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**SECTION I: INTRODUCTORY PROVISIONS****1.1 ENACTMENT**

The Town Board of the Town of Candor, Tioga County, New York, does hereby ordain and enact the Town of Candor Site Plan Review Law pursuant to the authority and provisions of section 10 of the Municipal Home Rule Law and section 274-a of the Town Law of the State of New York.

**1.2 SHORT TITLE**

This local law shall be known as the "Town of Candor Site Plan Review Law." The Town of Candor is hereinafter referred to as the "town."

**1.3 INTENT AND PURPOSE**

Through site plan review, it is the intent of this local law to promote the health, safety and general welfare of the town. A clean, wholesome, attractive environment is declared to be of importance to -the health and safety of the inhabitants of the town and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the town and the general welfare of its inhabitants.

It is further the intent of this local law to ensure optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the town, by regulating land use activity within the town through review and approval of site plans. The Town of Candor Comprehensive Plan as adopted by the Candor Town Board shall be used as a guide when enforcing the provisions of this law.

**1.4 AUTHORIZATION OF PLANNING BOARD TO REVIEW SITE PLANS**

The Planning Board is hereby authorized to review and approve or disapprove site plans for land uses within the town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this local law.

## SECTION II: APPLICABILITY AND DEFINITIONS

### 2.1 APPLICABILITY OF REVIEW REQUIREMENTS

All new land use activities within the town shall require site plan review and approval before being undertaken, except the following:

1. Construction or alteration of one- or two-family dwelling and ordinary accessory structures, and related land use activities.
2. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this local law.
3. Ordinary repair or maintenance or interior alterations to existing structures or uses.
4. Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25%; and having a cost value of less than \$5,000.
5. Selective tree harvesting under a proper forest management plan. Harvesting more than 50% of the trees on any parcel of land of one acre or more shall require site plan approval.
6. Roof-Mounted Solar Energy Systems that use the energy primarily onsite.
7. Ground-Mounted Solar Energy Systems that use the energy primarily onsite.
8. Building-integrated photovoltaic systems.
9. Solar panel less than 50 square feet in size.
10. General maintenance of solar energy systems.
11. General maintenance of telecommunications facilities.
12. Antennas and satellite antennas used solely for residential household television and radio reception.
13. The sale of agricultural produce and temporary structures related to sale of agricultural produce.
14. Garage, lawn and porch sales not exceeding three days. If such sales take place more often than three times in any calendar year, site plan approval will be required.
15. Land use activity that occurs in the course of normal agriculture or timbering operations as pursuant to sections 305-A and 308 of the Agriculture and Markets Law.

Any person uncertain of the applicability of this local law to a given land use activity may apply in writing to the planning board for a written jurisdictional determination.

### 2.2 EFFECT ON EXISTING USES

This law does not apply to uses and structures which are lawfully in existence as of the date this local law becomes effective. Any use which would otherwise be subject to this law, that has been discontinued for a period of two years or more shall be subject to review pursuant to the terms of this law before such use' is resumed. Any use or structure shall be considered to be in existence provided the same has been substantially commenced as of the effective date of this local law and fully constructed and completed within one year from the effective date of this local law. A voluntary unofficial review of the plans by the Candor Planning Board is recommended with no fee required.

## 2.3 RELATIONSHIP OF THIS LAW TO OTHER LAWS AND REGULATIONS

This local law in no way affects the provisions or requirements of any other federal, state, or local law or regulations. Where this local law is in conflict with any other such law or regulation, the more restrictive shall apply. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act (SEQRA) in conjunction with the site review process set forth in this in this local law.

## 2.4 DEFINITIONS

"Land use activity" means any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or a structure.

"Land use activity" shall explicitly include, but not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansions of existing uses, roads, driveways, and excavations for the purpose of extracting soil or mineral deposits.

"Parking space" an area 10' X 20' minimum

"Streambank" means the mean high water mark of any permanent stream.

"Structure" means any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, tanks, towers and any fixtures, additions, including alterations thereto.

"Structure, accessory" means any structure designed to accommodate an accessory use but detached from the principal structure, such as, a free standing garage for vehicles accessory to the principal use, a storage shed, garden house or similar facility.

