

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 New Castle

Local Law No. 7 of the year 2022

A local law Regarding the Development of Apartments Below Street Level in the B-R and B-RP
(Insert Title)
Zoning Districts

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

County City Town Village
(Select one.)

of The Town of New Castle as follows:

BE IT ENACTED by the Town Board of the Town of New Castle as follows:

Section 1. Chapter 60, Section 410, Subsection H(6)(i) of the Code of the Town of New Castle is hereby amended as follows:

§ 60-410 District regulations.

...

H. Multifamily districts.

...

(6) Apartments in B-R Retail Business and B-RP Business Retail and Parking Districts. It is the specific purpose and intent of allowing apartments in buildings that are also used for nonresidential purposes in the B-R and B-RP Districts to add round-the-clock vitality to the Town's hamlet business centers, provide the opportunity for the creation of housing in locations that are conveniently served by community facilities and services, and encourage the preservation and rehabilitation of existing buildings. To help achieve these goals and to promote the other objectives of this chapter and of the Town Development Plan, the following specific standards are set forth for such apartment uses:

...

(i) Apartment access. The portion of the building that is used for residential purposes shall have an entrance that does not require access through the portion of the building that is used for nonresidential purposes and that is not located on the same side of the building as the location of a principal entrance to the nonresidential portion of the building. Such apartment access may be

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

located either below the street elevation or at the street elevation. Apartments located below the non-residential street level use may be attached to portions of apartments located behind a non-residential street level use only if access to the upper apartment is provided internally through the lower-level apartment.

Section 2. Chapter 60, Attachment 4:5 of the Code of the Town of New Castle entitled “§ 60-410B. Schedule of regulations for business and industrial districts. Use Regulations—Part 4” is hereby amended to permit apartments below or above the street level floor in a building used for nonresidential purposes in the B-R Retail Business District as a permitted principal use as follows:

#11. Apartments above or below the street level floor in a building used for nonresidential purposes, subject to § 60-410H(6) and provided further that compliance with § 60-410C of this chapter shall be required if such use is located in a building constructed after the effective date of this provision or to which floor area above or below the street level floor is added after such date.

Section 3. Chapter 60, Attachment 4:7 of the Code of the Town of New Castle entitled “§ 60-410B. Schedule of regulations for business and industrial districts. Use Regulations—Part 4” is hereby amended to permit apartments below or above the street level floor in a building used for nonresidential purposes in the B-RP Retail Business and Parking District as a permitted principal use as follows:

#3. Apartments above or below the street level floor in a building used for nonresidential purposes, subject to § 60-410H(6) and provided further that compliance with § 60-410C of this chapter shall be required if such use is located in a building constructed after the effective date of this provision or to which floor area above or below the street level floor is added after such date.

Section 4. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 60, Section 410 of the Code of the Town of New Castle is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 5. Numbering for Codification

It is the intention of the Town of New Castle and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of New Castle; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 6. Severability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt therefrom.

Section 7. Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 7 of 2022 of the ~~(County)(City)(Town)(Village)~~ of New Castle was duly passed by the Town Board on June 7, 2022, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.

Christen Popen

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: June 9, 2022

(Seal)