of Appeals shall, according to its general rules, send one copy of the appeal to the Town Clerk and one copy to the Planning Board.

5.5 The Code Enforcement Officer shall transmit to the Board of Appeals all the papers constituting the record upon which the action appealed was taken.

SECTION 6 NOTICE OF PUBLIC HEARING

6.1 The Board of Appeals shall publish a notice of the public hearing in a paper of general circulation in the Town a minimum of five calendar days in advance of such hearing. Such notice shall, a minimum of five calendar days in advance of such hearing, be mailed to the parties to the appeal, and to cities, towns, and villages within 500 feet of the affected property in the notice of appeal. Notice of the public hearing shall also be mailed to owners of the property within the following distances of the affected property:

(A) For all area variances associated with nonresidential property, 200 feet.

(B) For all area variances for residential property, 100 feet.

Notice shall also be transmitted to the Town Board.

The notice shall contain the time, date and location of the meeting and the location of the affected property. Failure of an intended recipient to receive said notice shall not be cause for review of the Board's determination.

SECTION 7 PUBLIC HEARING

The Board of Appeals shall fix a reasonable time for the hearing of any appeal. Such hearing shall consider all facts pertaining to the appeal. At the hearing on the matter under review, the Chairman shall make available all reports received, including those of the Code Enforcement Officer. At the hearing, any person may appear in person or by agent or by attorney.

SECTION 8 DECISION

8.1 The Board of Appeals shall decide such appeal within 60 days of the public hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board.

8.2 In cases in which a referral has been made to the Planning Board for its review and report, the decision of the Board of Appeals shall not be rendered until either receipt of the report of the Planning Board or 30 calendar days from the date of referral to the Planning Board, whichever shall sooner occur.

8.3 The Board of Appeals shall not act contrary to any recommendations of the Code Enforcement Officer without first setting forth in the record the reasons for such action.

8.4 The decision shall be made by a majority of the total membership of the Board of Appeals if such decision shall reverse any order, requirement, decision, or determination of the Code Enforcement Officer, or decide in favor of the applicant, or effect any variation in such ordinance as is required under Section 267 of NY Town Law.

8.5 All decisions shall be filed with the Town Clerk and the Code Enforcement Officer within ten business days after the date such decision is rendered, and a copy thereof mailed to the applicant.

8.6 The Enforcement Officer shall, within seven calendar days of the filing of the decision, issue a permit, certificate of occupancy, or otherwise comply with the decision of the Board of Appeals.

SECTION 9 REHEARING

A motion for the Board of Appeals to hold a rehearing to review any order, decision, or determination of the Board not previously reviewed may be made by any member of the Board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing, the Board may reverse, modify, or annul its original order, decision, or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in any person acting in good faith in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.

SECTION 10 EXPIRATION AND EXTENSION OF A BUILDING PERMIT

10.1 Any building permit issued under written order of the Board of Appeals shall expire 12 months from the date of issuance of said written order.

10.2 Upon any appeal by the aggrieved person(s), the Board of Appeals may grant not more than one extension of up to 12 months duration to the life of such building permit as issued above.

SECTION 11 STAY OF PROCEEDINGS

An appeal stays all proceedings in furtherance of the action appealed from unless the Code Enforcement Officer certifies to the Board of Appeals, after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by the Supreme Court or by any other Court of competent jurisdiction.

SECTION 12 SUPREME COURT REVIEW**12.1 Article 78 Proceedings**

Any person or persons jointly or severally aggrieved by any decision of the Board of Appeals or by any officer, department, board, or bureau of the town may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules and as provided in Section 267 of NY Town Law. Such proceeding shall be instituted within 30 calendar days after the filing of a decision in the office of the Town Clerk.

12.2 Costs of appeal

Costs shall not be allowed against the Board of Appeals unless it shall appear to the Supreme Court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

SECTION 13 FEES

13.1 Upon the filing of a notice of appeal or a motion for a rehearing by any person or entity, there shall be paid fees according to the Town of Candor Schedule of Fees to the Town Clerk.

SECTION 14 REPEALER

14.1 All reference to or sections of Local Laws involving waivers, appeals, and variances are hereby repealed in their entirety as of the effective date of this Local Law, as hereinafter provided, and shall be superseded by this Local Law.

SECTION 15 EFFECTIVE DATE

This Local Law shall become effective immediately upon its filing with the Secretary of State.