Any term used in this local law which is not defined hereinabove shall carry its customary meaning unless the context otherwise dictates.

## **SECTION III: SITE PLAN REVIEW**

### 3.1 PROCEDURES - GENERALLY

Prior to undertaking any new land use activity other than uses specifically excepted in section 2.1 of this local law, a site plan approval by the Planning Board is required. Applicants for site plan approval shall follow the recommended procedures related to the sketch plan conference as hereinafter set forth. Applicants must comply with all other procedures and requirements of this local law.

### 3.2 SKETCH PLAN CONFERENCE

The initial step in any application shall be for the applicant to request a sketch plan conference, such request to be made in writing by the applicant at least fourteen (14) days prior to a regularly scheduled meeting of the Planning Board.

A sketch plan conference shall be held between the planning board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his proposal prior to the preparation of a detailed site plan; and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide the following:

1. A statement and rough sketch\* showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;
2. An area map\* showing the parcel under consideration for site plan review, and all properties, subdivisions, streets, rights-of-way, easements and other pertinent features within 200 feet of the boundaries of the parcel; and
3. A topographic or contour map\* of adequate scale and detail to show site topography.

\* It is preferred that the size of the documents be 11" X 17" or smaller.

### 3.3 APPLICATION REQUIREMENTS

An application for site plan approval shall be made in writing fourteen (14) days prior to the Planning Board's regular monthly meeting and shall be accompanied by information contained on the following checklist as determined necessary by the Planning Board during the sketch plan conference. Application and fees are to be submitted to the Code Enforcement Officer or Candor Town Clerk who will notify the chairman of the Planning Board.

#### SITE PLAN CHECKLIST:

1. Title of drawing\*, including name and address of applicant and person responsible for preparation of such drawing;
2. North arrow, scale and date;
3. Boundaries of the property plotted to scale identifying the owners of abutting parcels;
4. Existing buildings on site and within 150 feet of the boundaries of the site;
5. Drainage plan. May include; grading, existing and proposed contours, rock outcrops, depth to bedrock, soil characteristics, and watercourses;
6. Location, design, type of construction, proposed use and exterior dimensions of all buildings;
7. Location, design and type of construction of all parking and truck loading areas, showing access and egress;
8. Provision for pedestrian access;
9. Location of outdoor storage, if any;
10. Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
11. Description of the method of sewage disposal and location, design and

- construction materials of such facilities;
- 12. Description of the method of securing water supply and location, design and construction materials of such facilities;
- 13. Location of fire and other emergency zones, including the location of fire hydrants and/or potential fire pond;
- 14. Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
- 15. Location, size and design and type of construction of all proposed signs;
- 16. Location and proposed development of all buffer areas, including existing vegetative cover;
- 17. Location and design of outdoor lighting facilities;
- 18. Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
- 19. General landscaping plan and planting schedule;
- 20. An estimated project construction schedule;
- 21. Identification of any permits from other governmental bodies required for the project's execution;
- 22. Record of application for and status of all necessary permits from other governmental bodies;
- 23. For projects classified as Type 1 under the State Environmental Quality Review Act (SEQRA), a Full Environmental Assessment Form (EAF) is required. For all other projects, a Short Environmental Assessment Form (EAF) is required. After review of these documents the Planning Board may require additional information;
- 24. An Agriculture Data Statement (ADS) must be submitted if the proposed project occurs on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation within an agricultural district; and
- 25. Other elements integral to the proposed development as may be considered necessary in the particular case by the planning board.

\* It is, preferred that the size of documents be 11" X 17" or smaller.

### 3.4 REQUIRED FEE

An application for site plan review shall be accompanied by a fee determined by the Town of Candor Fee Schedule. See the Town Clerk to determine the fee and to make payment.

### 3.5 REIMBURSABLE COSTS

Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant. The applicant will be provided with an estimate of such costs within 10 days after the Sketch Plan conference, which cost estimate shall be payable at the time that an application for a site plan approval is made to the Candor Town Clerk. If the estimate exceeds actual expenses, the excess will be refunded. If expenses are greater than the estimate, the difference will be billed. In no event shall the fees be greater than that established by 6 NYCRR 617.17.

## SECTION IV: REVIEW STANDARDS

### SECTION 4.1 GENERAL STANDARDS AND CONSIDERATIONS

The planning board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:

1. Compatibility of the proposed activity with the Comprehensive Plan of the Town of Candor.
2. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
3. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
4. Location, arrangement, appearance and sufficiency of off-street parking and loading.
5. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures; control of intersections with vehicular traffic and overall pedestrian convenience.
6. Adequacy of storm water and drainage facilities.
7. Adequacy of water supply and sewage disposal facilities.
8. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
9. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants and/or potential fire pond.
10. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
11. Procedures and facilities and the handling, storing and disposing of hazardous and toxic materials shall be adequate to protect surface and ground water resources.
12. Overall impact on the neighborhood including compatibility of design consideration.
13. When mining activities are contemplated, reclamation plans and procedures shall be required.
14. Telecommunication facilities will comply with the additional requirements of Appendix A.
15. Large-scale solar photovoltaic systems will comply with the additional requirements of Appendix B.
16. Adult entertainment establishments will comply with the additional requirements of Appendix C.

### 4.2 SPECIFIC STANDARDS AND CONSIDERATIONS

The following specific standards shall apply in conjunction with the subject uses or in the designated areas.

#### 4.2.1 STREAMBANK STANDARDS AND CONSIDERATIONS

1. All construction on any streambank lot shall be carried out in such manner as to

minimize interference with the natural course of such waterway, to avoid erosion of the streambank, to minimize increased runoff of ground and surface water into the waterway, to remove only that vegetation which is necessary to the accomplishment of the project, and to generally maintain the existing aesthetic and ecological character of the streambank.

2. No on-site sewage field or seepage pit shall be located within one hundred (100) feet of any streambank and no septic or other holding tank shall be located within fifty (50) feet of any streambank, as measured from the normal high water mark of the waterbody.

3. Any storage of petroleum products within one hundred (100) feet or reasonable setback as determined necessary by the planning board, of the streambank shall include adequate provisions for insuring that any leak, rupture or spill will be contained and not be introduced into or affect the adjacent waterway. In particular, a raised earthen or paved berm or dyke shall be constructed in such manner so as to afford adequate protection.

## **SECTION V: PUBLIC HEARING AND PLANNING BOARD DECISION**

### **5.1 PUBLIC HEARING**

The Planning Board may conduct a public hearing on the site plan if considered desirable by a majority of its members. Such hearing shall be held within 62 days of the receipt of application for site plan review and shall be advertised at least five (5) days before the public hearing.

### **5.2 TIOGA COUNTY PLANNING BOARD REVIEW**

When required by General Municipal Law 239L & M the Planning Board shall submit the application to the Tioga County Planning Board for review. The Tioga County Planning Board review must be conducted 10 days prior to the public hearing if required. The Tioga County Planning Board's decision can only be overruled with a super majority (majority plus 1).

### **5.3 PLANNING BOARD DECISION**

Within 62 days of receipt of the application for site plan approval or if a public hearing is held within 62 days of public hearing, the Planning Board shall render a decision. In its decision the Planning Board may approve, approve with modifications or disapprove the site plan. The time period in which the Planning Board must render its decision can be extended by mutual consent of the applicant and the Planning Board.

#### **1. Approval \*\***

Upon approval of the site plan, and payment by the applicant of all fees and reimbursable costs due the town, the planning board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the town clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

#### **2. Approval with modifications \*\***

The planning board may conditionally approve the final site plan. A copy of the written statement containing the modifications required by the conditional approval will be mailed to the applicant by certified mail, return receipt requested. After adequate demonstration to the planning board that all conditions have been met, and payment by the applicant of all fees and reimbursable costs due the town, the planning board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the town clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

\*\* The applicant can now apply for a building permit from the Town Code Enforcement Officer.

### 3. Disapproval

Upon disapproval of the site plan the decision of the planning board shall immediately be filed with the town clerk and a copy thereof mailed to the applicant by certified mail, return receipt requested, along with the planning board's reasons for disapproval.

## **SECTION VI: APPEAL OF PLANNING BOARD DECISION**

### 6.1 APPEAL PROCEDURE

Any person aggrieved by any decision of the Planning Board regarding the Site Plan Approval may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision in the office of the town clerk.

## **SECTION VII: MISCELLANEOUS PROVISIONS**

### 7.1 ENFORCEMENT OFFICER

The Town Board appoints the town code enforcement officer to carry out the duties assigned by this local law or any additional regulations adopted pursuant to section 7.020 hereof. The enforcement officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate.

### 7.2 AMENDMENTS

1. The Town Board may on its own motion, on petition, or on recommendation of the Planning Board, after public notice and hearing, amend this local law pursuant to all applicable requirements of law.
2. All proposed amendments originating by petition, or by motion of the Town Board, shall be referred to the Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within thirty (30) days, after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to constitute a recommendation for approval of the proposed amendment.

### 7.3 INTEGRATION OF PROCEDURES

Whenever the circumstances of proposed development require compliance with this Site



Plan Review Law and with any other local law, ordinance or requirement of the town, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this local law with the procedural and submission requirements for such other compliance

#### 7.4 ENFORCEMENT

Any person, corporation, partnership, association or other legal entity who shall violate any of the provisions of this local law, or any conditions imposed by a permit pursuant hereto shall be guilty of an offense and subject to a fine. See Fee Schedule, Penalties for Offenses, Class B, for current maximum fines. Every such person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

#### 7.5 SEVERABILITY

The provisions of this local law are severable. If any article, section, paragraph or provision of this local law shall be invalid, such invalidity shall apply only to the article, section, paragraph or provision(s) adjudged invalid, and the rest of this local law shall remain valid and effective.

#### 7.6 EFFECTIVE DATE

This local law shall be effective as of the date of filing with the New York Secretary of State.

### **APPENDIX A**

#### **TELECOMMUNICATION FACILITIES**

##### **PURPOSE**

These supplemental regulations are in addition to those listed above to provide standards for the safe provision of telecommunications consistent with applicable Federal and State regulations. These regulations are not intended to prohibit the provision of telecommunication services or to discriminate among providers. They encourage the following:

1. Minimizing the adverse visual impacts of the towers and antennas.
2. Reducing negative affects to surrounding properties.
3. Minimizing the number of these structures by encouraging joint use.
4. Removal of the telecommunication facility when it is no longer needed.

##### **DEFINITIONS**

Telecommunication facility - Towers and/or antennas and accessory structures together used in connection with the provision of cellular telephone service, personal communications services, digital and/or data communication services, paging services, radio and television broadcast services and similar broadcast services.

Telecommunication Tower - A structure on which transmitting and/or receiving antenna (e) are located.

Antenna - A system of electrical conductors that transmit or receive radio frequency signals. Such signals shall include but not be limited to radio, television, cellular, paging, digital and/or data communications, personal wireless communication services (PWS) and microwave communications.

## **TELECOMMUNICATIONS SITE PLAN REVIEW STANDARDS - ADDITIONAL**

1. Visibility - All towers and accessory buildings shall be sited to have the least practical adverse effect on the environment. Towers shall not be artificially lighted except to assure safety as required by the Federal Aviation Administration (FAA) or other governmental agencies. Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted to blend with the natural surroundings below the tree line unless other standards are required by the FAA. Structures offering slender silhouettes (monopoles or guyed tower) shall be preferable except where free-standing structures would allow for future shared use. Towers should be designed and sited whenever possible to avoid FAA requirements for lighting and painting. Documentation justifying the height of the tower shall be provided along with a completed Visual Environmental Assessment Form (Visual EAF).
2. Screening - Existing vegetation shall be preserved where possible and tree and shrub plantings may be required to screen the facility from nearby properties to reduce the negative impact on nearby properties.
3. Shared use - Shared use of existing towers shall be required when available. Where there are no existing towers, the installation of antenna on other existing structures shall be considered. If a new tower is proposed, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use and documenting why a new tower is required. The applicant must submit a copy of its policy regarding collocation of other facilities on the proposed tower.
4. Setbacks - Shall be greater than 1.5 times the height from occupied structures and public roads to ensure the safety and preserve privacy of adjoining property.
5. Bonding - A demolition bond for the purpose of removal of the telecommunication facility and restoration of the land shall be posted to the Candor Town Clerk at the time of permit application. The sufficiency of the bond will be established by a Professional Engineer licensed in New York State at the applicant's expense
6. Removal of tower - The applicant shall agree to remove the tower and antenna if the telecommunications facility ceases to be used for its intended purpose for the period not to exceed 1 year. The municipality may remove the system and restore the property 90 days thereafter by utilizing the demolition bond. The Town reserves the right to impose a lien on the property, for any decommissioning cost not recovered by the demolition bond. If recycling revenue exceeds demolition cost, then the Town will collect and designate those funds as surplus.

7. A road turnaround and one parking space shall be provided to assure adequate year-round emergency and service access. Maximum use of existing roads, public or private shall be made for access. Tower or antenna(s) accessory structures shall not be sited in public roadways or road right-of-way.
8. All towers shall be enclosed by a fence not less than eight feet in height and otherwise sufficiently protected from trespassing or vandalism.
9. The applicant must comply with all applicable state and federal regulations including but not limited to FAA and FCC regulations and from time to time may be required to provide certification of such compliance.
10. All towers and antennas shall include anti-climbing devices for a minimum of 25 feet extending above ground level.
11. Proof of ownership of the land by the applicant or the landowner's consent if the applicant will not own the property. If the property of the proposed project is to be leased, proof of legal consent specifying the use(s) of the land for the duration of the project between all parties must be submitted.
12. "Before" and "after" propagation studies prepared by a qualified radio frequency engineer (signed and sealed by a professional engineer licensed in the State of New York) demonstrating existing signal coverage resulting from the proposed telecommunications facility must be provided to the Candor Town Code Enforcement Officer.
13. Unless otherwise preempted by federal or state law, the telecommunications facility shall be inspected every two years, at the applicant's expense, for structural integrity, and a copy of the report shall be promptly delivered to the Code Enforcement Officer. A professional engineer licensed in New York State specializing in structural engineering shall perform the structural inspection. The structural inspection report shall describe the structural integrity of the facility, maintenance issues and repairs needed or made, if any. In the event that the structural inspection indicates structural deficiencies, then the deficiencies must\*be remedied within the time reasonably set by the Code Enforcement Officer. Upon the applicant's failure to do so, the bonds for demolition may be exercised.

## **APPEALS**

Requests for appeals, waivers or variances concerning sections of Appendix A or decisions of the Code Enforcement Officer shall be made to the Town of Candor Board of Appeals. Appeals shall be filed with the Code Enforcement Officer or Town Clerk according to the general rules established by the Board of Appeals.

## **APPENDIX B SOLAR ENERGY SYSTEMS**

### **PURPOSE**

This Solar Energy Law is adopted to advance and protect the public health, safety, and

welfare of the Town of Candor, including:

- 1) Taking advantage of a safe, abundant, renewable, and non-polluting energy resource;
- 2) Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses; and
- 3) Increasing employment and business development in the region by furthering the installation of Solar Energy Systems.

## **DEFINITIONS**

**BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM:** A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

**GROUND-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity or thermal energy for onsite consumption.

**LARGE-SCALE SOLAR ENERGY SYSTEM:** A Solar Energy System that is ground-mounted and produces energy (electrical or thermal) primarily for the purpose of offsite sale or consumption.

**ROOF-MOUNTED SOLAR ENERGY SYSTEM:** A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity or thermal energy for onsite or offsite consumption.

**SOLAR ENERGY EQUIPMENT:** Electrical or thermal energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical or thermal energy.

**SOLAR ENERGY SYSTEM:** An electrical or thermal energy generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

**SOLAR PANEL:** A photovoltaic device capable of collecting thermal energy and converting solar energy into electrical energy.

## **SOLAR SITE PLAN REVIEW STANDARDS - ADDITIONAL**

A. Large-Scale Solar Energy Systems are permitted through the Site Plan Review Law within the Town of Candor, subject to the requirements set forth in this Section, including site plan approval. Applications for the installation of a Large-Scale Solar Energy System shall be reviewed by the Code Enforcement Officer and referred, with comments, to the Town Planning Board for its review and action, which can include approval, approval on conditions, and denial.

B. Site Plan Application Requirements. For a solar energy permit approval, the site plan application is to be used as supplemented by the following provisions.

- 1) If the property of the proposed project is to be leased, proof of legal consent specifying the use(s) of the land for the duration of the project between all parties must be submitted.
- 2) Blueprints showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required.
- 3) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
- 4) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
- 5) Decommissioning Plan. To ensure the proper removal of Large-Scale Solar Energy Systems, a Decommissioning Plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of Site Plan Approval under this Section.
  - a. The Decommissioning Plan must specify that after the Large-Scale Solar Energy System can no longer serve a useful purpose, it shall be removed by the applicant or any subsequent owner. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor. Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan.
  - b. If the Large-Scale Solar Energy System is not decommissioned 1 year after being considered abandoned (no longer serving a useful purpose), the municipality may remove the system and restore the property 90 days thereafter. The Town reserves the right to impose a lien on the property, for any decommissioning cost not recovered from recycling revenue. If recycling revenue exceeds decommissioning cost, then the Town will collect and designate those funds as surplus.

**C. Plan Standards.**

- 1) All Large-Scale Solar Energy Systems shall be comprised of only solar PV systems from Tier 1 manufacturers.
- 2) Height and Setback. Large-Scale Solar Energy Systems shall adhere to the height restriction of 20 ft., setback requirement of 75 ft. from centerline of the road and 10' or height of the panel, whichever is greater, from the property line.
- 3) Solar panels shall be designed, placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways. No glare, lights, or reflection shall be permitted which are a nuisance to other property owners or tenants or which could impair the vision of a driver or any motor vehicle or which are detrimental to public health, safety, and welfare.

- 4) Structural fencing with a minimum height of 4 feet is required to prevent unauthorized access around the solar panel arrays. The planning board has the right to modify this requirement as the board sees fit as determined by location and other factors. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a fence no less than 7 feet high, as required by NEC standards, with a self-locking gate and signage to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of all fencing. Except for the primary company, no other signs are permitted unless required for safety or compliance.
- 5) Any Site Plan application under this Section shall be in addition to provisions contained in local Site Plan Review Law, in the judgment of the Town Planning Board applicable to the system being proposed.
- 6) The Town Planning Board may impose conditions on its approval of any Site Plan under this Section in order to enforce the standards referred to in this Section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

**D. Abandonment and Decommissioning**

Solar Energy Systems are considered abandoned after 1 year without electrical energy generation or useful purpose and must be removed from the property. Applications for extensions are reviewed by the Town Planning Board per request of the Code Enforcement Officer for a period not to exceed 90 days.

**E. Enforcement**

Any violation of this Solar Energy Law shall be subject to the same civil and criminal penalties provided for in the Town of Candor Fee Schedule, Penalties for Offenses, Class B, for current maximum fines.

**F. Appeals**

Requests for appeals, waivers or variances concerning sections of Appendix B or decisions of the Code Enforcement Officer shall be made to the Town of Candor Board of Appeals. Appeals shall be filed with the Code Enforcement Officer or Town Clerk according to the general rules established by the Board of Appeals.

**APPENDIX C  
ADULT ENTERTAINMENT BUSINESSES**

**PURPOSE**

These supplemental regulations are in addition to those listed above. They are necessary because of the following secondary effects adult entertainment businesses can have on the surrounding areas:

1. Decreased property values.
2. Increased crime.
3. Loss of business for other commercial businesses.

In order to minimize these objectionable effects it has been demonstrated that it is desirable to regulate both the location and the concentration of adult entertainment businesses. This will help achieve the following:

1. Preserve the character and the quality of life in the Town of Candor.
2. Restrict minor's access to adult entertainment.
3. Maintain the general welfare and safety for the Town of Candor residents.

It is not the intent nor the effect of this Local Law to restrict or deny access by adults to sexually oriented materials protected by the First Amendment. It is not the intent nor the effect of this chapter to condone or legitimize the distribution of obscene materials.

## DEFINITIONS

The words and phrases set forth below shall have the meanings respectfully ascribed to them.

1. Adult entertainment establishment: A public or private establishment, or any part thereof, which presents any of the following entertainments exhibitions, or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages; service or entertainment, where the servers or entertainers wear only pasties or G-strings or both; adult arcades, adult bookstores or adult video stores; adult cabarets; adult motels; adult motion picture theaters; escort agencies; nude model studios and sexual encounter centers. Adult Entertainment Establishments customarily exclude minors by reason of age.
2. Adult arcade: Any place to which the public is permitted or invited or in which coin operated or slug operated or electronically, electrically or mechanically controlled, or by any other method for which a fee is charged, still or motion picture machines, projectors or other image producing devices are maintained to show images to an audience, and where the image is so displayed, distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.
3. Adult bookstore or adult video: A commercial establishment which, which as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
  - a. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture video cassettes or video reproductions, digital formats, slides, compact discs, computer software, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
  - b. Instruments, devices or paraphernalia which are primarily intended, labeled, designed, advertised or promoted for use in connection with "specified sexual activities". Alternatively, a commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified anatomical areas" and still be classified as "adult bookstore" or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas."
  - c. The gross profits of the business as a whole if such business also includes profits from other business purposes;
  - d. The number of different titles or kinds of such merchandise;
  - e. The number of copies or pieces of such merchandise;
  - f. The amount of floor space devoted to the sale and/or display of such merchandise;
  - g. The amount of advertising that is devoted to such merchandise either in print or broadcast media.

For purposes of this definition, "principal business purpose" shall mean twenty-five percent (25%) or more of any of the following:

4. Adult cabaret: A nightclub, bar, restaurant or similar commercial establishments, with or without a liquor license, which regularly features:
  - a. Persons who appear in a state of nudity;
  - b. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities";
  - c. Files, motion pictures, video cassette, slides, digital format or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas";
5. Adult motel: A hotel, motel or similar commercial establishment which:
  - a. Offers accommodations to the public for any form of consideration and provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides, digital format or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and has a sign visible for the public right-of-way which advertises the availability of this adult type of photographic productions;
  - b. Offers a sleeping room for rent for a period of time that is less than ten (10) hours;
  - c. Allows a tenant or occupant of the sleeping room to sublet the room for a period of time that is less than ten (10) hours.
6. Adult motion-picture Theater: A commercial establishment where for any form of consideration, films, motion pictures, video cassettes, slides or similar graphic reproductions are displayed which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
7. Adult theater: A theater, concert hall, auditorium or similar commercial establishments which regularly feature persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities."
8. Audience: One (1) or more persons who are permitted to view a performance for valuable consideration of, in or from a public place.
9. Display publicly: The exposing, placing, posting, exhibiting or in any other fashion displaying in any location, whether public or private, material or a performance in such manner that it may be readily seen and its contents or character distinguished by normal unaided vision viewing it from a public place or vehicle.
10. Escort: A person who, for consideration, agrees or offers to act as a companion, guide or date for any person or who agrees to privately model lingerie or to privately perform a striptease for another person.
11. Escort agency: A person of business association who or, which furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
12. Establishment: Includes any of the following:
  - a. The opening or commencement of any sexually oriented business as a new business;
  - b. The conversion of any existing business, whether or not a sexually oriented business, to a sexually oriented business;
  - c. The addition of any sexually oriented business to any other existing sexually oriented business;
  - d. The relocation of any sexually oriented business.



13. Nude model studio: Any place where persons who appear in a state of nudity or who display "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.
14. Nudity: Uncovered or less than opaquely covered post puberty human genital or pubic area, the post puberty human female breast below the point immediately above the top of the areola or the covered human male genitals in discernibly turgid state. For the purposes of this definition, a female breast is considered nude if the nipple only or the nipple and the areola only are covered.
15. Pander: Advertising or propagandizing, in connection with the sale of material, the offering of a service or the presentation or exhibition of performance by appealing to the prurient interest of potential customers.
16. Performance: Any live or reproduced exhibition, including but not limited to any play, motion picture, film, dance or appearance presented to or performed before an audience.
17. Pornography: Any material or performance is pornography if all of the following elements are present:
  - a. Considered as a whole by the average person applying the contemporary community standards of the Town of Candor, it appeals to the prurient interest;
  - b. It depicts, describes or represents, in patently offensive way, sexual conduct, as hereinafter defined;
  - c. It lacks serious literary, artistic, political or scientific value.
18. Pornography for minors: Any material performance is "pornography for minors" if all of the following elements are present:
  - a. Considered as a whole by the average person applying the contemporary community standards of the Town of Candor, with respect to what is suitable for minors, it is presented in such a way as to appeal to a minor's prurient interest;
  - b. It depicts, describes or represents, in a patently offensive way, nudity or sexual conduct as hereinafter defined;
  - c. It lacks serious literary, artistic, political or scientific value for minors.
19. Prurient interests: A desire or craving for sexual stimulation or gratification. In determining "prurient interest," the material or performance shall be judged with reference to average persons, unless it appears from the character of the material or performance that it is designed to appeal to prurient interests of a particular group of persons, including but not limited to homosexuals or sadomasochists. In that case, it shall be judged with reference to the particular group for which it was designed.
20. Sadomasochistic abuse: Flagellation or torture by or upon a person who is nude or clad in undergarments or in a sexual revealing or bizarre costume; or the condition of such person being fettered, bound or otherwise physically restrained in an apparent act or sexual stimulation or gratification.
21. Sexual conduct:
  - a. Masturbation;
  - b. Sexual intercourse, whether genital-genital, oral-genital, oral-anal or anal-genital;
  - c. Any erotic fondling or touching of any parts of the covered or uncovered genitals, buttocks, pubic area or breast of the female;
  - d. Actual or simulated display or exhibition of the human pubic area or genitals or any part thereof;

- e. Sexual excitement, as hereinafter defined;
  - f. Sadomasochistic abuse, as hereinbefore defined;
  - g. The conduct described in Subsections a through c, inclusive, is "sexual conduct," whether or not it is engaged in alone or between members of the same sex or between members of the opposite sex or between humans and animals or between humans and inanimate objects.
22. Sexual encounter center: A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:
- a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
  - b. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.
23. Sexual excitement: The facial expression, movements, utterances or other responses of a human male or female, whether alone or with others, whether clothed or not, who is in an apparent state of sexual stimulation or arousal and who experiences the physical or sensual reactions of humans engaging in or witnessing sexual conduct.
24. Sexually oriented business: An adult entertainment establishment, adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, and adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.
25. Specified anatomical areas: Human genitals, pubic region, buttocks, and female breast below a point immediately above the top of the areola.
26. Specified sexual activities: Means and includes any of the following:
- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or breasts;
  - b. Sex acts. Normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
  - c. Masturbation, actual or simulated;
  - d. Excretory functions.
  - e. Adult entertainment establishment;
  - f. Adult arcade;
  - g. Adult bookstore or adult video store;
  - h. Adult cabaret;
  - i. Adult motel;
  - j. Adult motion picture theater or Adult Theater;
  - k. Escort agency;
  - l. Nude model studio;
  - m. Sexual encounter center.

### **LOCATION OF ADULT BUSINESSES**

- 1. No closer than 1000 feet from any private residence.
- 2. No closer than 1000 feet from property line of the following:
  - a. Church, synagogue, or other place of worship
  - b. School, day care, library, or other public facilities frequented by children
  - c. Park, playground, or other public recreational facilities.
- 3. No closer than 1000 feet of another adult entertainment business.

### **REGULATED USES**

Special regulations are necessary to ensure that the adverse secondary effects of these specific uses will not contribute to the blighting or downgrading of the surrounding

neighborhood. The primary control or regulation is for the purpose of preventing concentration of these uses. Uses subject to these controls and special regulations are as follows:

**SIGNS**

Signs for the adult entertainment business shall be limited to the name of the business and be located only on the building for the business.

**SCREENING**

Screening shall be sufficient so that inside activity is not visible from the outside of the building.

**APPEALS**

Requests for appeals, waivers or variances concerning sections of Appendix C or decisions of the Code Enforcement Officer shall be made to the Town of Candor Board of Appeals. Appeals shall be filed with the Code Enforcement Officer or Town Clerk according to the general rules established by the Board of Appeals.